

PUBLIC NOTICE
ORDINANCE NO. 1841, SERIES 2022

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Louisville, Colorado, held on February 15, 2022 at the hour of 6:00 p.m., at 749 Main Street, Louisville, Colorado, the City Council held a Public Hearing on the passage and adoption of a proposed emergency Ordinance No. 1841, Series 2022.

**AN EMERGENCY ORDINANCE EXEMPTING CONSTRUCTION MATERIALS FROM
THE CITY'S USE TAX FOR BUILDING PERMITS ISSUED FOR RECONSTRUCTION
OF HOMES DAMAGED OR DESTROYED IN THE MARSHALL FIRE BURN AREA**

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE
AND ORDERED PUBLISHED IN FULL this 3rd DAY OF OCTOBER, 2022.

Dennis Maloney, Mayor Pro Tem

ATTEST:
Meredyth Muth, City Clerk

Published with full ordinance in the *Daily Camera* 10/9/22.

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WHEREAS, on December 30, 2021, the Marshall Fire ignited and quickly spread to the City of Louisville, resulting in severe damage or total loss of almost six hundred (600) structures within the City of Louisville, most of them residential homes; and

WHEREAS, also on December 30, 2021, the Mayor of the City of Louisville, pursuant to Chapter 2.32 of the Louisville Municipal Code and C.R.S. § 24-33.5-709, executed a Declaration of Local Disaster Emergency in and for the City of Louisville, which Declaration was thereafter continued in effect by resolution of the City Council, and the Governor of the State of Colorado issued a Declaration of Statewide Emergency in response to the Marshall Fire; and

WHEREAS, on January 1, 2022, President Joseph R. Biden approved a Major Disaster Declaration for the Event (DR-4634-CO) beginning on December 30, 2021 and continuing thereafter; and

WHEREAS, the structures damaged and destroyed by the Marshall Fire comprise significant portions of several residential subdivisions within the City; and

WHEREAS, pursuant to Sections 3.20.300 and 3.20.305 of the Louisville Municipal Code, the City imposes a use tax on construction and building materials; and

WHEREAS, pursuant to Section 3.20.330 of the Louisville Municipal Code, the use tax for construction and building materials is determined based on fifty percent (50%) of the estimated general contract costs and fifty percent (50%) of the estimated mechanical contract costs, which is deemed to be the purchase price of such construction and building materials; and

WHEREAS, also pursuant to Section 3.20.330 of the Louisville Municipal Code, the full amount of the use tax is collected prior to issuance of a building permit; and

WHEREAS, many of the City's residents affected by the Marshall Fire have learned they may be significantly underinsured and will thus face financial hardships rebuilding their fire-damaged homes; and

WHEREAS, the City Council finds that rebuilding of homes lost to the Marshall Fire is essential to maintaining the fabric of the community, and that providing a use tax exemption for homeowners affected by the Marshall Fire who are underinsured will help those residents return to the City; and

WHEREAS, the City Council further finds its adoption of the 2021 IECC was in furtherance of its important policy objectives contained in the City's Sustainability Action Plan, and the incentive provided by the full City use tax exemption set forth in this ordinance for rebuilding of residences pursuant to the 2021 IECC will facilitate such policy objectives to the greatest extent possible; and

WHEREAS, the exemption of construction and building materials from the City's use tax may only be made based upon satisfaction of those criteria set forth herein, to ensure the exemption is provided only to the extent reasonably necessary to facilitate the rebuilding of fire-damaged homes within the community; and

WHEREAS, the City Council finds that restoring a vibrant and robust community requires rebuilding to occur within a reasonable amount of time, and that the relief set forth herein afforded those who lost their homes in the Marshall Fire who are experiencing financial hardship is rationally related to the important government function of fostering and maintaining a vibrant and robust community; and

