

ARTICLE 7 SALES AND USE TAX

PART 1 GENERAL PROVISIONS

2.7.101: TITLE:

This article shall be known and may be cited as the *CITY OF COLORADO SPRINGS SALES AND USE TAX CODE*, or the *CITY TAX CODE*. (1968 Code 3-70; Ord. 76-168; Ord. 01-42)

2.7.102: LEGISLATIVE INTENT:

This section has been affected by a recently passed ordinance, Ordinance 08-218: SALES AND USE TAX MATTERS. [Go to new ordinance.](#)

- A. Use Of Personal Property And Taxable Services: It is hereby declared to be the legislative intent of the City Council that for the purposes of this City Tax Code every person who stores, uses, distributes or consumes in the City any article of tangible personal property, or taxable services purchased, leased or rented at retail, as herein defined, is exercising a taxable privilege.
- B. Sale Of Personal Property And Taxable Services: It is hereby declared to be the legislative intent of the City Council that, for the purposes of this City Tax Code, every person who is engaged in business in the City, and who delivers or causes to be delivered to the purchaser or consumer in the City, any taxable property or services, is exercising a taxable privilege and shall collect the tax imposed by this City Tax Code on the total selling price of the article or articles of tangible personal property or taxable services that are purchased, sold, leased or rented at any time by or to every customer or buyer. (1968 Code 3-71; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.103: GENERAL TERMS AND DISTINCTIONS:

A. Sales Tax Defined: The tax to be collected and remitted by a retailer on sales taxed under this City Tax Code.

B. Use Tax Defined: The tax paid or required to be paid by a purchaser or consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

C. Distinction Between Sales And Use Tax:

1. The primary distinction between the sales tax and use tax is that the sales tax is collected by persons engaged in business in this City from the purchaser, and that person pays the tax to the City; while,
2. In the absence of that tax charge, the use tax is levied directly upon the person who purchases the commodities or services, either within or outside the City, and uses them in this City, which person must remit the tax, together with returns showing the purchase and the use of articles which are subject to the tax, directly to the City.

In accord with this City Tax Code, any person engaged in business in the City and making sales of property or specific services subject to the sales tax, even though not maintaining an office in this City, must collect and remit the sales tax on these sales in like manner as Colorado Springs persons collect and remit the sales tax.

The sales tax and use tax complement each other in the City revenue plan, and together provide a

uniform tax of two and five-tenths percent (2.5%)⁵³ upon the sale, purchase, use, storage, distribution or consumption of all tangible personal property and specific taxable services purchased, leased or rented at retail, as herein defined. (1968 Code §3-73; Ord. 76-168; Ord. 84-27; Ord. 91-161; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.104: WORDS AND PHRASES DEFINED:

When not clearly otherwise indicated by the context, the following terms, words and phrases as used in this City Tax Code, shall have the following meanings:

ADJUSTED GROSS SALES AND SERVICES: Gross sales and services with the addition of bad debts, collected during the current taxable period that had been deducted from adjusted gross sales and services during a previous taxable period.

ALTERNATIVE RATE OF TAX: That rate of tax as specified in section [2.7.444](#) of this article.

AUCTION: Any sale where tangible personal property is sold by an auctioneer who is either the owner or the agent for the owner of the property.

AUTOMOTIVE VEHICLE: Any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. Automotive vehicle includes, but is not limited to, motor vehicles, trailers, semitrailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

AUXILIARY MACHINES OR AUXILIARY EQUIPMENT: Includes, but is not limited to, machinery or equipment that receives, weighs, sorts, distributes, stores, cleans or transports and which assists or aids in the manufacturing of tangible personal property.

BUSINESS: All activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

CALENDAR YEAR: A year commencing on January 1 and ending December 31 of the same year.

CHARITABLE ORGANIZATION: Any entity which: a) has been certified as a not-for-profit organization under section 501(c)(3) of the Internal Revenue Code, and b) is a religious or charitable organization. As used in this definition, a "Charitable Organization" is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.

CHECK: A written, unconditional order to pay a sum certain in money, drawn on a bank, payable on demand, and signed by the drawer. "Check" for the purposes of this City Tax Code only, also includes a negotiable order of withdrawal or a share draft.

CONSTRUCTION MATERIALS: Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring, and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipefittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable

part of a completed structure or project are not construction materials.

CONSUMER: Any: a) individual person, or b) person engaged in business in the City, who uses, stores, distributes or otherwise consumes in the City tangible personal property or taxable services purchased from sources inside or outside the City.

CONSUMPTION: The act or process of consuming; it includes waste, destruction or use. Consumption is the normal use of property for the purpose for which it was intended.

DEFICIENCY NOTICE: Where used in this City Tax Code, deficiency notice includes a written notice of determination, assessment, and demand for payment and includes a jeopardy assessment.

DIRECTLY AND EXCLUSIVELY: "Directly" means machinery or equipment that transforms the raw material and causes a change in the item being produced. The change must be as a result of the work conducted by the machinery or equipment. "Exclusively" means the machinery or equipment must be used only for producing a product for sale.

DIRECTOR OF FINANCE; DIRECTOR: The Director of Finance of the City or the Director's authorized representative(s), including employee(s), staff, clerk(s), agent(s) or any other person(s) designated or engaged by the Director or the municipality to act on behalf of the Director.

DISCOUNT: A reduction in the price of personal property by the retailer which is passed on to the consumer.

DISHONOR OR DISHONORED: A check is dishonored when the drawee of that instrument refuses payment on the basis that the drawer has insufficient funds on deposit with the drawee, or for any other reason whatsoever other than an error by the drawee.

DISTRIBUTION: The act of distributing any article of tangible personal property for use or consumption which may include, but shall not be limited to, the distribution of advertising gifts, shoppers' guides, catalogs, directories, or other property given as prizes, premiums or for goodwill or in conjunction with the sales of other commodities or services.

DRAWEE: The bank upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

DRAWER: A person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature be that of the person or of a person authorized to draw the check on the person.

DRUGS DISPENSED IN ACCORD WITH A PRESCRIPTION: Drugs dispensed in accord with any order, in writing, dated and signed by a licensed physician of the healing arts, or given orally by a physician, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

ENGAGED IN BUSINESS IN THE CITY: Performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:

A. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the taxing jurisdiction;

B. Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;

C. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

D. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

E. Makes more than one delivery into the taxing jurisdiction within a twelve (12) month period.

EQUIPMENT: One or more machines of a manufacturer which is used directly and exclusively in the manufacturing of tangible personal property.

EXCESS TAX: That amount of tax collected during a reporting period that is in excess of the amount of tax under section [2.7.202](#) of this article and which excessive collection must be remitted to the City using the method prescribed herein.

EXEMPT COMMERCIAL PACKAGING MATERIALS: Containers, labels and shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all of the following conditions: a) is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product; b) is transferred by the person along with and as a part of the finished product to the consumer; and c) is not returnable to the person for reuse.

EXEMPTIONS: Those deductions from adjusted gross sales and services in order to arrive at a taxable base, which exemptions may include exempt transactions (in whole or in part), sale or purchase of exempt commodities, articles or services, or sale to exempt persons who may either be exempt on their direct purchase or exempt on the type of commodity, articles or services purchased all as set forth in section [2.7.401](#) of this article.

FOOD: Food for domestic home consumption as defined in 7 USC section 2012(g) as amended, for purposes of the Federal Food Stamp Program as defined in 7 USC section 2012(h), as amended, except that "Food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow food; prepared salads and salad bars; cold sandwiches; deli trays; and food or drink vended by or through machines or noncoin-operated coin-collecting food and snack devices on behalf of a retailer.

GARAGE SALES: The sale or offering for sale of articles of tangible personal property by the owner, lessee or other occupant of a dwelling. The term garage sale shall include a patio sale, yard sale or any similar sale.

GROSS SALES AND SERVICE OR GROSS TAXABLE SALES: The total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

INSUFFICIENT FUNDS: A drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account, or share draft account with the drawee or has funds in an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "No Account" shall also be deemed to be dishonored by "Insufficient Funds".

ISSUE: A person issues a check when he makes, draws, delivers, or passes it or causes it to be made, drawn, delivered, or passed. The foregoing shall not include a subsequent endorser of the check, unless the endorser has actual knowledge of the fact that the drawer has insufficient funds to allow payment of that check by the drawee.

LICENSE: A City sales and use tax license.

LODGING SERVICES: The furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than thirty (30) days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

MACHINERY: Any machine used directly and exclusively to produce an article of tangible personal property for sale. The term includes both the basic unit and any attachments purchased as part of the basic unit to accomplish its designed function. Under this definition, machinery includes machinery that transports the tangible personal property for sale to the next manufacturing operation within the same facility and is attached to the machinery and permanently in place between manufacturing operations.

A. Replacement and spare parts or components are not considered machinery, nor are purchases of modifications to improve the speed, efficiency or accuracy of the original machinery or quality of the product unless purchased at the same time as the original machine.

B. Machinery does not include dies, molds, jigs, masks and tooling unless purchased as part of the original machinery, nor does it include any auxiliary machines or auxiliary equipment.

MANUFACTURING: The operation of producing, in an industrial use, an item of tangible personal property different from and having a distinctive name, character, or use from raw or prepared materials and which is an integrated series of operations which place the tangible personal property in a form, composition, or character different from that in which it was acquired. For example:

A. Fabricating is illustrative of one type of operation which may result in a change mentioned above although any operation which creates these types of changes may be considered manufacturing.

B. Slight changes in physical properties are not sufficient to be classified as manufacturing. Heating, slicing, separating into smaller units for sale, cooling or freezing are not manufacturing.

MEDICAL SUPPLIES: Drugs dispensed in accord with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine and blood testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a physician as a part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or hearing aids.

NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNT: An account in a bank, savings and loan association, or industrial bank.

NEGOTIABLE ORDER OF WITHDRAWAL OR SHARE DRAFT: Negotiable or transferable instruments drawn on a negotiable order of withdrawal account or share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

NET TAXABLE SALES AND SERVICES: The adjusted gross sales and services less authorized "Exemptions" therefrom.

NEWSPAPER: A publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term newspaper does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

ORTHOPEDIC DEVICE OR APPLIANCE: Any appliance or device designed specifically for use in the correction or prevention of deformities, defects or chronic diseases of the skeleton, joints or spine.

PERSON: Any individual, firm, business, partnership, joint venture, corporation, governmental entity, LLC, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

PREPRINTED NEWSPAPER SUPPLEMENTS: Inserts, attachments or supplements circulated in newspapers that: a) are primarily devoted to advertising; and b) the distribution, insertion, or attachment of which is commonly paid for by the advertiser.

PRESCRIPTION DRUGS FOR ANIMALS: Drugs dispensed in accord with any order in writing, dated and signed by a licensed veterinarian, or given orally by a licensed veterinarian, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

PRICE OR PURCHASE PRICE: The price paid by the purchaser, exclusive of any direct tax imposed by the Federal government or by this City Tax Code, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair-market value of the property exchanged at the same time and place of the exchange, if: a) the exchanged property is to be sold thereafter in the usual course of the retailer's business, or b) the exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

"Price" or "Purchase Price" includes:

- A. The total amount of money or other consideration received or due in cash and/or credits.
- B. Property at fair-market value taken in exchange but not for resale in the usual course of the retailer's business.
- C. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- D. The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
- E. Installation, standby or wheeling-in charges included in the purchase price and not separately stated.
- F. Transportation, delivery, and other charges to effect delivery of tangible personal property from the seller to the consumer or purchaser.
- G. Indirect Federal manufacturers' excise taxes, such as taxes on automobiles, fuel, tires and floor stock.
- H. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.
- I. Any reimbursement to the seller for expenses, such as cutting charges, handling charges, incoming freight, dealer prep charges, delivery charges, etc., incurred by the seller prior to passing title to the property.

"Price" or "Purchase Price" shall not include:

- A. Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
- B. The fair-market value of property exchanged if the property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in Colorado. Out-of-State trade-ins are an allowable adjustment to the purchase price.
- C. Discounts from the original price if the discount and the corresponding decrease in sales tax due is actually passed on to the consumer. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

PROSTHETIC DEVICES: Any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed physician. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

PURCHASE OR SALE: The acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installment and credit sales, and property and services acquired by:

- A. Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;
- B. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;
- C. Performance of taxable services; or
- D. Barter or exchange for other property or services including coupons.

The terms "Purchase" and "Sale" do not include:

- A. A division of partnership assets among the partners according to their interests in the partnership;
- B. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;
- C. The transfer of assets of shareholders in the formation or dissolution of professional corporations;
- D. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
- E. A transfer of a partnership interest;
- F. The transfer in a reorganization qualifying under section 368(a)(1) of the "Internal Revenue Code of 1954", as amended;
- G. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;
- H. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder.

REBATE: Payment to a consumer by a manufacturer or a manufacturer's representative who is not acting as a retailer.

RESIDENT: For the purposes of the taxation provisions herein, a person who resides or maintains a domicile within the City or who maintains one or more places of business within the City at the time of a taxable transaction as defined herein. A person may have dual residency, or other places of residency or domicile, or place of business outside the City prior to, during or after the occurrence of the taxable transaction and be a resident.

RETAIL SALES: All sales except wholesale sales.

RETAILER: Any person selling, leasing or renting tangible personal property or services at retail. Retailer shall include any:

A. Auctioneer;

B. Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains the property or services sold from a dealer, distributor, supervisor or employer;

C. Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.

RETAILER'S FEE OR RETAINAGE: The percent of total City sales and use tax collected which is authorized to be retained by the licensed retailer to recompense the retailer for the expense of collecting and remitting the City sales tax on sales to the various consumers. Consumers filing a City use tax report are not entitled to the retailer's fee.

RETURN: The sales and use tax reporting form used to report sales and use tax.

SCHOOL: An educational institution having a curriculum comparable to a grade, grammar, junior high, high school or college, or any combination thereof, requiring daily attendance having an enrollment of at least forty (40) students, and charging a tuition fee.

SHARE DRAFT ACCOUNT: An account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, or industrial bank or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

SPECIAL ACCOUNTING BASIS OR ESTIMATED PERCENTAGE BASIS: The permission to pay or satisfy in full City sales or use tax liability on a percentage of gross sales or gross purchases, and which is granted to facilitate tax reporting to qualified consumers or retailers upon petition to the Director, on the basis prescribed in section [2.7.805](#) of this article and elsewhere in this City Tax Code.

STORAGE: Any keeping or retention of, or exercise of dominion or control over, or possession, for any length of time, of tangible personal property when leased, rented or purchased at retail from sources either within or without the City from any person or retailer.

TANGIBLE PERSONAL PROPERTY: Corporeal personal property.

TAX: The use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

TAX DEFICIENCY: Any amount of tax that is not reported or not paid on or before the due date.

TAXABLE SALES: Gross sales less any exemptions and deductions specified in this City Tax Code.

TAXABLE SERVICES: Services subject to tax pursuant to this City Tax Code.

TAXPAYER: Any person obligated to collect and/or pay tax under the terms of this City Tax Code.

THERAPEUTIC DEVICE: Devices, appliances, or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality; if the device, appliance or related accessory has a retail value of more than one hundred dollars (\$100.00), it must be sold in accord with a written recommendation from a licensed physician to qualify as a therapeutic device for purpose of this City Tax Code.

TOTAL TAX LIABILITY: The total of all tax, penalties or interest owed by a taxpayer and shall include sales tax collected in excess of the tax computed on total sales.

USE: The exercise, for any length of time, by any person within the City, of any right, power or dominion over tangible personal property when rented, leased or purchased at retail from sources either within or without the City, from any person or vendor. Use includes possession, storage, consumption, distribution, and the withdrawal of items from inventory for use by the person making the withdrawal.

WHOLESALE SALES: Sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

WHOLESALE: Any person selling to retailers, jobbers, dealers, or other wholesalers, for resale, and not for storage, use, consumption, or distribution. (Ord. 91-161; Ord. 93-176; Ord. 98-255; Ord. 01-42)

2.7.105: TRUST STATUS OF TAX:

A.City Property In Trust: All sums of money paid by the consumer to the retailer as taxes imposed by this City Tax Code shall be and remain public money and the property of the City in the hands of the retailer. The retailer shall hold the money in trust for the sole use and benefit of the City until paid to the Director. It shall be unlawful for any retailer to fail or refuse to pay these sums to the Director.

B.Segregated Account: If a licensee is suffering financial difficulty, or is delinquent in making payment of sales tax collected, or is apparently using tax money collected for individual purposes, the Director, may require the trust funds to be kept segregated in a special account at a bank or other financial institution. Withdrawals from the segregated account shall only be payable to the Director who shall be authorized to make withdrawals from the account. Where a segregated account is not kept as required, all the property of the taxpayer shall be considered trust property of the City. (1968 Code §3-108; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.106: STATUTE OF LIMITATIONS:

A.Assessments, Collections And Liens: The taxes for any period, together with interest and penalties with respect thereto, imposed by this City Tax Code shall not be assessed nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, or any other action to collect be commenced, more than three (3) years after the date on which the tax was or is payable, and a tax return has been filed, nor shall any lien continue after this period, except for taxes assessed before the expiration of the period, and notice of lien with respect to which has been filed prior to the expiration of the period, in which case the lien shall continue for five (5) years after the expiration of the period.

B.False And Fraudulent Returns: In the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties, may be assessed, or proceedings for the collection of the tax may be begun at any time.

C. Extensions: Before the expiration of the period of limitation, the taxpayer and the Director may agree in writing to an extension, and the period agreed on may be extended by subsequent agreements in writing.

D. Failure To File A Return: In the case of failure to file a return, the tax, with interest and penalties, may be assessed and collected at any time. (Ord. 85-274; Ord. 94-206; Ord. 01-42)

PART 2 TAX RATE

2.7.201: IMPOSITION OF TAX:

This section has been affected by a recently passed ordinance, Ordinance 08-218: SALES AND USE TAX MATTERS. [Go to new ordinance.](#)

There is hereby levied and there shall be collected and paid a tax on the purchase price paid or charged for tangible personal property when purchased or sold at retail by every person exercising the taxable privilege, as defined in section [2.7.102](#) of this article, by the sale, lease, rental, purchase, use, storage, distribution or consumption of tangible personal property. (1968 Code §3-72; Ord. 78-45; Ord. 91-161; Ord. 01-42)

2.7.202: RATE OF TAX:

This section has been affected by a recently passed ordinance, Ordinance 08-218: SALES AND USE TAX MATTERS. [Go to new ordinance.](#)

The amount of tax hereby levied is two and five-tenths percent (2.5%)⁵⁴ of the purchase price of tangible personal property and taxable services sold or purchased at retail. (Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.203: TAX BRACKET SCHEDULE:

This section has been affected by a recently passed ordinance, Ordinance 08-218: SALES AND USE TAX MATTERS. [Go to new ordinance.](#)

Notwithstanding the rate of tax imposed by section [2.7.202](#) of this part and in order to avoid fractions of pennies, the following brackets or percentage calculation method shall be applicable to all taxable transactions:

A. and including \$0.19	Sales of \$0.01 to	No tax
Sales of \$0.20 to and including \$0.59	\$0.01	
Sales of \$0.60 to and including \$0.99	\$0.02	
Sales in excess of \$0.99 the tax shown on the above schedule for the applicable fractional part of a dollar of each sale price subject to calculation as provided in subsection C of this section.	\$0.025 on each full \$1.00 of the sale price plus	

B. In the event a sale requires the collection of tax imposed by this City Tax Code as well as sales or use tax imposed by the State pursuant to article 26 of title 39, Colorado Revised Statutes, and its political subdivisions, the sales or use tax may be computed by use of the applicable sales bracket schedule issued by the State Department of Revenue pursuant to Colorado Revised Statutes section 39-26-106, which shall be deemed to properly compute and include the 2.5 percent tax imposed by this City Tax Code on all purchase prices to which this schedule applies. On all purchase prices not set forth in this schedule, tax shall be calculated as otherwise provided in section [2.7.202](#) of this part.

C. In the event the percentage calculation method is used by the retailer, the tax shall be calculated to the nearest penny with all fractions of one cent (\$0.01) of fifty percent (50%) or greater being raised to the next whole penny, and all calculated fractions of a lesser amount than fifty percent (50%) being rounded to the next lesser penny amount. (1968 Code §3-72; Ord. 78-45; Ord. 83-80; Ord. 84-27; Ord. 84-168; Ord. 91-71; Ord. 91-161; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

PART 3

TAXABLE TRANSACTIONS, COMMODITIES AND SERVICES

2.7.301: LEVY OF TAX IN GENERAL:

It shall be unlawful for any seller to fail to collect or any consumer to fail to pay a tax levied by this City Tax Code, including sales on which exemption is disputed, and there is hereby levied and there shall be collected and paid, a tax, as stated in section [2.7.203](#) of this article, by every person exercising the taxable privilege. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.302: AUTOMOTIVE VEHICLES:

The sales or use tax is imposed on the purchase price paid or charged on the sale or the purchase for use or storage of an automotive vehicle. (1968 Code §3-74; Ord. 76-168; Ord. 01-42)

2.7.303: BAD DEBTS COLLECTION:

The sales or use tax is imposed on the amount of collection, during the current taxable period, of bad debts that had, during a previous taxable period, been deducted. (1968 Code §3-74; Ord. 76-168; Ord. 01-42)

2.7.304: COST OF GOODS USED:

The sales or use tax is imposed on the cost of goods or tangible personal property purchased without payment of the City sales tax and used, stored, distributed or consumed either personally or in conjunction with the rendering of services. (1968 Code §3-74; Ord. 76-168; Ord. 01-42)

2.7.305: EXCHANGED PROPERTY:

In the case of retail sales involving the exchange of property, the sales or use tax is imposed on the purchase price paid or charged, including the fair-market value of the property exchanged at the time and place of the exchange. (1968 Code §3-74; Ord. 76-168; Ord. 01-42)

2.7.306: FOOD AND DRINK:

The sales or use tax is imposed upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops and other like places of business at which prepared food or drink, prepared salads in salad bars, cold sandwiches and deli trays are regularly sold, including sales from pushcarts, motor vehicles and other mobile facilities and vending machines. Cover charges shall be included as a part of the amount paid for food or drink. (Ord. 87-157; Ord. 01-42)

2.7.307: GAS AND ELECTRIC SERVICES:

The sales or use tax imposed upon the amount charged for gas and electric services whether furnished by municipal, public or private corporations or enterprises, for gas and electric services furnished and sold for commercial consumption and not for resale. (Ord. 94-206; Ord. 01-42)

2.7.308: MANUFACTURED ARTICLES:

The sales or use tax is imposed on the full purchase price of articles sold after manufacture or after having been made to order and includes the full selling price of materials used and services performed in connection with the sale, excluding, however, articles as are otherwise exempted under this City Tax Code. (1968 Code §3-74; Ord. 76-168; Ord. 01-42)

2.7.309: PERSONAL PROPERTY RENTALS:

The sales or use tax is imposed on the purchase price paid or charged or for any consideration for the furnishing of tangible personal property, irrespective of the fact that during all times that the property is furnished, the control of its operation remains in the person providing the property. (1968 Code §3-74; Ord. 76-168; Ord. 94-206; Ord. 01-42)

2.7.310: ROOMS AND ACCOMMODATIONS SERVICES:

The sales or use tax is imposed on the entire price paid or charged on the transaction of furnishing lodging services for a consideration. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.311: SALES MADE OUTSIDE CITY:

Every retailer is required to collect the tax imposed by this City Tax Code, including, but not limited to, the following situations:

- A.Solicitation By Retailer: The consumer's order or the contract sale is delivered, mailed or otherwise transmitted by the consumer to the retailer at a point outside of the City as a result of solicitation by the retailer through the medium of a catalog or other written advertisement or by any other means; or
- B.Closing Contract Outside City: The consumer's order or contract of sale is made or closed by acceptance or approval outside the City or before the tangible personal property enters the City; or
- C.Procurement Or Manufacture Outside City: The consumer's order or contract of sale provides that the property shall be, or it is in fact procured or manufactured at a point outside of the City and shipped directly to the consumer from that point of origin; or
- D.Transportation Costs: The property is mailed to the consumer in the City from a point outside the City or delivered to a carrier, FOB, or otherwise, and directed to the retailer in the City regardless of whether the cost of transportation is paid by the retailer or by the consumer; or
- E.Delivery Outside City: The property is delivered directly to the consumer at a point outside the City;

provided that in subsections A through E of this section, the property is intended to be brought into the City for use, storage or consumption in the City. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.312: TANGIBLE PERSONAL PROPERTY:

The sales or use tax is imposed on the purchase price paid or charged upon the sale, purchase, lease, rental or grant of license to use, or on the use, storage, distribution or consumption of tangible personal property purchased pursuant to a retail sale, and on the subsequent lease, rental or sale of tangible personal property by any person to every consumer regardless that the person purchasing and subsequently leasing, renting or selling that personal property paid the tax imposed on the initial purchase and use of the property acquired which is subsequently leased, rented or sold. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.313: VENDING MACHINES, AMUSEMENT DEVICES:

- A.A sales tax shall be collected and remitted or a use tax paid by the vending machine operator or owner for the retail sale of tangible personal property.
- B.Due to the difficulty in collecting the tax upon each retail sale, the tax shall be calculated upon the gross retail price of the items or articles of tangible personal property that are sold in the coin-operated vending machine or device. The sales tax may be included in the retail price of the individual item sold at retail through the machine.
- C.The operator, owner or person selling tangible personal property by coin-operated vending machines or devices shall be liable additionally for the sales tax, or if applicable, the use tax on the purchase or use of coin-operated devices and upon any subsequent lease, rental or sale of the devices on the full lease, rental or sales price. (1968 Code §3-74; Ord. 76-168; Ord. 87-157; Ord. 01-42)

2.7.314: WHOLESALERS, RETAIL SALES:

Sales by wholesalers to consumers, users or customers, not for resale, shall be deemed retail sales and shall be subject to the provisions of this City Tax Code. These sales shall not be included within the term wholesale sales. (1968 Code §3-74; Ord. 76-168; Ord. 91-161; Ord. 01-42)

PART 4**EXEMPT TRANSACTIONS, COMMODITIES AND PERSONS; DEDUCTIONS****2.7.401: EXEMPTIONS; DISPUTE PROCEDURES:**

It shall be unlawful for any seller to fail to collect, or any consumer to fail to pay a tax levied by this City Tax Code on sales in which exemption is disputed.

The seller shall collect and the consumer shall pay the tax even though a dispute arises between the consumer and seller as to whether or not the sale is exempt from taxation. The seller shall then issue to the consumer a receipt or certificate on forms prescribed by the Director showing the names of the seller and consumer, the item purchased, the date, the price, the amount of tax paid and a brief statement of the claim of exemption. The consumer may then apply to the Director for a refund of the disputed taxes pursuant to subsection 2.7.810B of this article. It shall be the duty of the Director to determine the question of exemption, subject to review by the courts.

The purchase and sale of articles of tangible personal property not otherwise exempt are subject to the sales or use tax imposed as well as those specific services cited as taxable in part 3 of this article. The list of exempt commodities or articles cannot be increased by implication or similarity. In all cases, the burden of proof is upon the taxpayer to establish that a sale is tax exempt.

