

CITY OF LAFAYETTE

ORDINANCE NO. 05, Series 2024

INTRODUCED BY: Councilor Saul Tapia Vega

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AMENDING ARTICLE III, “SALES AND USE TAX,” OF CHAPTER 110, “TAXATION,” TO EXEMPT ESSENTIAL HYGIENE PRODUCTS FROM THE CITY’S SALES AND USE TAX

WHEREAS, Article XX, Section 6.g. of the Colorado Constitution grants to the City, as a home rule municipality, all powers necessary to levy and collect taxes for municipal purposes, subject to any limitations in the Colorado Constitution; and

WHEREAS, the City of Lafayette levies, collects, and enforces sales and use tax on the purchase of tangible personal property sold at retail in the City and on certain taxable services provided in the City as set forth in Article III, Sales and Use Tax Code, of Chapter 110, Taxation, of the Code of Ordinances of the City of Lafayette, Colorado (“Sales and Use Tax Code”); and

WHEREAS, the City Council of the City of Lafayette desires to advance gender equity in the City’s sales and use tax ordinances by establishing an exemption from sales and use tax for certain menstrual care products; to provide tax relief for certain individuals by increasing the affordability of menstrual care products; and to redress the inequitable burden that the imposition of sales tax places on millions of women in Colorado for whom such products are essential; and

WHEREAS, the City Council also desires to provide tax relief for certain individuals by establishing a sales and use tax exemption for incontinence products and diapers to increase the affordability of such products and to redress the inequitable burden that the imposition of sales tax places on millions of parents, individuals caring for infants and young children, and other users of incontinence products in Colorado for whom such products are essential; and

WHEREAS, the City Council hereby finds that amending the City’s Sales and Use Tax Code as proposed in this ordinance is in the best interest of the City and its taxpayers and promotes the health, safety, and welfare of the community by redressing the inequitable tax burdens on women, parents, and individuals for whom menstrual care products, incontinence products, and diapers are essential.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:**

Section 1. That Section 110-37, “Definitions,” of Article III, “Sales and Use Tax Code,” of Chapter 110, “Taxation,” of the Code of Ordinances of the City of Lafayette, Colorado, is hereby amended by the addition of the following new definitions, which shall be codified in said section in alphabetical order:

Sec. 110-37. Definitions.

When not clearly otherwise indicated by the context or by state statute mandatorily applicable to a home rule city, the following words and phrases as used in this article shall have the following meanings:

...

Incontinence products and diapers means absorbent cloth or disposable products worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

...

Menstrual care products means consumer products designed to absorb or contain menstrual flow. Menstrual care products include, without limitation, tampons, menstrual pads, sanitary napkins, pantliners, menstrual sponges, menstrual undergarments, and menstrual cups.

Section 2. That subsection (a) of Section 110-122, “Items exempt from taxation,” in Article III, “Sales and Use Tax Code,” of Chapter 110, “Taxation,” of the Code of Ordinances of the City of Lafayette, Colorado, is hereby amended to add the following new paragraphs (28) and (29) to read as follows:

Sec. 110-122. Items exempt from taxation.

(a) The sales tax levied by section 110-121 shall not apply to the following:

...

(28) Sales of menstrual care products purchased on and after January 1, 2025.

(29) Sales of incontinence products and diapers purchased on and after January 1, 2025.

Section 3. That Section 110-147, “Exempt items,” in Article III, “Sales and Use Tax Code,” of Chapter 110, “Taxation,” of the Code of Ordinances of the City of Lafayette, Colorado, is hereby amended to add the following new paragraphs (15), (16), and (17) to read as follows:

Sec. 110-147. Exempt items.

The tax or excise imposed in this article on the storage, consumption and use of tangible personal property, products and services shall not apply to the following:

...

- (15) Menstrual care products purchased on and after January 1, 2025.
- (16) Incontinence products and diapers purchased on and after January 1, 2025.
- (17) All other tangible personal property and taxable services that are exempt, as provided in Section 110-122, from the sales tax imposed in this Code.

Section 4. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 6. The repeal or modification of any provision of the Code of Ordinances, City of Lafayette, Colorado, 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. 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 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 7. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section _____ 8. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 18th DAY OF JUNE, 2024.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THE 2nd DAY OF JULY, 2024.

CITY OF LAFAYETTE, COLORADO

Jaideep Mangat, Mayor

ATTEST:

Lynnette Beck, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney