

CHAPTER 8

Taxation

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ARTICLE I

Sales Tax

Sec. 8-1. Definitions.

For the purposes of this Article, the words and phrases used herein shall be defined as set out in Section 39-26-102, C.R.S., as amended, and such definitions are incorporated herein by reference.
(Ord. 8 §1, 2006)

Sec. 8-2. Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail, or the furnishing of services, as provided in Subsection 8-3(A) below, upon every retailer in the City.
(Ord. 8 §1, 2006)

Sec. 8-3. Tax imposed; rate.

(A) There is hereby imposed on all sales of tangible personal property; commodities and services, as provided in Subsection 8-4(A) below, a tax equal to three (3) percent of the gross receipts.

(B) The tax imposed shall be in accordance with the following schedule:

<i>Sales Brackets</i>	<i>Tax</i>
\$0.01 through 0.18	None
0.19 through 0.51	\$0.01
0.52 through 0.84	0.02
0.85 through 1.00	0.03

On sales in excess of one dollar (\$1.00), the tax shall be three (3) percent on each full dollar of the sales price, plus the tax shown on the above schedule for the applicable fractional part of a dollar of each such sales price.
(Ord. 8 §1, 2006)

Sec. 8-4. Tangible personal property tax; exemptions.

(A) The tangible personal property and services taxable pursuant to this Chapter shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., as amended, and subject to the same exemptions as those specified in Section 39-26-701 *et seq.*, C.R.S., as amended, provided that the exemption for sales of food pursuant to Section 39-26-707(1), C.R.S., as amended, the exemption for sales of electricity, coal, wood, gas, fuel oil or coke sold to occupants of residences pursuant to Section 39-26-715(1), C.R.S., as amended, and the exemption for sales of machinery and machine tools pursuant to Section 39-26-709, C.R.S., as amended, shall not apply to the sales tax imposed by this Article, and the sale of such items is expressly made taxable under this Article.

(B) For transactions consummated on or after January 1, 1986, the 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., as amended, 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 City evidencing that a local use tax has been paid or is required to be paid.

(C) For transactions consummated on or after January 1, 1986, the sales tax 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 municipality equal to or in excess of three (3) percent. A credit shall be granted against the City's 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 municipality. The amount of the credit shall not exceed three (3) percent.
(Ord. 8 §1, 2006)

Sec. 8-5. Taxes to be in addition to state taxes.

The amount subject to tax under this Article shall not include the state sales and use tax. The gross receipts from sales shall include delivery charges when such charges are subject to the state sales and use tax, regardless of the places to which delivery is made.

(Ord. 8 §1, 2006)

Sec. 8-6. Retail sales tax; place of transaction, exemptions.

(A) For the purpose of this Article, all retail sales shall be considered consummated 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 of the limits of the City or to a common carrier for delivery to a destination outside the limits of the City. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the City sales tax when the purchaser is a nonresident of or has his or her principal place of business outside of the City, and such personal property is required to be registered outside of the City limits under the laws of the State.

(B) In the event a retailer has no permanent place of business in the City or more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax shall be determined by the provisions of Section 39-26-101 *et seq.*, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue.

(Ord. 8 §1, 2006)

Sec. 8-7. Collection, administration and enforcement of sales tax.

The collection, administration and enforcement of the sales tax shall be performed by the Director of Revenue of the State in the same manner as the collections, administration and enforcement of the state sales tax. The provisions of Section 39-26-101 *et seq.*, C.R.S., and all rules and regulations promulgated by the Director of Revenue of the State shall govern the collection, administration and enforcement of the sales tax imposed by this Article. No licensee collecting sales tax on behalf of the City shall be entitled to deduct the retailer's collection expense allowance (vendor's fee) from the sales tax collected. The three-and-one-third-percent vendor's fee shall be added to the general fund of the City and annually appropriated for expenditure by the City Council along with all other general fund monies.

(Ord. 8 §1, 2006)

Sec. 8-8—8-10. Reserved.

ARTICLE II

Use Tax

Sec. 8-11. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Automotive vehicle. Any vehicle, including every device in, upon or by which any person or property is or may be transported, or drawn upon a public highway, upon which a specific ownership tax is imposed by the State, including but not limited to motor vehicles, trailers or semi-trailers; excepting devices moved by human power or used exclusively upon stationary rails or tracks, and excepting any such vehicle as used or engaged in interstate commerce.

Purchase price. The aggregate value in money of anything paid or delivered by a lessee or purchaser to a retailer or vendor in the summation of a lease or of a retail sale, without any deduction therefrom of the amount of the cost of the property sold, cost of material used, labor or service cost or any other expense whatsoever; and provided that, when or after having been made to order, the gross value of all materials, labor service and profit thereon shall be included in the purchase price. However, the *purchase price* shall not include any direct tax imposed by the federal government, by the State or by this Article.

Purchaser. Any person who has leased or purchased, at retail, tangible personal property which is used, stored, or consumed in the City upon which a tax is imposed by this Article or Article I of this Chapter.

Retail sale or purchased at retail. Any sale, purchase, lease, rental or grant of a license to use tangible personal property, except a wholesale sale or purchase.

Storage. Any keeping or retention of, exercise of dominion or control over or possession, for any length of time, of tangible personal property which is used, stored, distributed or consumed within the City. A transaction shall be deemed to be a purchase or sale if the acquisition of tangible personal property was effected by:

- (1) The transfer, either conditionally or absolutely, of title, possession or both of the tangible personal property; or
- (2) A lease, rental or grant of a license to use (including royalty agreements), store, distribute or consume the tangible personal property.

Tangible personal property. Corporeal personal property, including but not limited to automotive vehicles as herein defined, which may be seen, weighed, measured, felt or touched, or is in any manner perceptible to the senses. The term *tangible property* shall not include newspapers as legally defined by Section 24-70-102, C.R.S.

Tax. Either the tax payable, or the aggregate amount of taxes due, pursuant to the provisions of this Chapter.

Taxpayer. Any person obligated to account to the City Clerk or from whom a tax is due under the terms of this Chapter.

Use. The exercise, for any length of time, by any person within the City of any right, power or dominion over tangible personal property under a lease or when purchased at retail, either within or without the City, from a vendor.

Vendor. A person leasing or making sales of tangible personal property subject to the tax imposed by this Article at retail and not for resale, use, storage or consumption in the City. This term includes, but is not limited to, salesmen, representatives or canvassers who receive the tangible personal property offered for sale from another party.

Wholesale sale or wholesale purchase. A sale by wholesalers to retail merchants, jobbers, dealers, vendors or other wholesalers for resale. It does not include a sale by a wholesaler to users, purchasers or customers not for resale, which sales shall be deemed retail sales.

Wholesaler. A person doing business regularly recognized as a wholesale jobbing business and known to the trade as such, and selling to retail merchants, jobbers, dealers or other wholesalers for the purpose of resale.
(Ord. 8 §1, 2006)

Sec. 8-12. Retail construction material and vehicles.

There is hereby imposed a tax in the amount of three (3) percent for the privilege of using or consuming in the City any construction or building material and storing, using or consuming in the City any motor and other vehicle on which registration is required, purchased at retail.
(Ord. 8 §1, 2006)

Sec. 8-13. Exemptions.

The tax levied by this Article shall not apply to:

- (1) The storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the City;
- (2) The storage, use or consumption of any tangible personal property purchased for resale in the City, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;
- (3) The storage, use or consumption of any tangible personal property brought into the City by a nonresident thereof for his or her own storage, use or consumption while temporarily within the City; however, this exemption does not apply to the storage, use or consumption of tangible personal property brought into the State by a nonresident to be used in the conduct of a business in this State;

- (4) The storage, use or consumption of tangible personal property by the United States government or the State, or its institutions or political subdivisions, in their governmental capacities only, or by religious or charitable corporations in the conduct of their regular religious or charitable functions;
 - (5) The storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished, and the container, label or furnished shipping case thereof;
 - (6) The storage, use or consumption of tangible personal property and household effects acquired outside of the City and brought into the City by a nonresident acquiring residency;
 - (7) The storage or use of a motor vehicle if the owner is or was, at the time of the purchase, a nonresident of the City, he or she purchased the vehicle outside the City for use outside the City and actually so used it for a substantial and primary purpose for which it was acquired, and he or she registered, titled and licensed such motor vehicle outside of the City;
 - (8) The storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of this tax;
 - (9) The storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of this Article;
 - (10) Any motor fuel upon which has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933, as amended;
 - (11) Cigarettes, cigars and tobacco products upon which sales or use tax is imposed pursuant to the laws of the State;
 - (12) For transactions consummated on or after January 1, 1986, the storage of construction and building materials;
 - (13) The storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to the legally imposed sales or use tax of another municipality equal to or in excess of that imposed by this Article. A credit shall be granted against the City's use tax with respect to a person's storage, use or consumption in the City of tangible personal property purchased previously in a another municipality. The amount of the credit shall be equal to the tax paid to the other municipality, but shall not exceed the amount of tax imposed by this Article.
- (Ord. 8 §1, 2006)

Sec. 8-14. Collection; refund for abandoned project.

(A) For the purpose of collection, the tax imposed by this Article upon construction and building materials when the same were not purchased at retail within this City, the Building Official is hereby authorized and directed to require proof of payment of City sales tax or use tax imposed by this Article before final inspection on the building permit is certified by the Building Department.

(B) If, before work begins, a taxpayer elects to abandon a project for which the use tax on construction and building materials has been collected and a building permit has been issued, the taxpayer may, within sixty (60) days of the building permit issuance, request and receive a full refund of the use tax paid.

(C) No automotive vehicle purchased or acquired by a resident of this City, at retail outside of the City, shall be registered in the County, or license or registration for use thereof by the State be issued by the County Clerk, until the tax imposed by this Article upon the privilege of use, storage or consumption has been paid and a receipt therefor issued.

(Ord. 8 §1, 2006)

Sec. 8-15. City Clerk to adopt procedural requirements.

(A) The City Clerk is hereby empowered to adopt, subject to approval of the City Council, administrative procedures and regulations and the necessary forms to accompany payment, collection, settlement of disputes, overpayment and enforcement on the use tax imposed by this Article.

(B) The City Clerk is hereby empowered to require the payment of a deposit for use tax to be computed based upon the estimated construction cost, up to a maximum of fifty thousand dollars (\$50,000.00), of which fifty (50) percent shall be deemed to be the cost of materials and subject to use tax.

(C) The City Clerk shall collect the full three-percent use tax at the time of issuance of the building permit and as a condition for such issuance. This requirement shall be modified as to the amount of deposit required upon presentation of proof of compliance with any exemption provided pursuant to Section 8-13 above.

(Ord. 8 §1, 2006)

Sec. 8-16. Violation.

It shall be a violation of this Article for any person who is required by this Article to make any return or pay any tax, to fail or refuse to make any return, to pay any tax required to be made or paid by this Article, to make any false or fraudulent return or any false statements in any return, to fail or refuse to make payment to the City Clerk or County Clerk of any taxes collected or due the City or, in any manner, to evade the collection and payment of the tax or any part thereof imposed by this Article; or for any person or purchaser to fail or refuse to pay such tax.

(Ord. 8 §1, 2006)

Sec. 8-17. Alternative dispute resolution procedure; deficiency notice or claim for refund.

For transactions consummated on or after January 1, 1986, the taxpayer may elect a state hearing on the City Clerk's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this Section.

- (1) As used in this Section, *state hearing* means a hearing before the Executive Director of the Department of Revenue or delegate thereof as provided in Section 29-2-106.1(3), C.R.S., as amended.
- (2) When the City asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the City shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to Section 29-2-106.1(3), C.R.S., as amended. The taxpayer shall also have the right to elect a state hearing on the City's denial of such taxpayer's claim for a refund of use tax paid
- (3) The taxpayer shall request the state hearing within thirty (30) days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he or she has not exhausted local remedies or if he or she fails to request such hearing within the time period provided for in this Paragraph. For purposes of this Paragraph, *exhaustion of local remedies* means:
 - (a) The taxpayer has timely requested in writing a hearing before the City and the City has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the City may submit a brief. The City shall hold such hearing and issue the final decision thereon within ninety (90) days after the City's receipt of the taxpayer's written request therefor, except the City may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer. In any such event, the City shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or
 - (b) The taxpayer has timely requested in writing a hearing before the City and the City has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in Subparagraph (a) above.
- (4) If a taxpayer has exhausted his or her local remedies as provided in Paragraph (3) above, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made and such

hearing shall be conducted in the same manner as set forth in Section 29-2-106.1(3) through (7), C.R.S., as amended.

(5) If the deficiency notice or claim for refund involves only the City, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the District Court of the County as provided in Section 29-2-106.1(8), C.R.S., as amended, provided that the taxpayer complies with the procedures set forth in Paragraph (3) above.

(6) If the City reasonably finds that the collection of use tax will be jeopardized by delay, the City may utilize the procedures set forth in Section 39-21-111, C.R.S., as amended.

(Ord. 8 §1, 2006)

Sec. 8-18—8-20. Reserved.

ARTICLE IV

Telephone Company Tax

Sec. 8-21. Levy of tax.

There is hereby levied against every telephone utility which is engaged in the business of furnishing local exchange telephone service within the City a tax on the privilege of engaging in such business. The amount of such tax shall be three dollars (\$3.00) for each telephone account for which local exchange service is provided within the City. (Ord. 8 §1, 2006)

Sec. 8-22. Payment.

(A) The tax levied by this Article shall be payable annually, due no later than January 31 of the following year.

(B) Within fifteen (15) days after January 1 of each year, each telephone utility subject to the tax imposed herein shall file with the City Clerk, in such form as the City Clerk may require, a statement showing the total number of telephone accounts for which local exchange telephone service was provided within the City on December 31 of the previous year.

(Ord. 8 §1, 2006)

Sec. 8-23. Inspection of records.

The City and its officers, agents or representatives shall have the right, at any reasonable time, to examine the books and records of any telephone utility which is subject to the tax imposed by this Article, and to make copies of the entries or contents thereof.

(Ord. 8 §1, 2006)

Sec. 8-24. Local purpose.

The tax provided herein is upon the affected occupations and businesses in their performance of local functions and is not a tax upon those functions relating to interstate commerce.

(Ord. 8 §1, 2006)

Sec. 8-25. Failure to pay or file.

(A) If any telephone utility subject to this Article fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten (10) percent of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such utility to the City.

(B) If any officer, agent or manager of a telephone utility which is subject to the provisions of this Article shall fail, neglect or refuse to file any statement required by this Article within the time herein prescribed, such officer, agent or manager shall be punished, on conviction thereof, by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00); provided that each day after such statement becomes delinquent during which the officer, agent or manager shall so fail, neglect or refuse to file such statement shall be considered a separate offense.

(Ord. 8 §1, 2006)

Sec. 8-26. Tax in lieu of other occupation taxes.

The tax provided in this Article shall be in lieu of all other occupation taxes or taxes on the privilege of doing business within the City, on any telephone utility subject to the provisions of this Article.

(Ord. 8 §1, 2006)

Sec. 8-27—8-30. Reserved.