



AGENDA ITEM SUMMARY

City Council

STAFF

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SUBJECT

Second Reading of Ordinance No. 111, 2022, 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.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends Chapter 25 of City Code concerning sales and use tax. The updates include revisions to the Grocery Tax Rebate Program to increase the area median income threshold for a rebate as part of ongoing City-wide initiatives to streamline and broaden access to City income-qualified programs. Other updates include but are not limited to: (1) updating the deadlines for refund claims and petitions protesting the denial of tax-exempt organization license applications to align with other deadlines in Chapter 25; (2) amending the appeals process to align with state statute; and (3) adding exemptions from sales and use tax for the state carryout bag fee and retail delivery fee. (The Council approved Ordinance No. 053, 2022, in May 2022, which created an exemption from sales tax for the City's disposable bag fee).

For Second Reading, in light of prior discussions by the Council Finance Committee, the City Manager is proposing a Whereas clause be revised. The revision will document that the City Manager has committed that City staff will return to the Council Finance Committee after approximately one year not only to discuss the effectiveness of the Code update increasing the area median income threshold for the Grocery Tax Rebate Program, but also to discuss other options to expand participation, such as removing income verification requirements.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Code changes being requested are as follows:

CHAPTER 25, ARTICLE II

Sales Tax Rebate on Food

For the City's rebate program for sales tax imposed on food, the Council Finance Committee and City staff recommend amending City Code Chapter 25, Article II, Division 3 to change income eligibility from 50

percent annual median income (AMI) for the applicable household size to 60 percent AMI with the goal of increasing program participation. In collaboration with the City-wide consolidation of income-qualified programs and the Get FoCo application the City is developing, staff is committed to returning to Council Finance Committee to discuss the effectiveness of this update on program participation after approximately one year.

CHAPTER 25, ARTICLE III

Definition of “Engaged in Business in the City”

City staff recommends a clean-up change to the definition of “engaged in business in the City” to make clear that delivery into the City includes by common carrier.

Imposition of the Sales Tax and Exemptions

Staff recommends creating a sales tax exemption for the State of Colorado’s recently adopted carryout bag fee created by House Bill 21-1162 and the retail delivery fee created by Senate Bill 21-260. The proposed exemption will make clear that the fees are not part of the purchase price against which sales tax is imposed. The proposed exemption would be consistent with state law, which specifically exempted the fees from state sales tax.

CHAPTER 25, ARTICLE III

Imposition of the Use Tax and Exemptions

City staff recommends creating a use tax exemption for the City’s disposable bag fee. This fee is already exempt from City sales tax. This change updates the use tax exemption for the City’s disposable bag fee to mirror the sales tax exemption.

City staff recommends adding a use tax exemption for the State of Colorado’s recently adopted carryout bag fee created by House Bill 21-1162 and the retail delivery fee created by Senate Bill 21-260. As noted above, staff is proposing that this fee be exempt from City sales tax. This change would update the use tax exemption to mirror the sales tax exemption.

CHAPTER 25, ARTICLE III

Exempt Organization License; application procedure

City staff recommends revising the amount of time for an applicant to petition the Financial Officer for a hearing regarding the denial of an exempt organization license application from twenty (20) days to twenty-one (21) days. The purpose is to align this petition timeframe with the sales and use tax petition timeframe in the Code.

CHAPTER 25, ARTICLE III

Procedure for Refund of Disputed Tax

City staff recommends updating the application deadline for a refund from 20 days to 21 days to correspond with the sales and use tax petition deadlines in the Code.

Additionally, City staff recommends removing the language allowing the Financial Officer to extend the deadline to apply for a refund for good cause. This recommended change is in line with the collection of sales and use tax sections of City Code and would provide consistency regarding when an application is due.

City staff also recommends adding language to clarify that the process applies regardless of the form of reimbursement sought, whether it be a refund or credit.

CHAPTER 25, ARTICLE III

Review of Decisions of Financial Officer

City staff recommends revising the section of the Code addressing the venue where one can seek review of the Financial Officer's decisions. Currently the Code states that when a taxpayer requests review of such a decision, the hearing shall be held in the state district court or the City's Municipal Court. The change would add that a taxpayer may seek a review of the Financial Officer's decision as provided in Colorado Revised Statutes § 29-2-106.1, which would include review at the Colorado Department of Revenue. This change would bring consistency with state law.

CITY FINANCIAL IMPACTS

City staff anticipates that the change in AMI for the Grocery Tax Rebate Program will increase participation and result in an increase in the amount of grocery tax rebates the City issues to residents. The other Code changes are not anticipated to have a material financial impact.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

For the Grocery Tax Rebate Program, staff presented the proposed changes to the Council Finance Committee, which recommended changing the qualifying area median income from 50 percent to 60 percent.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration