

O-2024-8

AN ORDINANCE

REPEALING AND REENACTING TITLE 3, CHAPTER 1, PART III OF THE LAKEWOOD MUNICIPAL CODE REGARDING IMPOSITION AND ADMINISTRATION OF THE CITY'S SALES AND USE TAX LICENSE

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 increase the biannual license fee to twenty dollars (\$20.00) with future updates to be made by Resolution, and to establish an annual review process of the license fee;

WHEREAS, the City desires to require sales and use tax licenses to be renewed bi-annually (every two years) and to charge a thirty-dollar (\$30.00) late fee for businesses that fail to timely obtain the license;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

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

SECTION 1. Amendment of Title 3, Chapter 1, Part III. Title 3, Chapter 1, Part III (inclusive of Sections 310 through 380) of the Lakewood Municipal Code is hereby repealed and reenacted in its entirety as follows:

**3.01.310 License required; Exceptions.**

- A. License Required. Subject to the provisions of this Tax Code, every "Person" as that term is defined within this Chapter who is "engaged in business in the City" as that term is defined within this Chapter is required to obtain a Sales and Use Tax License for each physical location of such Business operating within the City of Lakewood and for any Business with a location outside of the corporate limits of the City that sells Tangible Personal Property or taxable services into the City when either:
1. Such Business is engaged in commercial activity within the City and is selling Tangible Personal Property or services that are:
    - a. Purchased within the City or delivered into the City; and
    - b. Subject to Sales Tax pursuant to this Tax Code; or
  2. A Business is storing, using, or consuming Tangible Personal Property that is subject to the City's established Use Tax.
- B. Application. Every Person and/or Business (Person/Business) required to obtain a License hereunder shall make an application prior to the time that the Business engaged in such commercial activity within the City via the City's online tax filing system. There shall be imposed and collected a thirty dollar (\$30.00) late charge if an application for a license is not made within thirty (30) days from the time a Business first engaged in commercial activity within the City. Such application shall provide the following:
1. The legal name and mailing address of the Person and such Person's Business that are applying for the License;
  2. The trade name of the Business, if any, for which the License is sought;
  3. The physical location, including the street number of the place of Business, if different from the mailing address stated on the application; and
  4. Such other information as the City might require on the application.
- C. Modification to an Existing License. Person/Business shall notify the City in writing of any change to the information provided on the license application within thirty days of such change.
- D. Application for a Replacement License. A replacement license will be required if either of the following are changed:
1. A change to the physical location of operations of such Person/Business within the City.
  2. A change to the nature of the Person/Business.
  3. The same fees, forms and processes shall be applicable to any application for a replacement license as to any application for a new license.
- E. Approval. Approval of a License shall be conditioned upon the proposed Person/Business and the location thereof meeting all applicable provisions of the Lakewood Municipal Code. A License issued by the City shall be in force and effect until the earlier of:

1. The revocation of such License; or
  2. The sale or termination of operations of the Person/Business, if any, relating to such License.
  3. Two (2) years from the date of issuance.
- F. Exceptions. No License is required for any Person/Business that:
1. Is an informal commercial enterprise with an annual income of less than five thousand dollars (\$5,000); or
  2. Is engaged exclusively in the business of selling Tangible Personal Property or Service that is exempt from taxation under the City's Tax Code and does not exercise control over real property or personal property in the City; or
  3. Files sales and use tax documents through the Colorado Department of Revenue's Sales and Use Tax System and does not exercise control over real or personal property in the City.
- G. Renewal. The license will expire at the end of two (2) years, and the expiration date of such license shall be printed on the face of such license. Each licensee shall be sent a renewal notice no less than thirty (30) days before the expiration date of such license.
1. Renewal of a license shall require completion of payment of all required fees.
  2. Whenever any of the required licensure fees are not received by the City within thirty (30) days after the expiration date of the current license, such license shall be deemed to have expired. If any Person/Business continues to engage in the business for which the expired license was issued, such Person/Business shall apply for a new license in accordance with the provisions of Section 3.01.310 and shall be subject to any late fees as set forth within this Chapter.
  3. The Chief Financial Officer may waive a late fee upon a showing of good cause that is fully documented and set forth in writing.
  4. Failure to receive a license renewal reminder from the City shall not be grounds for failure to renew such license as all holders of a license are mandated to have provided the City with a current address at which they will receive communications and the expiration date of the license is set forth on the face of the document associated with license approval.
- G. Violations of this Chapter. It shall be unlawful for any Person/Business to engage in a business for which a license is required by this Chapter when said Person/Business knows or reasonably should know that:
1. The business does not have such a license;
  2. The business has a license which has been revoked; or
  3. The business has a license which has expired.
- H. Enforcement. The City may enforce any provision of this Part III in any manner

necessary, including through issuance of a citation to the City's municipal court or through civil action.

(Ord. O-2020-32 § 1, 2020)

### **3.01.320 License fee; Late fee.**

A nonrefundable fee, in the amount of twenty dollars (\$20.00), shall accompany each initial license application and each renewal license application.

- A. Beginning in November 2024 and thereafter annually, the Chief Financial Officer will review and evaluate the license fee and the costs inherent in providing the license. If operational expenses of the City have increased by more than three percent (3%) from the previous review of this license fee, the Chief Financial Officer may increase the license fee by up to five dollars (\$5.00).
- B. If the operational expenses of the finance department related to this license fee require a fee increase in excess of five dollars (\$5.00) such modification may be made by Resolution of the City Council.
- C. No license shall be issued until all required fees and accrued late charges have been paid in full.
- D. There shall be imposed and collected a thirty dollar (\$30.00) late charge if an application for a license is not made within thirty (30) days from the time a Person/Business first engaged in business.

(Ord. O-2020-32 § 1, 2020)

### **3.01.330 Denial or Revocation; Review and Appeal.**

- A. Denial. The Chief Financial Officer, upon notice of denial to the Applicant, may deny a Sales and Use Tax License application for any one or more of the following reasons:
  1. The proposed location for the Applicant's business is not zoned for the type of use proposed; or
  2. A person holding an ownership interest of ten percent (10%) or more in the Applicant is in arrears or delinquent with the City in any way; or
  3. An individual holding an ownership interest of ten percent (10%) or more in the Applicant also holds an ownership interest of ten percent (10%) or more in a Business that is in arrears or delinquent with the City in any way; or
  4. An Incomplete application.
- B. Revocation. The Chief Financial Officer may revoke the License of any Person/Business found by the Chief Financial Officer to have violated any material provision of this Chapter 3.01. The procedure for revocation is as follows:
  1. The Chief Financial Officer shall first provide the Person and/or associated Business with written notice of intent to revoke the License, which notice of intent shall notify the Person/Business of the right to request an administrative hearing to review such decision.

2. If no request for review of the decision is received by the Chief Financial Officer within the time set forth within this Section the revocation shall become final and the Person/Business shall cease operations.
  3. The Person/Business may make a written request for a hearing to the Chief Financial Officer not more than ten (10) days after the mailing date of such notice of intent to revoke.
  4. The Chief Financial Officer may delegate the administrative hearing of any review of a decision to revoke a license to an Independent Hearing Officer, which such hearing officer is assigned through the Office of the City Clerk.
  5. If the Person/Business requests an administrative hearing, the Chief Financial Officer or Independent Hearing Officer shall conduct the hearing within fourteen (14) days after receipt of the written request unless the Person/Business has requested a later date, but in no event shall such hearing be held later than forty-five (45) days after the mailing date of such notice to revoke.
  6. The Chief Financial Officer or Independent Hearing Officer's decision shall be final. Such decision shall be in writing setting forth the legal and factual basis for such decision.
- C. Review. Any final decision of the Chief Financial Officer pursuant to this Part III shall be subject to review in Colorado District Court in accordance with Colorado Rule of Civil Procedure 106.

(Ord. O-2020-32 § 1, 2020)

### **3.01.340 License non-transferable.**

No License issued pursuant to this Part III shall be transferred to any other Retailer, Owner, Business, or location, except as expressly provided for herein.

(Ord. O-2020-32 § 1, 2020)

### **3.01.350 Multiple locations—Separate licenses required.**

A Retailer engaged in Business in two (2) or more places or locations within the City or has a location in the City and makes sales into the City from a location outside of the corporate limits of the City must obtain a separate License for each such place or location.

(Ord. O-2020-32 § 1, 2020)

### **3.01.360 Posted in a conspicuous location.**

Each License shall be numbered, shall display the name of the licensee, the place of Business of the licensee, the date of issuance, and the expiration date. Each such License shall be posted in a conspicuous place at the place of Business for which it is issued. If the licensee does not have a place of Business, the License shall display the mailing address of such licensee.

(Ord. O-2020-32 § 1, 2020)

**3.01.370 License additional.**

The License required by this Part III shall be in addition to all other licenses required by law, except as otherwise provided in this Tax Code.

(Ord. O-2020-32 § 1, 2020)

**3.01.380 Certificate of exemption.**

Charitable Organizations, as defined in the City's Tax Code, desiring to be exempt from certain City Sales and/or Use Tax, as described in the City's Tax Code, must apply to the Finance Department for a Lakewood Certificate of Exemption.

(Ord. O-2020-32 § 1, 2020)


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

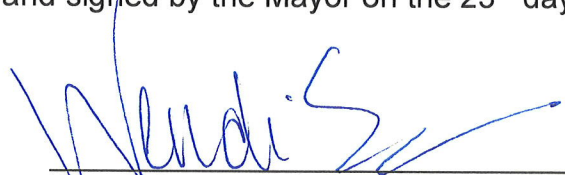
SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application 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 8th day of April 2024; published by title in the Denver Post and in full on the City of Lakewood's website at [www.lakewood.org](http://www.lakewood.org), on the 11th day of April 2024; set for a public hearing to be held on the 22nd day of April 2024; read, finally passed and adopted by the City Council on the 22nd day of April, 2024; and signed by the Mayor on the 23<sup>rd</sup> day of April, 2024.

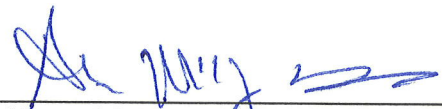


ATTEST:

  
\_\_\_\_\_  
Jay Robb, City Clerk

  
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Wendi Strom, Mayor

APPROVED AS TO FORM:

  
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Alison McKenney Brown, City Attorney