

ORDINANCE NO. 22-_____

AN ORDINANCE AMENDING SECTION 810 (REFUNDS) OF PART 8 (TAX RETURNS AND PAYMENTS) OF ARTICLE 7 (SALES AND USE TAX) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO REFUNDS

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

Section 1. Section 810 (Refunds) of Part 8 (Tax Returns and Payments) Of Article 7 (Sales and Use Tax) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.7.810: REFUNDS:

A. ~~Overpayments: For transactions consummated on or after January 1, 1986, no refund shall be made nor credit allowed for tax overpaid by any person, prior to compliance with the following conditions precedent:~~ **No refund shall be made to any person prior to compliance with the following conditions:**

1. Applications: Claims may be made **for refunds under subsection D** and/or tax monies paid in error or mistake or paid in excess of the rate as specified in the alternative rate of tax exemption where an overpayment results. Application for refund must be made within three (3) years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed. The application must be made on forms prescribed and furnished by the Director, which forms shall contain the information as the Director shall prescribe.

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3. Proceeds Of ~~Claims~~**Refunds:** ~~The proceeds of a~~Any claim for an ~~overpayment~~ a refund shall first be applied by the Director to any tax deficiencies or liabilities existing against the claimant before allowance of the claim. If any overpayment of tax monies for any period is discovered as a result of audit by the Director and deficiencies are discovered and

assessed against the taxpayer as a result of the audit, the excess monies shall first be applied against any deficiencies outstanding or any liabilities existing against the claimant to the date of assessment. If an overpayment exists after the application, the claimant may elect to take a credit for the amount toward future liabilities or may have the amount refunded.

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D. Subject to the requirements of this Part, the owner of a qualifying affordable housing project will be eligible for a refund of City tax monies paid for the purchase or use of construction materials, as defined in section 2.7.104 of this article.

1. A qualifying affordable housing project is a project where the owner can demonstrate to the satisfaction of the City:

a. The project is located in the City; and

b. The project is new construction of multi-family dwellings, substantial rehabilitation of an existing multi-family dwelling, or conversion of an existing commercial building to multi-family dwelling; and

c. The project consists of at least one (1) dwelling unit qualified as income-restricted affordable housing based on U.S. Department of Housing and Urban Development criteria at the time of application as determined by the Manager of Community Development; and

d. The project has received a final certificate of occupancy; and

e. The owner has represented and warranted to the City and there are adequate safeguards, as determined by the City, in place to ensure that the required number of income-restricted affordable dwelling units in the project will remain as affordable housing for a minimum of fifteen (15) years from the completion of the project (“affordability period”); and

f. The contractor and/or subcontractor has assigned to the owner all rights the contractor and/or subcontractor has, or may have, to any refund of City taxes paid for the purchase or use of construction materials for the project.

2. A “qualifying mixed-use project” is a qualifying affordable housing project that may include, in addition to affordable housing, market rate housing or commercial space. For qualifying mixed-use projects the refund shall be proportional to the percentage of the qualifying mixed-use project

that is for income-restricted dwelling units. The percentage of the qualifying mixed-use project eligible for the refund is determined by the City.

3. Property owners shall substantiate compliance to the City on an annual basis throughout the affordability period in accord with City policy. Failure to provide required substantiation or failure to provide the required number of income-restricted affordable dwelling units in the project as affordable housing for the required affordability period will result in the property owner being required to pay the entire refund back to the City.

4. Purchases for ongoing, routine maintenance shall not qualify for any refund. Purchases of tangible personal property that is retained or reused after the completion of the qualifying affordable housing project, such as tools or equipment, shall not qualify for any refund.

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2022.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk