

ORDINANCE NO. 111, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS AMENDING CERTAIN
SECTIONS OF CHAPTER 25 OF THE CODE OF THE CITY OF FORT COLLINS
RELATING TO THE IMPOSITION, COLLECTION, AND ENFORCEMENT OF THE
CITY'S SALES AND USE TAXES

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 Chapter 25, Article III of the City Code, which has been significantly amended many times since its adoption in 1967; and

WHEREAS, Chapter 25, Article II, Division 3 of the City Code authorizes rebates of City sales tax imposed on food to low-income residents of the City, and the City Council desires to amend the City Code to expand the availability of the program; and

WHEREAS, ~~City staff~~ the City Manager has committed that City staff will ~~to~~ returning to the City Council Finance Committee after approximately one year to discuss the effectiveness of the update to the rebate program on program participation and to discuss other options to expand participation, including removing income verification requirements after approximately one year; and

WHEREAS, City staff has reviewed the Sales and Use Tax Code and has recommended revisions to add certain exemptions from sales and use tax and other changes that may be characterized as clean-up items; and

WHEREAS, City Council hereby finds that amending the City 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 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 25-49 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-49. Qualifications.

In order to qualify for the sales tax rebate, all members of the applicant's household must have resided within the City or the City's Growth Management Area, as defined in § 1-2 and as amended, during the entirety of the 12-month period for which the rebate is sought. The applicant's household shall have a total annual income that does not exceed sixty (60) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, up to a maximum household income of sixty (60) percent of the area median income for a household of eight (8), as most recently published by the United States Department of Housing and Urban Development for the 12-month period in which the tax to be rebated was imposed.

Section 3. That the definition of “*Engaged in business in the City*” contained in Section 25-71 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-71. Definitions.

The following words, terms and phrases, as used in this Article, shall have the following meanings:

...

Engaged in business in the City shall mean performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person or retailer:

...

(5) As a retailer, who has a physical presence in the State of Colorado, making more than one (1) retail sale of tangible personal property, products or services within a twelve (12) month period, where the property or product is delivered by any means, including common carrier, to a location within the City, or the service rendered occurs within the City; or

...

Section 4. That Section 25-73 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-73. Imposition of the sales tax and exemptions.

...

- (c) Transactions and items exempt from the sales tax. The following shall be exempt from the sales tax:

...

- (27) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.
- (28) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021.

...

Section 5. That Section 25-74(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-74. Imposition of the use tax and exemptions.

...

- (b) Transactions and items exempt from the use tax. The use, storage, distribution or consumption in the City of the following are hereby exempted from the use tax:

...

- (22) The disposable bag fee established in Article XIII of Chapter 12 of this Code, retroactive to May 1, 2022;
- (23) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021;
- (24) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and

the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021; and

- (25) All other tangible personal property and taxable services that are exempt, as provide in Sections 25-73(c) and 25-73(d), from the sales tax imposed in this Article.

Section 6. That Section 25-94(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-94. Exempt organization license; application procedure.

...

(c) Upon receipt of an application, the Financial Officer shall examine the same and shall give written notice to the applicant of his or her decision thereon. An applicant whose application has been denied may, within twenty-one (21) days after such decision is mailed, petition the Financial Officer for a hearing on the claim. The Financial Officer shall notify the applicant in writing of the time and place of the hearing. After such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant.

...

Section 7. That Section 25-147 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-147. Procedure for refund of disputed tax.

A refund shall be made or credit allowed for the tax paid under dispute by any person who claims that the transaction or item was not taxable, claims an exemption as provided in this Article, or claims that taxes were paid in error or by mistake. Such refund or credit shall be made by the Financial Officer after compliance with the following:

- (1) *Application.* An application for a refund or credit of sales or use tax paid under dispute, paid in error by a purchaser or user who claims an exemption under Subsection 25-73(c) or Subsection 25-74(b), or paid in error or by mistake shall be made within three (3) years after the date of purchase, storage, use or consumption of the goods or services whereon a refund or credit is claimed. Such applications must be accompanied by the original paid invoice or sales receipt and must be made upon such forms as shall be prescribed and furnished by the Financial Officer;

...

(4) *Hearing.* An applicant whose application for a refund has been denied may, within twenty-one (21) days after such decision is mailed, petition the Financial Officer for a hearing on the claim. The Financial Officer shall notify the applicant in writing of the time and place of the hearing. After such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant.

Section 8. That Section 25-216 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-216. Review of decisions of Financial Officer.

The taxpayer may apply for a review of the decision of the Financial Officer in a hearing held pursuant to § 25-169. Such review may be in the district court or the City's Municipal Court and the proceedings shall be conducted in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The review must be sought no later than twenty-eight (28) days after the date of the final decision of the Financial Officer. The taxpayer may also seek review as provided in C.R.S § 29-2-106.1.

Introduced, considered favorably on first reading and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk