

O-2023-1

AMENDING TITLE 3 OF THE LAKEWOOD MUNICIPAL CODE TO ESTABLISH AN EXEMPTION FROM THE CITY'S SALES AND USE TAX FOR CERTAIN RETAIL DELIVERY FEES ENACTED BY THE STATE OF COLORADO

WHEREAS, the City of Lakewood, Colorado, the "City", is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution;

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales and use taxes is clearly within the Constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City;

WHEREAS, pursuant to such authority, the City has adopted and enacted a Sales and Use Tax Code (the "Code"), codified at Lakewood Municipal Code section 3.01, et seq., under which City sales and use tax is levied;

WHEREAS, the City desires to exempt from local taxation certain retail delivery fees enacted by the State of Colorado that would otherwise be taxable under the Code; and

WHEREAS, the City adopts this ordinance with the intent to exempt such fees from the City's Sale and Use Tax Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Amending Section 3.01.430 of the Lakewood Municipal Code. Section 3.01.430 of the Lakewood Municipal Code is hereby amended by adding subsection "U" as follows:

U. *Delivery Fees.* The following state-mandated delivery fees, as such sections existed on June 17, 2021:

1. The community access retail delivery fee imposed by C.R.S. § 24-38.5-303(7);
2. The clean fleet retail delivery fee imposed by C.R.S. § 25-7.5-103(8);
3. The clean transit retail delivery fee imposed by C.R.S. § 43-4-1203(7);
4. The retail delivery fee imposed by C.R.S. § 43-4-218(3);
5. The bridge and tunnel retail delivery fee imposed by C.R.S. § 43-4-805 (5)(g.7); and
6. The air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8).

SECTION 2. This Code amendment shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 9th day of January, 2023; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 12th day of January, 2023; set for public hearing to be held on the 23rd day of January, 2023; read, finally passed and adopted by the City Council on the 23rd day of January, 2023; and signed by the Mayor on the 24th day of January, 2023.



Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney