

**ORDINANCE NO. 1814
SERIES 2021**

AN ORDINANCE AMENDING THE CITY'S DISPOSABLE BAG TAX TO PROVIDE A CREDIT IN THE AMOUNT OF THE STATE CARRYOUT BAG FEE TO BE COLLECTED BY RETAILERS AND TO OTHERWISE ALIGN WITH THE STATE CARRYOUT BAG FEE IN ORDER TO REDUCE THE ADMINISTRATIVE BURDEN ON THE CITY'S RETAILERS

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City of Louisville Home Rule Charter; and

WHEREAS, by Ordinance No. 1797 adopted on July 28, 2020, the City Council referred to the City's voters a twenty-five cent (\$0.25) per bag disposable bag tax, which tax was approved by the City's voters at the November 3, 2020 election and will be collected by the City's retailers beginning January 1, 2022; and

WHEREAS, during the 2021 legislative session, the General Assembly adopted House Bill 21-1162, the Plastic Pollution Reduction Act, which imposes a ten cent (\$0.10) per bag fee on plastic and paper carryout bags beginning January 1, 2023; and

WHEREAS, in order to ease the administrative burden on the City's retailers presented by compliance with the City bag tax and the state bag fee, and to maintain the twenty-five cent per-bag amount to be collected by retailers when the state bag fee becomes effective, the City shall apply a credit in the amount of state bag fees collected by retailers toward the amount of City bag taxes due for disposable bags provided to consumers by retailers within the City, as set forth herein; and

WHEREAS, the City Council finds the other amendments set forth herein are reasonable and necessary in order to simplify collection and remittance of the bag taxes and fees to be collected under both the City's ordinance and the state legislation, to ease the administrative burden on the City's retailers.

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

Section 1. The definition of *retailer* set forth in Section 3.34.020.E of the Louisville Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 3.34.020. Definitions.

As used in this Chapter, unless the context clearly demonstrates otherwise, words and phrases shall have the meaning defined in Section 3.20.020 of this

Code. In addition, the following words and phrases shall have the following meanings:

E. *Retailer* shall have the meaning set forth in Section 3.20.020 of this Code, including farmer's markets and other temporary vending establishments for fruits, vegetables, packaged meats, and dairy, but not including any temporary events held not more than once year calendar year. ~~except that, for the purposes of this Chapter, "retailer" does not include:~~

- ~~1. Temporary vending establishments for fruits, vegetables, packaged meats, and dairy;~~
- ~~2. Vendors at farmer's markets or other temporary events.~~

Section 2. Section 3.34.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 3.34.030. Imposition and amount of tax; vendor liable for tax; vendor's fee; credit for state carryout bag fee.

A. In addition to any other tax imposed by law, there is levied and shall be paid and collected a disposable bag tax of twenty-five cents (\$0.25) per bag.

B. Each retailer within the City shall collect, remit, and pay the tax for each disposable bag provided to a customer.

C. Retailers shall record the number of disposable bags provided and the total amount of disposable bag taxes charged on the customer transaction receipt, itemized by the type of bags provided.

D. A Retailer shall not refund to the customer any part of the disposable bag tax, nor shall a retailer advertise or state to customers that any part of the disposable bag tax will be refunded to the customer.

E. A retailer shall not exempt any customer from any part of the disposable bag tax for any reason except as set forth in Section 3.34.120, "Exceptions."

F. A retailer may retain ten cents (\$0.10) of each disposable bag tax collected as a vendor's fee, which shall not be classified as revenue for the purpose of calculating sales tax, and which may be used for the following purposes:

1. Provide educational information about the disposable bag tax to customers;

2. Provide the signage required by Section 3.34.100;
3. Train staff in the implementation and administration of the tax;
4. Improve or alter infrastructure to allow for the implementation, collection, and administration of the tax;
5. Collect, account for, and remit the tax to the City;
6. Develop and display informational signage to inform customers about the tax, encourage the use of reusable bags, or promote the recycling of plastic bags; and
7. Improve infrastructure to increase plastic bag recycling.

G. Beginning January 1, 2023, the City shall apply a credit toward the disposable bag tax imposed by this Chapter in the amount of the carryout bag fee collected by the retailer pursuant to C.R.S. § 25-17-505, as may be amended, such that the amount collected by the retailer for each disposable bag remains twenty-five cents (\$0.25) per bag.

Section 3. Section 3.34.050.A of the Louisville Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 3.34.050. Licensing; filing of returns; recordkeeping.

A. Every person with a duty to collect the tax imposed by this Chapter shall obtain a license as set forth in Section 3.20.402 of this Code to collect the tax, report such taxes collected on forms prescribed by the Finance Director, and remit such taxes to the City quarterly ~~in accordance with the required reporting period for sales taxes and file such returns as provided in Section 3.20.406 of this Code.~~

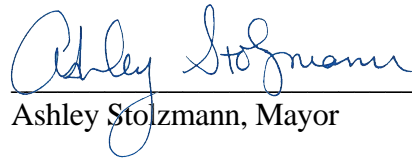
Section 4. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares it would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any

judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.


Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 7th day of September, 2021.



Ashley Stolzmann, Mayor

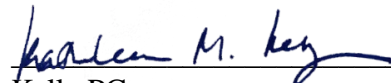
ATTEST:



Meredyth Muth, City Clerk

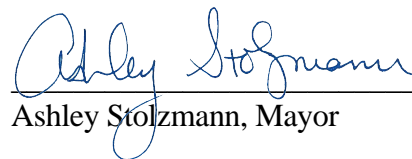


APPROVED AS TO FORM:




Kelly PC
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 21st day of September, 2021.



Ashley Stolzmann, Mayor

ATTEST:



Meredyth Muth, City Clerk