WHEREAS, the City Council finds those persons who lost their homes in the Marshall Fire have experienced and been impacted by a natural disaster of epic proportions, and thus are differently situated from those within the City who choose to repair or remodel an existing residence, or build a new residence; and

WHEREAS, by this ordinance, the City Council furthers its established policy of facilitating rebuilding of structures damaged or destroyed by the Marshall Fire as set forth in previous actions of the City Council; and

WHEREAS, the City Council recognizes those residents whose homes were damaged or destroyed by the Marshall Fire have suffered great losses and it is the policy of the City to assist and encourage these residents to return to the community; and

WHEREAS, it is the intent of the City Council that adoption of this ordinance shall provide only the limited relief under the specific circumstances set forth herein, and the short-term exemption provided shall not alter the property and services taxed in Section 3.20.305 of the Louisville Municipal Code for construction and building materials, and as such will not constitute a new tax, tax increase, or tax policy change directly causing a net tax revenue gain as those terms are used in Article X, Section 20 of the Colorado Constitution (the “Taxpayer’s Bill of Rights” or “TABOR”) when the conditions for the exemption no longer exist; and

WHEREAS, the City Council finds that an emergency exists because the preservation of public property, health, safety, and welfare requires the City to take immediate action to provide the relief set forth herein to those whose homes were damaged or destroyed due to the Marshall Fire.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Requirements for Exemption. In addition to those exemptions from the City’s use tax set forth in Section 3.20.310 of the Louisville Municipal Code, construction and building materials shall be exempt, or partially exempt, from the imposition of the tax levied by Section 3.20.300 of the Louisville Municipal Code when all of the following requirements are met:

- A. The building permit application is for major structural repair or rebuilding of a residence that sustained fire damage from the Marshall Fire, not consisting solely of smoke or ash damage, which rendered the residence not habitable.
- B. The building permit application has been filed by a person who, on December 30, 2021, was the owner of record of property in any jurisdiction on which a residence was damaged or destroyed by the Marshall Fire.
- C. The building permit application is filed with the City of Louisville on or before December 31, 2024.
- D. The building permit applicant attests on the building permit application they are requesting a use tax exemption due to financial hardship caused by inadequate insurance coverage.

Section 2. Amount of Exemption. The amount of the use tax exemption provided by this ordinance shall be determined as follows:

- A. For permits issued pursuant to the 2021 IECC as adopted by the City, with or without Appendix RC, the use tax exemption shall equal the full amount of the City use tax

due for the construction and building materials regardless of any increase in the size of the home.

B. For permits issued pursuant to the 2018 IECC as adopted by the City, the use tax exemption shall be a percentage of the City use tax due, based on the size of the home to be rebuilt as compared to the previous home that was located on the lot for which the building permit is issued. The home to be rebuilt will be considered the same size if it is not more than ten percent (10%) larger than the home that was previously located on the lot. For example, if the home that was previously located on the lot for which the building permit is issued was 2,000 square feet, and the home to be rebuilt is 2,200 square feet or smaller, the use tax exemption shall equal the full amount of the City use tax. If the home to be rebuilt on such lot is 3,000 square feet, two-thirds (2/3) of the City use tax due for construction and building materials shall be exempt.

Section 3. Refunds of City Use Taxes. City staff is authorized and directed to issue refunds of City use taxes paid in connection with building permits issued prior to the effective date of this ordinance, and which permits meet the requirements for exemption set forth in Section 1 of this ordinance. The amount of such refunds shall be determined as set forth in Section 2 of this ordinance.

Section 4. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 7. The City Council herewith finds, determines and declares that this ordinance is genuinely and urgently necessary for the immediate preservation of the public health, safety, and welfare due to the impacts of the Marshall Fire set forth herein.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY TWO-THIRDS OF THE ENTIRE CITY COUNCIL, AND ORDERED PUBLISHED this 3rd day of October, 2022.

Dennis Maloney, Mayor Pro Tem

ATTEST:
Meredyth Muth, City Clerk