

# Council Agenda Summary

October 18, 2022

Key Staff Contact: John Karner, Finance Director, 970-350-9732

## Title:

Public hearing and second reading of an Ordinance Amending Section 6-118 and Section 6 -163 of the Municipal Code to Exempt Certain State Fees

## Summary:

During the 2021 legislative session, the Colorado General Assembly passed SB21-260 which imposed various delivery fees (\$0.27 in total) to be remitted to the State Department of Revenue on deliveries of tangible property. The City of Greeley (Greeley) – through the Greeley Municipal Code - along with most other home rule municipalities treat this mandatory fee as part of the purchase price and therefore subject to Greeley sales and/or use tax. The proposed ordinance will exempt the delivery fee from the sales tax and use tax imposed by the Greeley Municipal Code. The delivery fee will still be imposed by the state, but it will no longer be subject to Greeley Sales Tax.

HB 21-1162 Management of Plastic Products (the State of Colorado Bag Fee, \$0.10 in total) which goes into effect on January 1, 2023, directs the following:

- phases out the provision of single-use plastic carryout bags and expanded polystyrene products;
- repeals the state preemption that prohibits local governments from regulating the use or sale of specific plastic materials or products; and
- authorizes local governments to enforce violations and impose civil penalties.

The proposed ordinance will exempt the bag fee from the sales tax and use tax imposed by the Greeley Municipal Code. The bag fee will still be imposed by the state, but it will no longer be subject to Greeley Sales Tax.

## Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
If yes, what is the initial, or, onetime impact?	
What is the annual impact?	
What fund of the City will provide Funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	N/A
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	

Additional Comments:	This item would exempt government fees imposed directly on purchasers and listed separately on the invoice from the City's 4.11% sales and use tax.
----------------------	---

**Legal Issues:**

Pursuant to the city's home rule authority granted to the City of Greeley under Article XX Section 6 (g) of the Colorado Constitution, the City has the power of taxation for local municipal purposes. This ordinance creates a tax exemption within the city's tax code, it is not imposing a new tax, and as such is compliant with Article X Section 20 of the Colorado Constitution. City Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of an ordinance; all actions, except as herein provided, may be in the form of Resolutions or motions. This action by council creates an exemption in the tax code, and it must be approved by ordinance.

**Strategic Work Program Item or Applicable Council Priority and Goal:**

*Economic Health & Development:* The City of Greeley residents are subjected to fees by the State of Colorado, and currently, those fees are also included in the taxable base for the City's sales and use tax. An exemption needs to be reviewed by City Council as soon as possible to relieve the additional burden of the City's sales and use tax on the State imposed fees.

**Decision Options:**

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

**Council's Recommended Action:**

A motion to adopt the ordinance and publish with reference to title only.

**Attachments:**

Ordinance  
PowerPoint Presentation