

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HUTCHINSON
COUNCIL BILL NO. 05
ORDINANCE NO. 1758
Series 2023

TITLE: AN ORDINANCE AMENDING SECTIONS 22-58 AND 22-67 OF THE WHEAT RIDGE CODE OF LAWS 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 Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety, or welfare; and

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; and

WHEREAS, pursuant to such authority, the Council has adopted and enacted a Sales and Use Tax Code (the "Code"), under which City sales and use tax is levied; and

WHEREAS, the Council does not wish to impose local sales tax on retail delivery fees enacted by the State of Colorado that would otherwise be taxable under the Code; and

WHEREAS, the Council adopts this ordinance with the intent to exempt such fees from local sales and use tax.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Section 22-58(a) of the Code is amended by the addition of new subsection (30) to read:

(30) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021.

Section 2. Section 22-67 of the Code is amended by the addition of new subsection (9) to read:

(9) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021.


Section 3. Severability, Conflicting Ordinances Repealed. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 27th day of February 2023, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for March 13, 2023, at 6:30 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 5 to 3, this 13th day of March, 2023.


SIGNED by the Mayor on this 16th day of March, 2023.



Bud Starker, Mayor

ATTEST:


Stephen Kirkpatrick, City Clerk

Approved as to Form


Gerald E. Dahl, City Attorney

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