



Legislation Text

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AN ORDINANCE AMENDING THE COMMERCE CITY SALES AND USE TAX CODE, ARTICLE I OF CHAPTER 20 OF THE COMMERCE CITY REVISED MUNICIPAL CODE, TO ADOPT AND INCORPORATE CERTAIN STANDARDIZED SALES AND USE TAX DEFINITIONS RECOMMENDED BY THE COLORADO MUNICIPAL LEAGUE AND ACCOMPLISHING RELATED MATTERS

Summary and Background Information:

In an effort to cooperate with a statewide goal to have locally collecting municipalities agree to use standard definitions in their sales and use tax codes, the Colorado Municipal League spearheaded a committee to develop and encourage home rule municipalities to adopt standardized definitions in their tax codes. Fifty-five (55) of the seventy-two (72) self-collecting Colorado municipalities have already adopted the standardized definitions including:

- Alamosa (5/16/2018)
- Arvada (6/19/2017)
- Aspen (10/19/2017)
- Aurora (4/3/2017)
- Avon (3/28/2017)
- Black Hawk (2/14/2018)
- Boulder (2/6/2018)
- Breckenridge (8/13/2019)
- Broomfield (3/13/2018)
- Canon City (3/5/2018)
- Carbondale (5/22/2018)
- Castle Pines (11/14/2019)
- Centennial (12/4/2017)
- Cherry Hills Village (8/7/2018)
- Colorado Springs (3/26/2019)
- Cortez (10/10/2017)
- Craig (3/27/2018)
- Crested Butte (8/7/2018)
- Dacono (8/14/2017)
- Delta (1/1/2016)
- Denver (6/25/2017)
- Edgewater (5/4/2017)
- Englewood (3/18/2019)
- Evans (9/18/2018)
- Federal Heights (7/17/2018)
- Fort Collins (5/16/2017)
- Frisco (9/12/2017)
- Glenwood Springs (6/7/2018)

- Golden (4/27/2017)
- Greeley (10/17/2017)
- Greenwood Village (5/1/2017)
- Gunnison (11/28/2017)
- Gypsum (2016)
- La Junta (5/1/2018)
- Lamar (11/27/2017)
- Littleton (12/19/2017)
- Lone Tree (8/10/2019)
- Longmont (4/25/2017)
- Louisville (6/13/2017)
- Montrose (9/19/2017)
- Mountain Village (11/27/2017)
- Mt. Crested Butte (9/18/2018)
- Northglenn (10/9/2017)
- Parker (12/14/2017)
- Rifle (11/7/2018)
- Sheridan (9/20/2018)
- Silverthorne (3/7/2018)
- Snowmass Village (7/18/2018)
- Steamboat Springs (1/22/2019)
- Timnath (5/15/2017)
- Vail (3/19/2019)
- Westminster (6/26/2017)
- Wheat Ridge (4/10/2017)
- Windsor (7/9/2018)

The City's Finance Department worked over the last two years in partnership with the City Attorney's Office to incorporate as many of the standardized definitions as possible into the City's Tax Code. The proposed revised Code includes 61 of the standardized definitions (one of those definitions is identical to the standardized version, except for the title). In addition, in accordance with the project's goal to ensure definitions do not include provisions relating to the taxability of any items or services, the City's Tax Regulations that were interspersed throughout the definitions in the Tax Code have been removed and relocated to other sections of the Tax Code or if duplicative, removed entirely. The Tax Department also clarified a number of provisions concerning notice to taxpayers (to now explicitly include electronic notice) which has been the Department's practice, and added tax exemptions for garage sales and online garage sales-all items that reflect current City tax collection practices. Lastly, the revisions included a number of grammatical and formatting changes for clarity and consistency. The list of definitions the City would be adopting with this revised Code, as well as the list of definitions the City is not adopting is attached to this communication.

Article XX, section 6 of the Colorado Constitution authorizes home rule municipalities to levy and collect sales and use taxes, and the City's Charter, Chapter XIII memorializes this authority. The Taxpayer Bill of Rights (TABOR), Article X, Section 20(4) of the Colorado Constitution, restricts the City's ability to institute new taxes or make tax policy changes that result in a certain level of revenue increase without voter approval. The intent of the proposed revisions to the Tax Code is to comply as much as possible with the goal of the standardized definitions project, while ensuring that all changes to the Tax Code remain revenue neutral and do not create a new tax or tax policy change that would

require an election under TABOR. Recent Colorado case law has confirmed that legislation intending to simplify tax collection or ease administrative burdens and which causes only “an incidental and de minimis tax-revenue increase does not amount to a ‘new tax’ or a ‘tax policy change.’” TABOR Found. v. Reg'l Transportation Dist., 2018 CO 29, ¶ 32, 416 P.3d 101, 107. All revisions to the Code were closely analyzed with TABOR restrictions in mind.

Staff Responsible (Department Head): Sheryl Carstens, Finance Director

Financial Impact: None

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