

ORDINANCE NO. 23-\_\_\_\_\_

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF ARTICLE 7 (SALES AND USE TAX) AND ARTICLE 12 (ECONOMIC DEVELOPMENT AGREEMENTS) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO SALES AND USE TAX OF CONSTRUCTION AND BUILDING MATERIALS

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

Section 1. Section 104 (Words and Phrases Defined) of Part 1 (General Provisions) 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:

2.7.104: WORDS AND PHRASES DEFINED:

\* \* \*

~~CONSTRUCTION AND BUILDING MATERIALS: Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring, and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipefittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project are not construction materials. **Tangible personal property incorporated into, attached to, or affixed to real property by contractors in the performance of a lump sum improvement to real property contract, and when combined with other tangible personal property loses its identity to become an**~~

**integral, inseparable, and permanent part of the real property, and if removed would cause substantial damage to the real property or article itself.**

**The above materials when used in other forms or do not remain as an integral, inseparable, and permanent part of a completed structure are not construction and building materials.**

\* \* \*

**MADE TO ORDER: Tangible personal property customized, created, or produced to supply a specific or an individual demand.**

\* \* \*

RETAILER OR VENDOR: Any person selling, leasing, renting or granting a license to use tangible personal property or services at retail. Retailer shall include, but is not limited to, any:

A. \* \* \*

D. Retailer-contractor, when acting in the capacity of a seller of building supplies, construction **and building** materials, and other tangible personal property;

\* \* \*

Section 2. Section 308 (Manufactured Articles) of Part 3 (Taxable Transactions, Commodities and Services) 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:

2.7.308: MANUFACTURED, **FABRICATED, OR MADE TO ORDER** ARTICLES:

The Sales or Use Tax is imposed on the full purchase price of articles sold after manufacture, **fabricated**, or after having been made to order and includes the full selling price of materials used and services performed in connection with the sale, excluding, however, articles as are otherwise exempted under this City Tax Code.

Section 3. Section 445 (Sales Tax – Non Applicability) of Part 4 (Exempt Transactions, Commodities and Persons; Deductions) 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:

2.7.445: SALES TAX - NONAPPLICABILITY:

For transactions consummated on and after January 1, 1986, the City's Sales Tax shall not apply to the sale of "construction **and building** materials", as the term is used in Colorado Revised Statutes section 29-2-109, and as defined in section 2.7.104 of this article, if the materials are picked up by the consumer and if the consumer presents to the retailer a building permit or other documentation acceptable to the City evidencing that a Use Tax has been paid to another Colorado municipality.

Section 4. Section 604 (Contractors, Owners or Lessees of Realty) of Part 6 (Taxpayer Liability) 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:

2.7.604: CONTRACTORS, OWNERS OR LESSEES OF REALTY:

Every purchase by a contractor shall be taxable as a purchase at retail unless the purchase is for taxable resale or otherwise exempt under this City Tax Code. Every contractor who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or make improvement to real property, including all work performed on Federal, State, County, City, exempt institution and private construction job sites in this City and shall purchase construction **and building** materials, and every owner or lessee of realty situate in the City, upon which any article or articles of tangible personal property acquired from sources within or without the City are attached or affixed and which contractor, owner or lessee has not paid the sales tax imposed by this City Tax Code thereon, to a retailer required or authorized to collect the same, shall pay a use tax by making a monthly return and paying the tax due to the City, on or before the twentieth day of the month following the purchase and on or before the twentieth day of each calendar month thereafter for the preceding calendar month.

A. \* \* \*

E. Building Inspections: An inspection, including a periodic or final inspection, shall not be made by the Regional Building Official, nor shall a certificate of

occupancy, whether temporary or final, be issued, unless all taxes due as provided by this City Tax Code, on all construction **and building** materials connected with the construction, reconstruction, alterations, expansion, modification or improvement to real property within the City have been paid or arrangements therefor made with the Director.

Section 5. 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:

\* \* \*

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 **and building** materials, as defined in section 2.7.104 of this article.

1. \* \* \*

a. \* \* \*

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 **and building** materials for the project.

\* \* \*

Section 6. Section 1105 (Transactions, Commodities Subject to Tax Liens) of Part 11 (Liens) 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:

2.7.1105: TRANSACTIONS, COMMODITIES SUBJECT TO TAX LIENS:

A. \* \* \*

B. Construction **and Building** Materials: The full amount of any tax due and not paid for lumber, fixtures or any other building materials and supplies, together with penalties and interest thereon as provided, shall constitute a lien upon the real property benefited by the work. The Director is hereby authorized to file a notice of the lien with the County Clerk and Recorder of El Paso County.

\* \* \*

Section 7. Section 102 (Definitions) of Article 12 (Economic Development Agreements) 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:

2.12.102: DEFINITIONS:

The following terms, as used in this article, shall have the meanings designated unless the context specifically indicates otherwise, or unless the meaning is excluded by express provision:

\* \* \*

CONSTRUCTION **AND BUILDING** MATERIALS: "Construction **and building** materials" as that term is defined in section 2.7.104 of this chapter.

\* \* \*

Section 8. Section 104 (Authorized Incentives) of Article 12 (Economic Development Agreements) 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:

2.12.104: AUTHORIZED INCENTIVES:

An economic development agreement executed in accordance with this article may include one or more of the following incentives so long as the agreement will result in a positive financial impact to the City:

A. Up to fifty percent (50%) of the City's general fund portion of the sales tax or use tax paid by or for the benefit of the business for the purchase or use of construction **and building** materials used in the establishment of the new business facility within the CAZ.

\* \* \*

Section 9. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 10. 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 \_\_\_\_\_, 2023.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Randy Helms, Council President

**Mayor's Action:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_, based on the following objections:

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Yemi Mobolade, 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.

\_\_\_\_\_  
Randy Helms, Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk