

AGENDA ITEM SUMMARY

January 21, 2020

City Council

STAFF

Jennifer Poznanovic, Project and Revenue Manager
Ryan Malarky, Legal

SUBJECT

Second Reading of Ordinance No. 009, 2020, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins to Provide a Sales Tax Exemption for Mobile Homes.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on January 7, 2020, adds a partial sales tax exemption for new mobile/manufactured home sales in the City and a total exemption for used mobile/manufactured home sales. The City currently applies sales tax on all mobile/manufactured home sales, whereas the State of Colorado and Larimer County exempt all mobile/manufactured home sales from sales tax. Conventional (site-built) homes pay sales or use tax on materials used in construction and there is no sales tax for subsequent sales of the site-built home. All mobile/manufactured homes and site-built homes pay property tax based on the assessed value.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, January 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 009, 2020 (PDF)

AGENDA ITEM SUMMARY

City Council

January 7, 2020

STAFF

Jennifer Poznanovic, Project and Revenue Manager
Ryan Malarky, Legal

SUBJECT

First Reading of Ordinance No. 009, 2020, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins to Provide a Sales Tax Exemption for Mobile Homes.

EXECUTIVE SUMMARY

The purpose of this item is to add a partial sales tax exemption for new mobile/manufactured home sales in the City and a total exemption for used mobile/manufactured home sales. The City currently applies sales tax on all mobile/manufactured home sales, whereas the State of Colorado and Larimer County exempt all mobile/manufactured home sales from sales tax. Conventional (site-built) homes pay sales or use tax on materials used in construction and there is no sales tax for subsequent sales of the site-built home. All mobile/manufactured homes and site-built homes pay property tax based on the assessed value.

Exemption options were discussed with Council Finance Committee in December. The Committee supported a 50% sales tax exemption on the initial new purchase of a mobile/manufactured home and a complete exemption on all subsequent sales.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Earlier this year City Council asked for sales tax data on mobile homes. For purposes of this discussion, the terms mobile home, manufactured home, and mobile/manufactured home may be used interchangeably to refer to the same types of structures. The City does not exempt sales tax on mobile/manufactured homes sales. According to data from the Larimer County Assessor's Office, in 2017 and 2018 there were 181 mobile home sales in Fort Collins, an average of 90 per year. Sales tax over the two-year period was \$176k or roughly \$88k per year.

As of July 1, 2019, the State of Colorado and state collected jurisdictions (such as Larimer County) exempt all manufactured homes sales from sales tax (House Bill 18-1315).

City Code does not differentiate between mobile and manufactured homes (manufactured homes is a term introduced into law to refer to certain mobile homes after the adoption of the federal Mobile Home Construction and Safety Standards Act of 1974) but are considered the same in practice regarding taxation. Currently, there are approximately 1,400 mobile/manufacture homes in Fort Collins and approximately 2,100 in the Growth Management Area (GMA).

Tax treatment (sales tax and property tax) varies for mobile/manufactured homes and site-built homes. A summary is provided below:

Sale Type	State Sales Tax	County Sales Tax	City Sales Tax	Property Tax
New manufactured home purchase	Exempt	Exempt	100% of purchase price	Per assessed value
New site-built home	100% of construction material	100% of construction material	100% of construction material	Per assessed value
Subsequent sales of mobile/manufactured homes	Exempt	Exempt	100% of purchase price	Per assessed value
Subsequent site-built home sales	No	No	No	Per assessed value

- The State and the County exempt mobile/manufactured homes from all sales tax (new and used)
- The City applies sales tax to the full purchase price on all mobile/manufactured home sales (new and used)
- Site-built homes pay sales tax on the materials used in new construction; there is no sales tax on subsequent sales
- All types of dwelling units pay property tax based on the assessed value

Peer City Review

In a review of eleven self-collected home rule cities, each one includes mobile homes in their definition of automotive vehicle, which suggests mobile homes be treated as automotive vehicles for tax purposes. This definition of automotive vehicle is a product of the Colorado Municipal League’s (CML) organized effort engaging municipalities to adopt standard sales tax definitions, which the City participated in. However, in other cities’ codes, there are various terms and definitions for these types of structures, such as manufactured home, factory-built housing, or factory built residential structures.

Five cities, including Fort Collins, do not have exemptions on mobile/manufactured homes. Those with exemptions:

- Either exempt after having been taxed once or;
- 48% exempt for first sale and subsequent sales are exempt

Proposed Exemption Options

1. Exempt all mobile/manufactured home sales from sales tax
2. Apply sales tax on initial purchase of new mobile/manufactured home and exempt all subsequent sales (100% or a percentage)

Staff recommends Option 2 with a 50% exemption on the initial new purchase. The intention is for mobile/manufactured and site-built homes to be taxed similarly. Site-built homes require a 50% deposit of total estimated construction valuation. When the project is complete, the remaining tax liability is calculated using a project cost report available from the City.

In December, the Council Finance Committee supported Option 2 with a 50% exemption on the initial new purchase. During the discussion, the Committee supported a 50% exemption instead of a 100% exemption to avoid blurry lines between manufactured and site-built homes. The intention is to treat all residences similarly.

Chapter 25 Code Updates

The definition of “automotive vehicle” would be amended to exclude mobile homes, and a new definition of mobile homes would be created so that these structures can be treated uniquely in the sales tax ordinances. Amending the “automotive vehicle” definition would stray from CML standard definitions, which is within Council’s authority and discretion.

The Code would be further amended to add an exemption from sales tax for mobile homes. The amendment

would exempt 50% of the purchase price of a new mobile home and would exempt entirely the sale of any used mobile home. The Code would also be amended to ensure motor homes and recreational vehicles are still taxed as automotive vehicles.

CITY FINANCIAL IMPACTS

Sales tax exemptions on mobile homes will result in decreased sales tax revenue. According to data from the Larimer County Assessor’s Office, in 2017 and 2018 there were 181 mobile home sales in Fort Collins, an average of 90 per year. Sales tax over the two-year period was \$176k or roughly \$88k per year.

BOARD / COMMISSION RECOMMENDATION

Mobile home sales tax exemption options were discussed with the Council Finance Committee in December 2019. The Committee supported Option 2, with a 50% sales tax exemption on the initial new purchase and a full exemption on all subsequent sales. The Committee supported this exemption option to apply sales tax on all homes (mobile/manufactured homes and site-built homes) similarly. Council Finance Committee recommended bringing the recommended Code amendments to City Council for its consideration.

PUBLIC OUTREACH

There was no public outreach for this topic.

ATTACHMENTS

1. Staff presentation to Council Finance Committee, December 16, 2019 (PDF)
2. Council Finance Committee Minutes, December 16, 2019 (draft) (PDF)

ORDINANCE NO. 009, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CERTAIN SECTIONS OF CHAPTER 25 OF THE CODE OF THE CITY OF
FORT COLLINS TO PROVIDE A SALES TAX EXEMPTION FOR MOBILE HOMES

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 create an exemption from sales tax for mobile homes and similar off-site manufactured structures, which are currently taxed as tangible personal property; 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 equitable imposition, collection and enforcement of the City’s sales and use taxes with respect to housing.

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 determination and findings contained in the recitals set forth above.

Section 2. That Section 25-71 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-71. Definitions.

...

Automotive vehicle shall mean any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. *Automotive vehicle* includes, but is not limited to, motor vehicles, motor homes, recreational vehicles, trailers or semi-trailers.

...

Mobile home shall mean any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle. *Mobile home* does not include travel trailers, campers, camper buses, motor homes or recreational vehicles.

...

Section 3. 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:

...

(25) Fifty percent (50%) of the purchase price on the first sale of a new mobile home for installation, use, or storage in the City shall be exempt from taxation under this Code. For any subsequent sales of the mobile home, the entire purchase price is exempt from taxation under this Code.

Introduced, considered favorably on first reading, and ordered published this 7th day of January, A.D. 2020, and to be presented for final passage on the 21st day of January, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of January, A.D. 2020.

Mayor

ATTEST:

City Clerk