

**TOWN OF LOCHBUIE  
COUNTIES OF WELD AND ADAMS, COLORADO**

**ORDINANCE NO. 2022-678**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF  
LOCHBUIE, COLORADO, AMENDING SEVERAL SECTIONS OF  
ARTICLE IV OF CHAPTER 4 OF THE LOCHBUIE MUNICIPAL CODE  
GOVERNING SALES TAX TO EXEMPT SALES OF CERTAIN ITEMS OF  
TANGIBLE PERSONAL PROPERTY FROM THE TOWN'S SALES TAX  
AND TO UPDATE REFERENCES TO STATE LAW AND REPEAL  
OBSOLETE PROVISIONS**

WHEREAS, the Town of Lochbuie is a statutory municipality governed by its elected Mayor and Board of Trustees; and

WHEREAS, pursuant to Article IV of Chapter 4 of the Lochbuie Municipal Code, the Town imposes a 4% tax on retail sales within the Town, collected and administered by the Colorado Department of Revenue; and

WHEREAS, by House Bill 22-1055, the State of Colorado created a state sales and use tax exemption commencing January 1, 2023, for all sales, storage, use, and consumption of incontinence products and diapers and period products, and provided that counties and municipalities may choose to adopt either or both exemptions by express inclusion in their sales and use tax ordinance or resolution; and

WHEREAS, the Board of Trustees of the Town desires to recognize an exemption commencing January 1, 2023, for all sales, storage, use, and consumption of incontinence products and diapers and period products in similar manner as the State of Colorado; and

WHEREAS, certain references to state law in Article IV of Chapter 4 of the Lochbuie Municipal Code are outdated and the Town Board wishes to update its Code to reflect proper citations and references to state law; and

WHEREAS, state law (C.R.S. Section 29-2-105) requires certain provisions be included in local sales tax ordinances which are not currently included in the Lochbuie Municipal Code; and

WHEREAS, certain provisions of the Lochbuie Municipal Code are obsolete such as the requirement that a retailer obtain a town sales tax license (only business licenses are issued by the Town; sales tax licensed are issued by and required by the State of Colorado); and

WHEREAS, certain sections of Article IV of Chapter 4 of the Lochbuie Municipal Code are repetitive and/or confusing in how they are ordered or separated and the Town Board wishes to update its Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS FOLLOWS:**

**Section 1. Amendment to Section 4-4-10 of the Lochbuie Municipal Code.** Section 4-4-10 of the Lochbuie Municipal Code is hereby amended with additions shown in ALL CAPS and deletions shown as ~~strike-throughs~~:

**Sec. 4-4-10. - Purpose.**

The purpose of this Article is to impose a TOWN sales tax on THE SALE OF ~~the privilege of selling~~ tangible personal property AND TAXABLE SERVICES at retail ~~upon every retailer~~ SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 2 OF TITLE 29 AND ARTICLE 26 OF TITLE 39, C.R.S. ~~in the Town~~

**Section 2. Repeal of Section 4-4-30 of the Lochbuie Municipal Code.** Section 4-4-30 of the Lochbuie Municipal Code, imposing a requirement for a Town issued sales tax license, is hereby repealed and currently numbered Section 4-4-50 shall be renumbered and reordered to become Section 4-4-30.

**Section 3. Amendment to Section 4-4-40 of the Lochbuie Municipal Code.** Section 4-4-40 of the Lochbuie Municipal Code is hereby amended with additions shown in ALL CAPS and deletions shown as ~~strike-throughs~~:

**Sec. 4-4-40. - General provisions; exemptions from taxation.**

- ~~(a) For the purpose of collection, administration and enforcement of this Article by the Director of Revenue, the provisions of Section 39-26-114, C.R.S., shall be deemed applicable and incorporated into this Article.~~
- (a) SALES OF THE FOLLOWING ARE EXEMPTED FROM THE TOWN SALES TAX:
  - (1) AS OF JANUARY 1, 2023, SALES OF PERIOD PRODUCTS AS SPECIFIED IN SECTION 39-26-717 (2)(m), C.R.S.
  - (2) AS OF JANUARY 1, 2023, SALES OF INCONTINENCE PRODUCTS AND DIAPERS AS SPECIFIED IN SECTION 39-26-717 (2)(n), C.R.S.
- (b) The amount subject to tax under this Chapter shall not include the state sales and use tax imposed by Article 26, Title 39, C.R.S.
- (c) For the purpose of this Article, all retail sales shall be SOURCED AS SPECIFIED IN SECTION 39-26-104(3), C.R.S. ~~considered consumed at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside~~

~~the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town.~~

- ~~(e) The gross receipts from sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by Article 26, Title 39, C.R.S., regardless of the places to which delivery is made.~~
- ~~(e) In the event a retailer has no permanent place of business or more than one (1) place of business in the Town, the place at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26, Title 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue.~~
- (d) For transactions consummated on or after March 1, 1986, the Town's sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the Town evidencing that a local use tax has been paid or is required to be paid.
- (e) ALL SALES OF PERSONAL PROPERTY ON WHICH A SPECIFIC OWNERSHIP TAX HAS BEEN PAID OR IS PAYABLE SHALL BE EXEMPT FROM TOWN SALES TAX WHEN SUCH SALES MEET BOTH OF THE FOLLOWING CONDITIONS:
  - (I) THE PURCHASER IS A NONRESIDENT OF OR HAS HIS PRINCIPAL PLACE OF BUSINESS OUTSIDE OF THE LOCAL TAXING ENTITY; AND
  - (II) SUCH PERSONAL PROPERTY IS REGISTERED OR REQUIRED TO BE REGISTERED OUTSIDE THE LIMITS OF THE LOCAL TAXING ENTITY UNDER THE LAWS OF THIS STATE.
- (f) THE SALES TAX IMPOSED BY THIS ARTICLE SHALL NOT APPLY TO THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES IF THE TRANSACTION WAS PREVIOUSLY SUBJECTED TO A SALES OR USE TAX LAWFULLY IMPOSED ON THE PURCHASER OR USER BY ANOTHER STATUTORY OR HOME RULE CITY AND COUNTY, CITY, OR TOWN EQUAL TO OR IN EXCESS OF THAT SOUGHT TO BE IMPOSED BY THE TOWN. A CREDIT SHALL BE GRANTED AGAINST THE SALES TAX WITH RESPECT TO SUCH TRANSACTION EQUAL IN AMOUNT TO THE LAWFULLY IMPOSED LOCAL SALES OR USE TAX PREVIOUSLY PAID BY THE PURCHASER OR USER TO THE PREVIOUS STATUTORY OR HOME

RULE CITY AND COUNTY, CITY, OR TOWN. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE SALES TAX IMPOSED BY THE TOWN.

**Section 4. Amendment to Section 4-4-50 of the Lochbuie Municipal Code.** Section 4-4-50 of the Lochbuie Municipal Code is hereby renumbered to Section 4-4-30 (Section 4-4-50 to be reserved) and further amended with additions shown in ALL CAPS and deletions shown as strike throughs:

**Sec. 4-4-30. – IMPOSITION ~~Schedule~~ of sales tax; ADMINISTRATION AND ENFORCEMENT.**

- (a) There is hereby imposed on all sales of tangible personal property AT RETAIL OR THE FURNISHING OF SERVICES a tax equal to four percent (4%) ~~of the gross receipts. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town.~~ THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS SECTION SHALL BE THE SAME AS THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO SECTION 39-26-104, C.R.S., EXCEPT AS OTHERWISE PROVIDED IN SECTION 4-4-40 OF THIS ARTICLE.
- (b) The collection, administration and enforcement of this sales tax shall be performed by the State Director of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26, Title 39, C.R.S., and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of the sales tax imposed by this Article.

**Section 5. Repeal of Section 4-4-60 of the Lochbuie Municipal Code.** Section 4-4-60 of the Lochbuie Municipal Code, governing credits for tax previously lawfully imposed and paid, is hereby repealed.

**Section 6. Repeal of Section 4-4-70 of the Lochbuie Municipal Code.** Section 4-4-70 of the Lochbuie Municipal Code, governing amendments to the sales tax provisions, is hereby repealed.

**Section 7. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division,

subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 8. Safety Clause.** The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

**Section 9. Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 10. Effective Date.** This Ordinance shall take effect thirty (30) days after publication, as provided by C.R.S. § 31-16-105 and Sections 1-3-60 and 2-2-110 of the Lochbuie Municipal Code.

ADOPTED by a vote of 5 in favor, 1 against and 0 abstaining, AND ORDERED PUBLISHED by title only this 18 day of October, 2022.

TOWN OF LOCHBUIE, COLORADO

  
Michael Mahoney, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of October 18, 2022, and ordered published by title only one time by *The Brighton Blade* newspaper on October 27, 2022.



  
Heather Meierkort, Town Clerk