

ORDINANCE NO. 21-_____

AN ORDINANCE CREATING PART 14 (TEMPORARY REBATE OF 2% GENERAL FUND PORTION OF CITY SALES TAX FOR QUALIFYING RESTAURANTS FOR LOST REVENUE AS A RESULT OF THE ECONOMIC DISRUPTIONS DUE TO THE PRESENCE OF CORONAVIRUS DISEASE 2019 (COVID-19) 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 TEMPORARY REBATE OF CITY SALES TAX

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

Section 1. Part 14 (Temporary Rebate of 2% General Fund Portion of City Sales Tax for Qualifying Restaurants for Lost Revenue as a Result of the Economic Disruptions Due to the Presence of Coronavirus Disease 2019 (Covid-19) 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 created to read as follows:

PART 14: TEMPORARY REBATE OF 2% GENERAL FUND PORTION OF CITY SALES TAX FOR QUALIFYING RESTAURANTS FOR LOST REVENUE AS A RESULT OF THE ECONOMIC DISRUPTIONS DUE TO THE PRESENCE OF CORONAVIRUS DISEASE 2019 (COVID-19)

2.7.1401: PURPOSE

2.7.1402: DEFINITIONS

2.7.1403: TEMPORARY REBATE

2.7.1404: REBATE ELIGIBILITY

2.7.1405: PROCESS FOR REBATE APPLICATION

2.7.1406: DIRECTOR'S AUTHORITY

2.7.1407: AUTOMATIC REPEAL; DEADLINE

2.7.1401: PURPOSE:

Due to the COVID-19 pandemic and ongoing public health emergency, many restaurants in the City, particularly those subject to mandatory capacity restrictions, have suffered severe revenue declines.

Many restaurants have been forced to choose between closing their business or laying off employees. By providing relief to certain restaurants, these businesses can continue to provide valuable services to their community and continue to employ individuals who would otherwise lose their jobs.

City Council finds and declares that the many restaurants have been severely impacted by the COVID-19 pandemic due to mandatory capacity restrictions and by public health orders that required or recommended potential patrons to stay home. This industry is in particular need of relief in order to stabilize the economy of the City and to better position the City to recovery from the COVID-19 pandemic.

2.7.1402: DEFINITIONS:

RESTAURANT: as defined by the industry code indicated on the sales tax license for the City of Colorado Springs.

QUALIFYING RESTAURANT: a Restaurant doing business in the City of Colorado Springs that timely files City sales tax returns as required pursuant to this Article and began sales of prepared food prior to October 1, 2020.

SPECIFIED SALES TAX PERIOD: sales made in November 2020, December 2020, January 2021 and February 2021, for which returns must be filed pursuant to this Article, on or before December 20, 2020, January 20, 2021, February 20, 2021 and March 20, 2021, respectively.

NET TAXABLE SALES: all sales made by the Qualifying Restaurant during the specified sales tax period of tangible personal property, commodities, and services as specified in Part 3 of this Article, less any deductions and exemptions authorized in Part 4 of this Article.

2.7.1403: TEMPORARY REBATE:

The City of Colorado Springs will rebate the 2% general fund portion of City sales tax actually paid to eligible Qualifying Restaurants for the Specified Sales Tax Period, subject to the rebate amount limit established below. Qualifying Restaurants may apply for the rebate for up to five (5) business locations. The sales tax rebate to any Qualifying Restaurant shall not be made for Net Taxable Sales of less than \$500 per month nor based upon Net Taxable Sales greater than

\$70,000 per month. Rebates of City sales tax shall thus range between \$10.00 per month to \$1,400.00, per month for any one (1) location.

2.7.1404: REBATE ELIGIBILITY:

The Qualifying Restaurant must meet the following criteria:

- A. Currently doing business in the City at the time of application; and
- B. Up to date on filing sales tax returns and payment of City sales tax; and
- C. Meets either of the following:
 - 1. Five Percent (5%) or greater decrease of Net Taxable Sales in the 3rd quarter of 2020 as compared to 3rd quarter 2019; or
 - 2. Began sales of prepared food between November 1, 2019 and October 1, 2020; and
- D. Submit a timely application for the rebate and any additional information, if requested, within the timeframe set forth in section 2.7.1405(B).

2.7.1405: PROCESS FOR REBATE APPLICATION:

- A. The Qualifying Restaurant shall submit a one-time Sales Tax Rebate Application to El Paso County at SalesTaxRebate@elpasoco.com. If the Qualifying Restaurant is located within the City boundaries, the application will be transmitted to the City for processing and eligibility determination.
- B. The Director or Director's designee shall determine whether or not the Qualifying Restaurant is eligible for the rebate of the 2% general fund portion of the City sales tax for the Specified Sales Tax Period. The City may request additional information from the Qualifying Restaurant in order to determine eligibility. Such information must be submitted by the Qualifying Restaurant to the City within 14 days of request. If the additional requested information is not timely submitted the Qualifying Restaurant may be determined to be ineligible for the rebate.
- C. Subject to compliance with the provisions of this Part, the City will issue rebate checks to eligible Qualifying Restaurants at the end of February 2021 for the 2% general fund portion of the City sales tax paid in December 2020 and January 2021. Subject to compliance with the provisions of this Part, the City will issue rebate checks to eligible Qualifying Restaurants at the end of April 2021 for the 2% general fund portion of the City sales tax paid in February 2021 and March 2021.

2.7.1406: DIRECTOR'S AUTHORITY:

A. The Director shall have the authority to proscribe the necessary forms, processes and procedures to administer this program.

B. The Director shall have final authority in determining a Qualifying Restaurant's rebate eligibility.

C. For purpose of calculating City revenues in any calendar year under applicable revenue limitations of the Colorado Constitution and City Charter, the Director shall have authority to elect whether to (I) account for sales tax received as net after all rebates in each calendar year, (II) account for sales tax received before rebates and treat the rebates as fiscal year spending, or (III) treat the rebates as a refund to taxpayers of revenues in excess of revenues allowed to be retained pursuant to aforementioned constitutional and Charter revenue limitations.

2.7.1407: AUTOMATIC REPEAL; DEADLINE:

This Section is repealed, effective June 30, 2021. No rebates shall be made upon any applications received after April 30, 2021.

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 _____, 2021.

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

CAO: ____ 5

COS: ____