

ORDINANCE NO. 168, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE III OF CHAPTER 25 OF THE CODE OF THE CITY OF FORT
COLLINS FOR THE VOTER APPROVED ONE-HALF CENT SALES TAX RATE
INCREASE EFFECTIVE JANUARY 1, 2024

WHEREAS, Article XX, Section 6.g. of the Colorado Constitution grants to the City of Fort Collins, as a home rule municipality, all powers necessary to levy and collect taxes for municipal purposes, subject to any limitations in the Colorado Constitution; and

WHEREAS, on November 16, 1967, the City Council in the exercise of its home rule taxing powers, adopted Ordinance No. 058, 1967, to levy, collect, and enforce beginning on January 1, 1968, a sales and use tax on the purchase of tangible personal property sold at retail in the City and on certain taxable services provided in the City (the “Sales and Use Tax Code”); and

WHEREAS, the Sales and Use Tax Code is currently found in Article III of City Code Chapter 25, which has been significantly amended many times since its adoption in 1967; and

WHEREAS, on August 15, 2023, the City Council adopted Resolution 2023-074 to refer to the City’s voters at the City’s November 7, 2023, regular election, a ballot measure to increase the rate of the City’s then existing sales and use tax by the addition of a fifty one-hundredths (0.50) percent sales and use tax beginning on January 1, 2024, and ending at midnight on December 31, 2050, which the City’s voters approved; and

WHEREAS, City staff is recommending the City Code be amended to include the new tax rate as a result of the voter approval of the ballot measure; and

WHEREAS, City staff is also recommending the City Code be amended to remove reference to an eighty-five one-hundredths (0.85) percent tax to be used in accordance with the terms and conditions of Ordinance No. 126, 2010, said tax having expired at midnight on December 31, 2020, and automatically replaced by an eighty-five one-hundredths tax approved by the voters at the City’s regular election held on April 2, 2019; and

WHEREAS, the City Council hereby finds that amending the Sales and Use Tax Code as proposed in this Ordinance is in the best interests of the City and its taxpayers and promotes the health, safety, and welfare of the community by providing for the accurate and efficient imposition, collection, and enforcement of the City’s sales and use taxes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 25-75 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-75. Rate of tax.

(a) The amount of tax hereby levied is ~~three and eight five hundredths (3.85)~~ **four and thirty-five hundredths (4.35)** percent of the purchase price of tangible personal property and taxable services except that the amount of use tax levied on manufacturing equipment is three (3) percent of the purchase price. This tax is composed of a rate of two and twenty-five hundredths (2.25) percent that does not expire and is not restricted in the use of its proceeds and the remaining rate of ~~one and sixty hundredths (1.60)~~ **two and ten hundredths (2.10)** percent is comprised of the following voter-approved taxes:

(1) A twenty-five one-hundredths (0.25) percent tax that expires at midnight on December 31, 2030, the proceeds of which are to be used for the purposes of acquiring, operating and maintaining open spaces, community separators, natural areas, wildlife habitat, riparian areas, wetlands and valued agricultural lands, and to provide for the appropriate use and enjoyment of these areas by the citizenry, pursuant to the provisions of the Citizen-Initiated Ordinance No. 1, 2002;

(2) A twenty-five one-hundredths (0.25) percent tax that expires at midnight on December 31, 2025, the proceeds of which are to be used for the purpose of paying the costs of planning, design, right-of-way acquisition, incidental upgrades and other costs associated with the repair and renovation of City streets, including, but not limited to, curbs, gutters, bridges, sidewalks, parkways, shoulders and medians;

(3) A twenty-five one-hundredths (0.25) percent tax that expires at midnight on December 31, 2025, the proceeds of which are to be used for the purpose of paying the costs of planning, design, real property acquisition, and construction, the capital projects specified in the "Community Capital Improvement Program" and five (5) years of operation and maintenance for those capital projects specified in Ordinance No. 013, 2015, all of which shall be subject to the terms and conditions of Ordinance No. 013, 2015; and

(4) ~~An eighty five one hundredths (0.85) percent tax that expires at midnight on December 31, 2020, the proceeds of which are to be used in accordance with the terms and conditions of Ordinance No. 126, 2010.~~ **An eighty-five one-hundredths (0.85) percent tax, of which the rate of twenty-five one-hundredths (0.25) percent shall expire at midnight on December 31, 2030, and its revenues shall be used to fund municipal operations and maintenance and for any other public purposes. The remaining rate of sixty one-hundredths (0.60) shall not expire and its revenues shall be used to help sustain public safety service levels and fund municipal operations and maintenance, and to fund any other public purposes, except fifteen and sixty one-hundredths (15.60) percent of these revenues shall be used to fund the fire protection and emergency services being provided by the Poudre Fire Authority (PFA) under the City's existing agreement with the Poudre Valley Fire Protection District (District), or in such other amount as the City and the District may agree, but absent an agreement between them for PFA's services, these revenues may be used as determined by City Council.**

~~When the tax described in subsection (a)(4) above expires at midnight on December 31, 2020, the eighty five one hundredths (0.85) percent tax approved at the City's regular election held on April 2, 2019, shall commence. Of this tax, the rate of twenty five one hundredths (0.25) percent shall expire at midnight on December 31, 2030, and its revenues shall be used to fund municipal operations and maintenance and for any other public purposes. The remaining rate of sixty one hundredths (0.60) percent shall not expire and its revenues shall be used to help sustain public safety service levels and fund municipal operations and maintenance, and to fund any other public purposes, except fifteen and sixty one hundredths (15.6) percent of these revenues shall be used to fund the fire protection and emergency services being provided by the Poudre Fire Authority (PFA) under the City's existing agreement with the Poudre Valley Fire Protection District (District), or in such other amount as the City and the District may agree, but absent an agreement between them for PFA's services, these revenues may be used as determined by City Council.~~

(5) A fifty one-hundredths (0.50) percent tax beginning January 1, 2024, and that expires at midnight on December 31, 2050, the proceeds of which are to be used generally for parks and recreation facilities, greenhouse gas and air pollution goals, and for transit system purposes, as more specifically set forth in the terms and conditions of Ordinance No. 168, 2023.

Section 3. That the revenues generated by the fifty one-hundredths percent (0.50%) sales and use tax imposed pursuant to this Ordinance (the "Tax") shall be used only for the following purposes:

- (a) Fifty percent (50%) for the replacement, upgrade, maintenance, and accessibility of parks facilities and for the replacement and construction of indoor and outdoor recreation and pool facilities;
- (b) Twenty-five percent (25%) for programs and projects advancing greenhouse gas and air pollution reduction, the City's 2030 goal of 100% renewable electricity, and the City's 2050 goal of community-wide carbon neutrality; and
- (c) Twenty-five percent (25%) for the City's transit system, including, without limitation, infrastructure improvements, purchase of equipment, and upgraded and expanded services.

And while the City Council may exercise its discretion in deciding the timing of spending for each category, that said spending shall supplement and not replace the current City funding for the specified purposes and shall be reconciled to the state percentages by the end of 2030, 2040, and when the last revenues collected from the tax are spent.

Section 4. That the Tax shall not apply to: (1) all items exempt from sales and use tax under the City Code, as may be amended; (2) food for home consumption as provided by City Code Section 25-73(b)(12); and (3) for the use tax only, manufacturing equipment.

Section 5. That the full amount of the revenues, and investment earnings thereon, derived from the Tax may be retained by the City, notwithstanding any state revenue or expenditure limitations including, but not limited to, those contained in Article X, Section 20 of the Colorado Constitution.

Section 6. That new Section 25-75(a)(5) of the City Code as set forth herein shall take effect at 12:01 a.m. on January 1, 2024.

Section 7. That except as provided herein, all other provisions of Chapter 25 of the City Code shall remain unchanged and in full force and effect unless otherwise rescinded or modified by action of the City Council.

Introduced, considered favorably on first reading and ordered published this 5th day of December, 2023, and to be presented for final passage on the 19th day of December, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 19th day of December, 2023.

Mayor

ATTEST:

City Clerk