

R-2026-7

A RESOLUTION

APPROVING A REFUND PURSUANT TO COLORADO CONSTITUTION ARTICLE X, SECTION 20 OF TAXES COLLECTED PURSUANT TO CITY OF LAKEWOOD ORDINANCES O-1996-43 and O-2015-3, AUTHORIZING A TAX ON THE BUSINESS AND OCCUPATION OF TELECOMMUNICATIONS SERVICE PROVIDED TO RESIDENTS OF THE CITY OF LAKEWOOD

WHEREAS, in 1969 the City of Lakewood implemented a Business and Occupation Tax (“B&O Tax”) for providing telecommunications service to residents of the City of Lakewood;

WHEREAS, in 1992 Colorado Voters approved the Taxpayer’s Bill of Rights (“TABOR”), Colo. Const. Art. X, Section 20, which requires a refund of taxes collected in violation TABOR’s election requirement;

WHEREAS, in 1996 the State of Colorado required local governments to extend any existing charge on telecommunications to apply neutrally to comparable providers of the service. Ch. 75, sec. 1, C.R.S. § 38-5.5-107(2)(a), 1996 Colo. Sess. Laws 298, 301–02;

WHEREAS, in 1996 and 2015 the City of Lakewood amended its B&O Tax to clarify that the tax applied to new forms of telecommunications to effectuate the neutrality requirement;

WHEREAS, in the case of MetroPCS v. City of Lakewood, 2025 CO 53, originally filed in the Jefferson County District Court in 2022, the Colorado Supreme Court determined that City of Lakewood Ordinances O-1996-43 and O-2015-3 required voter approval, which did not occur prior to the adoption of such ordinances;

WHEREAS, the City of Lakewood (the “City”) has been ordered to refund taxes collected pursuant O-1996-43 and O-2015-3;

WHEREAS, TABOR requires a refund of taxes collected in the four full fiscal years preceding a legal challenge that results in a refund;

WHEREAS, TABOR allows a municipal government discretion to determine an appropriate method of refunding taxes collected in violation of the voter requirement;

WHEREAS, the Lakewood City Council is authorized to act pursuant to resolution [fill in];

WHEREAS, City staff have identified businesses that paid the B&O Tax in the refund period between January 2018 and December 2025 and calculated the estimated impact of the refund;

WHEREAS, the maximum estimated amount has been identified for allocation to payments made to refund B&O Taxes to businesses;

WHEREAS, the refund requirement shall be fulfilled through reallocation of funds in the TABOR fund and general fund;

WHEREAS, each business has been notified via certified mail sent to the business's registered agent that they may be entitled to a refund;

WHEREAS, each business has been notified through the City of Lakewood tax collection software that they may be entitled to a refund;

WHEREAS, an interactive form has been created for businesses to request a refund and upload documents demonstrating payment of the B&O Tax during the refund period;

WHEREAS, businesses that paid the B&O Tax during the refund period shall receive refunds after a request for refund is reviewed and verified by a member of the City of Lakewood's finance department;

WHEREAS, the City of Lakewood has made reasonable efforts to ensure all entities that paid the B&O Tax and may be entitled to a refund are notified and given an opportunity to claim such refund with supporting documentation;

WHEREAS, upon verification of the business's request for a refund the City will execute a settlement agreement with the business prior to payment of the refund;

WHEREAS, the City will separately approve an Ordinance making a supplemental appropriation of funds from the 2026 Budget and TABOR fund;

WHEREAS, City Council finds that the method of effectuating the refund constitutes a reasonable method consistent with the intent of TABOR;

WHEREAS, City Council desires to approve the method herein to fulfill its obligation to refund B&O Taxes pursuant to the Colorado Supreme Court mandate in MetroPCS v. City of Lakewood;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

Section 1. The City Council hereby determines that the refund obligation of Colo. Const. Art. X, Section 6 is satisfied through the methodology articulated herein, including changes to the stated methodology necessary and appropriate to carry out the intent of this resolution.

Section 2. The City Council further determines that reasonable efforts have been made pursuant to Colo. Const. Art. X, Section 6 to identify all payers of the B&O Tax during the refund period.

Section 3. The City Council further determines that fulfilling the refund obligation through an allocation of TABOR funds and the general fund constitutes a reasonable exercise of the City of Lakewood's discretion to determine an appropriate refund method.

Section 4. The recitals are incorporated by reference as if fully stated herein.

Section 5. The City Council hereby approves the methodology for refunding B&O Taxes for the required refund period.

Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ, AND ADOPTED by a vote of 11 for and 0 against at a hybrid regular meeting of the Lakewood City Council on January 12, 2026, at 7 o'clock p.m. at the Lakewood Civic Center, 480 S. Allison Parkway, Lakewood, Colorado.

ATTEST:



Jay Robb, City Clerk



Wendi Strom, Mayor

APPROVED AS TO FORM:



Alison McKenney Brown, City Attorney