

ORDINANCE NO. 087, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE III 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 Article III of City Code Chapter 25, which has been significantly amended many times since its adoption in 1967; and

WHEREAS, City staff has reviewed Article III and has recommended revisions to clarify the rate of tax imposed, including updating the rate of tax to include the extension of the eighty-five one-hundredths (0.85) percent tax approved by the voters at the City's regular election held on April 2, 2019; and

WHEREAS, City staff has also recommended revisions to require retailers doing business at more than one location to file a separate return for each location, to clarify that the refund procedures apply to taxes paid in error or by mistake, and to provide that taxpayer financial information may be shared within the City organization or with City contractors if reasonable precautions are in place to prevent disclosure of such information to the public; 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) 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) 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.

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.

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Section 3. That Section 25-128 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-128. Consolidation of returns prohibited.

A retailer doing business in two (2) or more places or locations, whether within or without the City, and collecting taxes hereunder must file one (1) return for each such places or locations. Any retailer conducting online sales must file a separate return covering online sales.

Section 4. 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 shall be made by the Financial Officer after compliance with the following:

(1) *Application.* An application for a refund 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 an exemption 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;

(2) *Burden of proof.* The burden of proving that any transaction or item is not taxable, is exempt from the tax, or that tax was paid in error or by mistake shall be upon the person asserting such claim under such reasonable requirements of proof as the Financial Officer may prescribe;

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Section 5. That Section 25-166 of the Code of the City of Fort Collins is hereby amended by the addition of a new subsection (g) to read as follows:

Sec. 25-166. Preservation of returns and other records; confidentiality.

...


- (g) Notwithstanding the provisions of this Section, the Financial Officer may disclose financial information within the City organization or to City contractors as required for the conduct of City business or in furtherance of City purposes and objectives, so long as the release of the information is conditioned upon reasonable precautions and requirements to prevent disclosure of said information to the public.

Introduced, considered favorably on first reading, and ordered published this 2nd day of July, A.D. 2019, and to be presented for final passage on the 16th day of July, A.D. 2019.



Mayor

ATTEST:



City Clerk

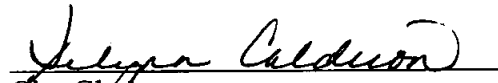


Passed and adopted on final reading on the 16th day of July, A.D. 2019.



Mayor

ATTEST:



City Clerk

