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WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales and use taxes is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City; and

WHEREAS, the City does not wish to impose local sales tax on certain retail delivery fees and carryout bag fees enacted by the State of Colorado that would otherwise be taxable under the Code; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF LONGMONT, COLORADO,
ORDAINS:

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In this ordinance, ellipses indicate material not reproduced as the Council intends to leave material in effect as it now reads.

2

The Council amends section 4.04.090. – Sales Tax – Exempt items designated, by adding the following material, to read as follows:

4.04.090. – Sales Tax – Exempt items designated.

The following classes of tangible personal property are exempt from taxation:

...

Z. Pre-owned manufactured homes. The storage, use, or consumption of a manufactured home after the home has been once subject to a payment of use tax, shall be exempt from taxation under this chapter. Nothing in this section shall be construed as creating an exemption or otherwise affecting an existing exemption, for a sale to a person or entity described in this section.

AA. The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805(5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021.

BB. The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

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The Council amends section 4.04.290. – Use Tax – Supplementary to sales tax – Exempt by adding italicized material, to read as follows:

4.04.290. – Use Tax – Supplementary to sales tax – Exempt items.

This tax or excise on the storage, consumption and use of tangible personal property is supplementary to the city tax on retail sales as provided in this chapter. Use tax shall not apply to the storage, use or consumption of:

...

Q. Construction material for installation, use or consumption on buildings which have been designated as landmarks, or are located within a designated historic district on the conditions the following requirements are met:

1. At the time of the application for a building permit, the applicant proves that the building has been so designated;

2. That a certificate of appropriateness has been issued by the landmark designation commission for the improvement for which the materials will be used;

3. The applicant provide affidavits of the owner and contractor performing the construction on the building stating that the construction materials will be installed, used or consumed exclusively upon the building for which the permit has been issued;

4. A minimum of 30 percent of the total cost of the project is used on the exterior of the structure, unless the commission designates a lesser amount to be used consistent with their findings under the certificate of appropriateness.

1 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
2 7:00 P.M. ON THE 29TH DAY OF NOVEMBE, 2022, AT THE LONGMONT CITY COUNCIL
3 MEETING.
4
5

6 APPROVED AS TO FORM:
7
8

9 /s/ Christopher Robbie 11/08/2022
10 ASSISTANT CITY ATTORNEY DATE
11
12

13 /s/ Cristi Campbell 11/07/2022
14 PROOFREAD DATE
15
16

17 APPROVED AS TO FORM AND SUBSTANCE:
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19

20 /s/ Jim Golden 11/15/2022
21 ORIGINATING DEPARTMENT DATE
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23

CA File: 22-001874