

ORDINANCE NO. 060, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE II OF CHAPTER 25 AND DIVISION 2 IN ARTICLE IX
OF CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
CONCERNING THE CITY'S TAX AND UTILITY REFUND PROGRAMS

WHEREAS, Division 2 in Article II of City Code Chapter 25 Code authorizes the refund of the City's property tax to low-income elderly and disabled persons residing in the City (the "Property Tax Refund Program"); and

WHEREAS, Division 3 in Article II of City Code Chapter 25 authorizes a rebate on the City's sales tax charged on food purchases by low-income persons residing in the City (the "Sales Tax Rebate Program"); and

WHEREAS, Division 5 in Article II of City Code Chapter 25 authorizes the rebate of the City's use tax imposed on manufacturing equipment paid by certain qualifying manufacturers (the "Manufacturing Equipment Use Tax Rebate Program"); and

WHEREAS, Division 2 in Article IX of City Code Chapter 25 authorizes the refund of a portion of the utility charges billed to low-income elderly and disable persons residing in the City who receive water, wastewater, stormwater or electric utility services from the City (the "Utility Refund Program"); and

WHEREAS, the Property Tax Refund Program, Sales Tax Rebate Program and the Utility Refund Program (collectively, the "Low-Income Rebate Programs") serve the public purpose of assisting certain low-income individuals in better affording the necessities of life related to shelter, food and utility services; and

WHEREAS, the Manufacturing Equipment Use Tax Rebate Program serves the public purpose of encouraging manufacturers to establish, continue and expand their manufacturing activities within the City to benefit the local economy and provide manufacturing jobs within the City; and

WHEREAS, City staff has recently reviewed these programs and is recommending several changes to them; and

WHEREAS, regarding the Low-Income Rebate Programs, these changes include modifying the definitions and qualifications used to determine which low-income individuals and households are eligible for the programs and opening these programs to not just persons residing in the City, but also to persons residing in the City's Growth Management Area, both of which changes are intended to have the effect of increasing the number of people who will be benefited by the Low-Income Rebate Programs; and

WHEREAS, the changes to the Manufacturing Equipment Use Tax Rebate Program are more minor and have no similar effect of expanding eligibility under the program, but are

changes to clarify, update and better describe when a qualify manufacturer is eligible for a rebate under the Manufacturing Equipment Use Tax Rebate Program; and

WHEREAS, the City Council hereby finds and determines that adoption of this Ordinance to modify the Low-Income Rebate Programs and the Manufacturing Equipment Use Tax Rebate Program as proposed is in the best interests of the City and its citizens and necessary for the public's health, safety and welfare.

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 Division 2 in Article II of Chapter 25 of the Code of the City of Fort Collins is hereby amended to read as follows:

*Division 2
Ad Valorem Tax Refund
Program for the Elderly and Disabled*

Sec. 25-26. - Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Applicant shall mean a person who applies to the City for a tax rebate under this Division 2.

Disabled person shall mean a person receiving Supplemental Security Income, Social Security Disabled Income or diagnosed as disabled by a licensed physician.

Dwelling Unit shall have the meaning given to it by Section 5.1.2 of the City's Land Use Code, as amended.

Elderly person shall mean an individual who was sixty-five (65) years of age or older in the year in which the taxes to be rebated were levied.

Household shall mean collectively the applicant, applicant's spouse, and applicant's children by birth or adoption, step children, foster children and children under legal guardianship who reside with the applicant in the taxed dwelling unit and any other person who the applicant may claim as a dependent on his or her federal income tax return. *Household* shall also mean the applicant and persons not related as above described, provided the applicant and such persons shall live at the same address and pool resources for the purpose of paying living expenses, such as rent, food and utilities. The Financial Officer's determination shall be final with regard to eligibility as a *household*.

Income shall mean: (1) total income of an individual as shown on the individual's federal income tax form on the line noted for the applicable form, as set forth in the chart below, or if the individual is not required to file any of these tax forms with the Internal Revenue Service, the amount that would be so reported in the most applicable form if the individual was required to file; and (2) plus any nontaxable income including, without limitation, individual retirement account distributions (not including rollovers), pensions and annuities, social security benefits, disability benefits, worker's compensation benefits and any other nontaxable income:

I.R.S. Form 1040	Line 22 "Total Income"
I.R.S. Form 1040A	Line 15 "Total Income"
I.R.S. Form 1040EZ	Line 4 "Adjusted Gross Income"
I.R.S. Form 1040NR	Line 23 "Total Effectively Connected Income"

Own shall mean having fee title or other beneficial ownership to real property.

Sec. 25-27. - Purpose.

There is hereby enacted a tax refund program to provide relief from property taxes for low-income elderly persons and disabled persons residing in the City. It is the purpose of this tax refund program to refund to low-income elderly persons and disabled persons, the City's portion of property taxes for the preceding year which such persons have paid. This program is intended to apply to applicants who either own or lease, and reside within, the dwelling unit for which such taxes have been paid.

Sec. 25-28. - Application for refund.

Refunds under this program shall be made to persons qualified for such refunds upon written application made to the Financial Officer on forms to be provided by the Financial Officer. Such applications shall be filed with the City between August 1 and October 31 in each year, and shall be for the refund of the taxes levied in the prior year.

Sec. 25-29. - Qualifications.

In order to be entitled to a refund under this program, the applicant for such refund must meet all of the following applicable requirements:

- (1) The applicant or other member of the applicant's household must be an elderly or disabled person.
- (2) The applicant, or the applicant's household member who is the qualifying elderly or disabled person, must have been a resident of the City during the entire preceding year when the property tax to be refunded was levied against the dwelling unit.

(3) The applicant or a member of the applicant's household must have either: (a) paid property taxes levied in the previous year on a dwelling unit that was owned by the applicant and in which the applicant resided; or (b) must have paid rent in the previous year when the taxes were levied on the dwelling unit or portion thereof in which the applicant resided.

(4) The applicant's income in the year the tax to be refunded was levied, together with the income for that year of all individuals in the applicant's household, shall not exceed fifty (50) 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 fifty (50) 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 as of December 31 of the year in which the tax to be refunded was levied.

...

Sec. 25-30. - Amount of refund.

(a) If the applicant meets the requirements of this Division, the City shall refund to the applicant an amount based upon the following:

(1) In the case of an applicant who is the owner of the dwelling unit in which the applicant resided, that portion of the total property tax actually paid on the property which was levied by the City for the preceding year;

(2) In the case of a person renting the dwelling unit on which City property taxes were levied in the preceding year, an amount equal to one and forty-four one-hundredths (1.44) percent of the total rental payments made by such applicant during the preceding year;

...

(b) An applicant may be entitled to a refund based on the foregoing provisions for such qualifying dwelling unit in which the applicant lived at different times during such year, but in no event shall the applicant be entitled to a refund representing more than one (1) dwelling unit for the same time period.

(c) Notwithstanding the foregoing provisions of this section, the City shall not be obligated to refund to multiple applicants for the same dwelling unit in a total amount in excess of the total City property taxes levied and paid for that dwelling unit in the applicable year.

Sec. 25-31. - Refunds payable only to applicant.

The City shall make tax refunds pursuant to this Division only directly to the applicant who qualifies therefor and, except as provided in Subsection (b) below, refunds shall not be paid to anyone other than the applicant. If an applicant dies prior to receiving or cashing a refund

pursuant hereto, any check representing such refund shall be null and void, and such refund shall not become an asset of the decedent's estate. If the decedent is survived by a spouse who would be qualified as an applicant for such refund, the City will honor an application for a refund by such surviving spouse, even though the application is not timely made in accordance with the provisions of this Division.

Sec. 25-32. - Administration.

The Financial Officer shall administer the program established by this Division and may prepare a refund application form, adopt rules and regulations consistent with the provisions of this Division and audit and verify the applications submitted pursuant to this Division. Any refund application form shall require the claimant to verify and sign the application under oath. The burden of proving entitlement to a refund under this Division is on the applicant. The Financial Officer may require other reasonable information to support the refund application.

Section 3. That Division 3 in Article II of Chapter 25 of the Code of the City of Fort Collins is hereby amended to read as follows:

*Division 3
Sales Tax Rebate on Food*

Sec. 25-46. - Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Applicant means a person who applies to the City for a tax rebate under this Division 3.

Household shall mean collectively the applicant, applicant's spouse, and applicant's children by birth or adoption, step children, foster children and children under legal guardianship who reside with the applicant and any other person who the applicant may claim as a dependent on his or her federal income tax return. *Household* shall also mean the applicant and persons not related as above described, provided the applicant and such persons shall live at the same address and pool resources for the purpose of paying living expenses, such as rent, food and utilities. The City's determination shall be final with regard to eligibility as a *household*.

Income shall mean: (1) total income of an individual as shown on the individual's federal income tax form on the line noted for the applicable form, as set forth in the chart below, or if the individual is not required to file any of these tax forms with the Internal Revenue Service, the amount that would be so reported in the most applicable form if the individual was required to file; and (2) plus any nontaxable income including, without limitation, individual retirement account distributions (not including rollovers), pensions and annuities, social security benefits, disability benefits, worker's compensation benefits and any other nontaxable income:

I.R.S. Form 1040	Line 22 "Total Income"
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I.R.S. Form 1040A	Line 15 "Total Income"
I.R.S. Form 1040EZ	Line 4 "Adjusted Gross Income"
I.R.S. Form 1040NR	Line 23 "Total Effectively Connected Income"

Sec. 25-47. - Establishment.

There is hereby established a sales tax rebate program to provide relief from City sales tax charged on food purchased by low-income persons residing in the City and its Growth Management Area, as defined in § 1-2 and as amended.

Sec. 25-48. - Application for rebate.

Application for the sales tax rebate on food shall be made on forms to be provided by the City. In order to qualify for such rebate, the application must be filed with the City between August 1 and October 31 of each year, and shall be for the rebate of the taxes imposed and paid in the prior year. Only one (1) application shall be filed per household. If any member of the household for which the application has been filed has filed a federal income tax return for the applicable year, a copy of such income tax return must be attached to the application.

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 rebate year for which the application is made. The applicant's household shall have a total annual income that does not exceed fifty (50) 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 fifty (50) 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 as of August 1 of the year in which the tax to be rebated was imposed.

Sec. 25-50. - Amount of rebate.

The rebate amount for the 2016 tax year will be sixty dollars (\$60.) per calendar year for each person in the qualified household not to exceed eight (8) household members. This amount of the rebate will be increased annually according to the Denver-Boulder-Greeley Consumer Price Index for Urban Consumers, as published by the Bureau of Labor Statistics.

Sec. 25-51. - Payment.

The City shall make a single rebate payment to each qualified household for which an application has been properly filed by joint payment to adult members of the household and to parents or guardians on behalf of all children of the household.

Sec. 25-52. - Administration.

The Financial Officer shall administer the program established by this Division and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Division and audit and verify the applications submitted pursuant to this Division. Any rebate application form shall require the applicant to verify and sign the application under oath. The burden of proving entitlement to a rebate under this Division is on the applicant. The Financial Officer may require other reasonable information to support the rebate application.

Section 4. That Division 5 in Article II of Chapter 25 of the Code of the City of Fort Collins is hereby amended to read as follows:

Division 5
Manufacturing equipment use tax rebate

Sec. 25-63. - Definitions.

(a) The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Manufacturing equipment shall mean manufacturing equipment to be used in the City directly and exclusively in the manufacture of tangible personal property for sale or profit.

Qualifying manufacturer shall mean an industrial manufacturer who, in an industrial setting, produces a new product, article, substance or commodity that is different from and has a distinctive name, character or use from the raw or prepared materials used to manufacture the product.

(b) Any words, terms and phrases used in this Division not defined in Subsection (a) of this section shall have the meaning given to them in § 25-71.

Sec. 25-64. - Establishment.

(unchanged)

Sec. 25-65. - Application for rebate.

(unchanged)

Sec. 25-66. - Qualifications.

In order to qualify for a rebate under the provisions of this Division, the following requirements must be met:

(1) The qualifying manufacturer must have a sales and use tax license from the City and be classified as a "manufacturer" under the North American Industry Classification System (NAICS), as amended.

(5) The qualifying manufacturer must have paid the appropriate use tax when due and not as a consequence of a tax audit conducted by the City.

Sec. 25-67. - Amount of rebate.

The amount of rebate payable shall be in the sum set forth in a rebate schedule to be adopted by the Financial Officer consistent with rules and regulations promulgated pursuant to § 25-69.

Sec. 25-68. - Payment.

For each qualifying manufacturer, the City shall only be required to make a single annual rebate payment. Any additional payments shall be in the Financial Officer's sole discretion.

Sec. 25-69. - Administration.

The Financial Officer shall administer the program established by this Division and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Division, and audit and verify the applications submitted pursuant to this Division. Any rebate application form shall require the applicant to verify and sign the application under oath. The burden of proving entitlement to a rebate under this Division is on the applicant. The Financial Officer may require other reasonable information to support the rebate application.

Section 5. That Division 2 in Article IX of Chapter 26 of the Code of the City of Fort Collins is hereby amended to read as follows:

*Division 2
Water, Wastewater, Stormwater,
Electric Utilities Refund Program*

Sec. 26-611. - Declaration of purpose.

(unchanged)

Sec. 26-612. - Requirements for qualification.

In order to qualify for the refund hereunder, the applicant must satisfy the qualifications required in § 25-29 and the property occupied by the applicant must receive water, wastewater, stormwater or electric utility service from the City.

Sec. 26-613. - Application for refund.

The application for a utility bill refund shall be the same application as that used to apply for an ad valorem tax refund under the provisions of Division 2 in Article II of Code Chapter 25. In order to qualify for such refund, the application must be filed within the time limits prescribed in said Division 2.

Sec. 26-614. - Amount of refund.

(a) The annual amount of refund payable hereunder shall be based on the average monthly consumption of water, wastewater, stormwater and electric services by a residential unit in the City, determined pursuant to the administrative rules and regulations of this Division. An applicant shall be entitled to a refund only for those utility services received.

(b) Any refund payable hereunder shall be made at the same time as the ad valorem tax refund is made pursuant Division 2 in Article II of Code Chapter 25.

Sec. 26-615. - Refund payable from general fund.

(unchanged)

Sec. 26-616. - Payment of refund to applicant.

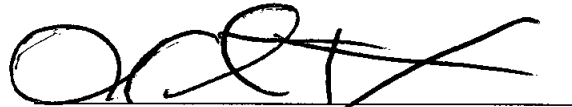
Refunds paid pursuant to this Division shall be paid as provided in § 25-31.

Sec. 26-617. - Rules and regulations.


(unchanged)

Introduced, considered favorably on first reading, and ordered published this 18th day of April, A.D. 2017, and to be presented for final passage on the 16th day of May, A.D. 2017.



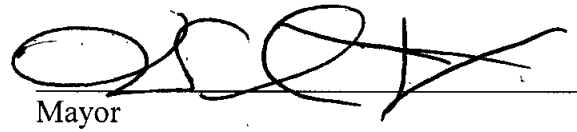

Mayor

ATTEST:


City Clerk

Passed and adopted on final reading on this 16th day of May, A.D. 2017.




Mayor

ATTEST:

W Winkelman
City Clerk