The following sections indicate the exemptions from the imposition of the City use or sales taxes, or both, as the context sets forth. (1968 Code §3-75; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.402: AUTOMOTIVE VEHICLES:

Automotive vehicles legally registered outside the City are exempt. (1968 Code §3-75; Ord. 76-168; Ord. 81-251; Ord. 01-42)

2.7.403: BAD DEBTS CHARGED OFF:

Taxable sales which are represented by accounts not secured by conditional sales contract, rental purchase

contract or security interest and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State may be deducted by a seller from adjusted gross sales, provided that sales tax must have been previously paid to the City by the seller on amounts deducted as bad debts, and if those amounts are then collected by the taxpayer, a tax shall be paid on the amount collected. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.404: CHARITABLE AND RELIGIOUS ORGANIZATIONS:

The purchase price paid or charged on direct sales to and direct purchase by religious, charitable and eleemosynary corporations, in the conduct of their religious, charitable and eleemosynary functions and activities only, provided that a letter of exemption from the City is possessed by the organization. These organizations, however, are required to collect sales tax when taxable sales are made by them. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.405: CIGARETTES:

The sale or purchase of cigarettes is exempt. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.406: CITY SALES TAX PAID; USE TAX EXEMPTION:

The use, storage, distribution or consumption in the City of tangible personal property upon the sale of which the City retail sales tax of two and five-tenths percent (2.5%) ⁵⁵ has been legally imposed, collected and remitted is exempt from the levy of the City use tax. (1968 Code §3-75; Ord. 76-168; Ord. 84-27; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.407: CONSTITUTIONAL PROHIBITIONS:

All sales, uses and other transactions which the City is prohibited from taxing under the Constitution and laws of the United States, or under the Constitution of the State of Colorado are exempt. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.408: CONTAINERS, LABELS:

All sales and purchases of tangible personal property for use as exempt commercial packaging materials are exempt. (1968 Code §3-75; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.409: DELIVERIES TO NONRESIDENT OUTSIDE CITY:

The sale of tangible personal property shall be exempt from the operation of this City Tax Code if both the following conditions exist:

- A. The sale is to a person who resides or does business outside the City; and
- B. The article purchased is to be delivered to the consumer outside the City by common, contract or commercial carrier who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided that the article purchased and delivered is to be used, stored, distributed or consumed outside the City. (1968 Code §3-75; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.410: DIRECT TAXES:

The City sales and use tax shall not apply to any direct tax imposed by this City Tax Code, or by the Federal government or by the State of Colorado. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.411: DISCOUNTS:

A discount granted to the purchaser by the seller shall be exempt from sales and use tax if the discount is not a cash discount allowed for payment on or before a given date. (Ord. 91-50; Ord. 91-161; Ord. 01-42)

2.7.412: REBATES:

There shall be exempt from sales and use tax a rebate which has been assigned by a consumer to the retailer and which is used in payment of the personal property purchased if the individual rebate is for one hundred dollars (\$100.00) or more. (Ord. 91-50; Ord. 91-161; Ord. 01-42)

2.7.413: FINANCE CHARGES:

Charges imposed by the seller or by a third party, such as for interest, carrying charges and insurance on a conditional or installment sale, are exempt, except that when any charges are not specifically identified but are included in the sales contract they shall be considered to be part of the selling price. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.414: FEED, SEEDS AND ORCHARD TREES:

All sales and purchases of feed for livestock or poultry, all sales and purchases of seeds for growing plants, and all sales and purchases of orchard trees are exempt. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.415: FOOD:

A.All sales of food as "Food" is defined in section [2.7.104](#) of this article are exempt under this City Tax Code.

B.All sales of food purchased with food stamps shall be exempt from taxation under this City Tax Code. For the purposes of this subsection, "Food" shall have the same meaning as provided in 7 USC section 2012 (g) as that section exists on October 1, 1987, or as later amended.

C.All sales of food purchased with funds provided by the special supplemental food program for women, infants and children as provided in 42 USC section 1786, shall be exempt from taxation under this Code. For the purposes of this subsection, "Food" shall have the same meaning as provided in 42 USC section 1786, as that section exists on October 1, 1987, or as later amended.

D.All meals provided to employees of restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops and other like places of business at which prepared food or drink is regularly sold including sales from pushcarts, motor vehicles and other mobile facilities and vending machines at no charge or at reduced charge and which are considered as part of their taxable salary, wages or income, are exempt. (Ord. 87-157; Ord. 01-42)

2.7.416: GARAGE SALES:

The purchase or sale of tangible personal property at a garage sale is exempt provided that:

A.The exemption shall apply only to the first three hundred dollars (\$300.00) of tangible personal property at a garage sale during any calendar year, and

B.Each garage sale is held no more than two (2) times per calendar year, and

C.Each garage sale does not exceed a period of two (2) consecutive days, and

D.The garage sale shall meet the requirements of the City's Zoning Code. (1968 Code □3-75; Ord. 80-123; Ord. 83-187; Ord. 01-42)

2.7.417: GASOLINE; MOTOR FUEL:

The purchase price paid or charges on commodities or motor fuel which has accrued or has been paid the tax prescribed by the gasoline and special fuel tax, title 39, article 27, Colorado Revised Statutes, are exempt. (1968 Code □3-75; Ord. 76-168; Ord. 94-206; Ord. 01-42)

2.7.418: GOVERNMENTS, SALES TO:

The selling price paid or charged on direct sales to and direct purchases by the United States government, the State of Colorado, its departments or institutions, and political subdivisions in their governmental capacity only, and all sales to or purchases by the City are exempt. No commercial, industrial or any other banking institution, organized or chartered by the United States government or by the State of Colorado shall be considered a governmental institution for the purpose of this exemption. (1968 Code □3-75; Ord. 76-168; Ord. 01-42)

2.7.419: INTERSTATE COMMERCE SALES; SHIPMENTS OUT OF STATE:

The sales of tangible personal property shall be exempt from the operation of this City Tax Code if both the following conditions exist:

A.The sale is made to a person who resides or does business outside the State; and

B.The article purchased is to be delivered to the consumer outside the State by common, contract or commercial carrier, who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided that the article purchased and delivered is to be used, stored, distributed or consumed outside the State. (1968 Code □3-75; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.420: LIVESTOCK:

The sale or purchase of meat cattle, sheep, lambs, swine and goats and purchases of mares and stallions for breeding purposes are exempt. (1968 Code □3-75; Ord. 76-168; Ord. 01-42)

2.7.421: LIVESTOCK AND POULTRY BEDDING:

All sales of and purchases of straw and other bedding for use in the care of livestock and poultry are exempt. (1968 Code □3-75; Ord. 80-106; Ord. 01-42)

2.7.422: MANUFACTURED PRODUCTS; COMPONENT PARTS; INGREDIENTS:

The purchase price paid or charged on the sales to and purchases of tangible personal property by a person engaged in manufacturing or compounding for use, profit or sale, shall be deemed a wholesale sale when it meets all of the following conditions:

A.It is transformed in fact by the process of manufacture;

B.It becomes by the manufacturing processes a necessary and recognized ingredient, component and constituent part of the finished product; and

C.Its physical presence in the finished product is essential to the use of the finished product in the hands of the ultimate consumer. (1968 Code □3-75; Ord. 76-168; Ord. 01-42)

2.7.423: MOBILE HOMES:

Any subsequent sale of a mobile home as that vehicle is defined in Colorado Revised Statutes section 42-1-102, after the mobile home has once been subject to the payment of sales tax by virtue of Colorado Revised Statutes section 39-26-113, is exempt. (1968 Code 3-75; Ord. 80-106; Ord. 01-42)

2.7.424: MOTION PICTURE THEATERS:

Any motion picture theater subject to an admissions tax as provided in article 10 of this chapter is exempt from sales or use tax imposed upon the purchase, sale, or rental of films to the motion picture theater. Exemptions shall not extend to or include any other sales or use tax for which a motion picture theater is liable. (1968 Code 3-75; Ord. 79-223; Ord. 01-42)

2.7.425: NEWSPAPERS:

Newspapers, as legally defined in Colorado Revised Statutes section 24-70-102, are exempt provided that preprinted newspaper supplements either inserted in newspapers, attached to newspapers or distributed in conjunction with newspapers are not included within the term newspaper exemption. (1968 Code 3-75; Ord. 76-168; Ord. 87-157; Ord. 91-161; Ord. 01-42)

2.7.426: NEWSPRINT, PRINTER'S INK:

The sales to and purchases of newsprint and printer's ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales. (1968 Code 3-75; Ord. 76-168; Ord. 01-42)

2.7.427: ONE HUNDRED DOLLAR EXEMPTION; USE TAX EXEMPTION:

Any appliance or article of household furniture, furnishings, wearing apparel or accessories purchased outside the City for personal use, storage, distribution or consumption within the City, the value of which is less than one hundred dollars (\$100.00) are exempt. (1968 Code 3-75; Ord. 76-168; Ord. 01-42)

2.7.428: POWER FOR MANUFACTURE:

The sales to and purchases of electricity, gas, coal, fuel oil or coke by a person for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communications, street and railroad transportation services and all industrial uses shall be deemed wholesale sales.

A. For purposes of this exemption, the following definitions shall apply:

GAS: Any combustible fluid used as fuel in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communications, street and railroad transportation services and all industrial uses.

INDUSTRIAL USE: The use of electricity, coal, gas, fuel, oil or coke in a continuing business activity of manufacturing or producing tangible personal property for sale. Retailers and service industries that do not produce tangible personal property for sale, are not an industrial use.

B. Inert gases are not exempt as power for manufacturing under this section.

C. Electricity, gas, coal, fuel oil or coke used for creature comforts or in nonproduction areas such as accounting, engineering, design, research, development and storage are taxable. (1968 Code 3-75; Ord. 76-168; Ord. 98-255; Ord. 01-42)

2.7.429: MEDICAL EXEMPTIONS:

All sales of the following are exempt:

A. Drugs dispensed in accord with a prescription.

B. Prescription drugs for animals.

C. Medical supplies when sold in accord with a written recommendation of a licensed physician or when furnished as a part of the professional services provided to the patient.

D. Prosthetic devices, orthopedic appliances, therapeutic devices, oxygen and related accessories, whether for human or animal use or consumption when sold in accord with a written recommendation of a licensed physician or veterinarian or when furnished as a part of the professional services provided to the patient. (1968 Code 3-75; Ord. 80-106; Ord. 81-266; Ord. 82-153; Ord. 91-161; Ord. 01-42)

2.7.430: USE MORE THAN THREE YEARS AFTER PURCHASE; USE TAX EXEMPTION:

For transactions consummated on or after January 1, 1986, the City use tax shall not be imposed with respect to the use or consumption of tangible personal property within the City which occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following the sale, the property has been significantly used outside of the City for the principal purpose for which it was purchased. (Ord. 85-274; Ord. 94-206; Ord. 01-42)

2.7.431: PUBLIC UTILITIES:

Sales of tangible personal property to a public utility doing business both within and without the City, for use in its business operations outside of the City, even though delivery is made within the City are exempt. (1968 Code 3-75; Ord. 76-168; Ord. 01-42)

2.7.432: RETURNED GOODS:

The amount equal to the sale price of property returned by the consumer, when the full sale price including the tax levied is refunded, either in cash or by credit, is exempt. (1968 Code 3-75; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.433: ROOM RENTALS BY THE MONTH:

Sales and purchases of services under the provisions of section [2.7.310](#) of this article to any occupant who is a permanent resident of any lodging service and who enters into or has entered into a written agreement for occupancy of a room or rooms or accommodations for a period of at least thirty (30) consecutive days during the calendar year or preceding year are exempt. The exemption shall not apply to the sale or sales of any goods, services or commodities other than the furnishing of rooms and accommodations, unless those goods, services or commodities are otherwise exempt from the tax. (1968 Code 3-75; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.434: SALES OR USE TAX PAID TO ANOTHER CITY; USE TAX EXEMPTION:

The use, storage, distribution or consumption in the City of tangible personal property and upon the sale or use of which a retail sales or use tax at a rate equal to or greater than two and five-tenths percent (2.5%) has been previously imposed, collected and remitted to a municipal corporation organized and existing under the authority of the Constitution or statutes of the State of Colorado is exempt from the levy of the City sales or use tax. If the rate of retail sales tax or use tax paid to the Colorado municipal corporation is less than two and five-tenths percent (2.5%), the net difference between the tax due under this City Tax Code

and the tax paid to the other municipal corporation shall be paid to the City. In no instance shall the City tax credit exceed two and five-tenths percent (2.5%). This exemption shall be denied if the tax paid to another Colorado municipal corporation was not legally due under the laws of the municipal corporation. This exemption shall be denied for subsequent transactions within the City, including, but not limited to, rentals and leases. (Ord. 85-274; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.435: SALES AND USE TAX PAID TO ANOTHER STATE; USE TAX EXEMPTION:

If sales or use tax has been legally paid to another state, or state in combination with any political subdivision, on the purchase or use of tangible personal property, at a rate of tax equal to or greater than the combined rates of the State of Colorado, plus the County of El Paso, plus the City of Colorado Springs, then no use tax is due to the City of Colorado Springs on the storage, use or consumption of the tangible personal property upon which the tax has been previously paid.

If sales or use tax has been legally paid to another state, or state in combination with any political subdivision thereof, on the purchase or use of tangible property, at a rate of tax greater than the combined rates of the State of Colorado plus the County of El Paso, then the rate of tax previously paid, in excess of the combined rates of the State of Colorado plus the County of El Paso, is allowed as a credit against the rate of City of Colorado Springs use tax due on the storage, use or consumption of the tangible personal property upon which the tax has been previously paid, not to exceed the rate of City tax.

This exemption shall be denied if a tax paid to another state and/or its political subdivisions was not legally due under the laws of other states and/or its subdivisions. This exemption shall also be denied for subsequent transactions within the City including, but not limited to, rentals and leases. (Ord. 85-274; Ord. 91-71; Ord. 91-161; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 00-180; Ord. 01-42)

2.7.436: SCHOOL SPONSORED PERSON:

Sales by a person sponsored by either a public school or a "school" as defined in section [2.7.104](#) of this article, are exempt. This exemption shall include only one hundred fifty dollars (\$150.00) of sales by the person for each of the following quarters of the calendar year: January through March, April through June, July through September and October through December; and:

- A. The funds derived from the sales are either deposited in a school account or are otherwise accounted for through the school administration; and
- B. The proceeds from the sale are used for the benefit of the school or the person sponsored by the school; and
- C. The person is a student enrolled in the school or is an organization primarily composed of students enrolled in the school. (1968 Code 3-75; Ord. 80-105; Ord. 01-42)

2.7.437: SCHOOLS:

The purchase price paid or charged on direct sales to and direct purchases by a school other than a school held or conducted for private or corporate profit in the conduct of its educational functions and activities only are exempt, provided that a letter of exemption from the City is possessed by the school. The school is required, however, to collect sales tax when taxable sales are made by it. (1968 Code 3-75; Ord. 79-179; Ord. 01-42)

2.7.438: SERVICE SALES:

The amount equal to the consideration received for labor or services sold, if the consideration for the services is separately stated from the consideration received for the tangible personal property in the retail sale, or that proportionate percentage approved by the Director on combined sales of services and tangible personal property, that is deductible as the service or labor portion of that total sale, or the total amount paid on the sale or purchase of exclusively nontaxable services is exempt. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.439: SPECIAL FUEL:

The sale of "special fuel", as defined in Colorado Revised Statutes article 27 of title 39, used for the operation of farm vehicles when those vehicles are being used on farms and ranches, is exempt. (1968 Code §3-75, Ord. 80-106; Ord. 01-42)

2.7.440: STORAGE OF CERTAIN PROPERTY:

Tangible personal property purchased from an unlicensed retailer by a resident common carrier, resident public utility or resident construction company, or construction and building materials purchased from an unlicensed retailer by a contractor, which tangible personal property or construction and building materials are temporarily stored in the City, but not used or consumed in the City, are exempt from use tax. (Ord. 85-274; Ord. 01-42)

2.7.441: TEMPORARY RESIDENT; USE TAX EXEMPTION:

Tangible personal property brought into the City by a nonresident thereof for personal use, storage, distribution or consumption while temporarily within this City is exempt. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.442: TRADED IN OR EXCHANGED PROPERTY:

The fair market value of property traded in or exchanged at the time and place of the exchange is excluded from "gross taxable sales" if the exchanged property is to be later resold in the usual course of the retailer's business. (1968 Code §3-75; Ord. 76-168; Ord. 81-251; Ord. 01-42)

2.7.443: WHOLESALE SALES:

The sale by wholesalers or retailers to a licensed retailer, jobber, dealer or other wholesaler for purposes of taxable resale, and not for the retailer's, jobber's, dealer's or wholesaler's own consumption, use, storage or distribution, shall be deemed to be wholesale sales and exempt from taxation. (1968 Code §3-75; Ord. 76-168; Ord. 01-42)

2.7.444: MACHINERY OR EQUIPMENT; ALTERNATIVE RATE OF TAX EXEMPTION:

Purchases of machinery by a person engaged in manufacturing to be used in the City directly and exclusively by the person in the manufacture of tangible personal property, for sale or profit, are exempt from taxation in accord with the alternative rate of tax set forth below. In addition, purchases of equipment by a person engaged in manufacturing to be used in the City directly and exclusively by the person in the manufacture of tangible personal property, for sale or profit, are exempt from taxation in accord with the alternative rate of tax set forth below. The alternative rate of tax shall be computed upon the total cumulative calendar year purchases based upon the purchase price paid by the taxpayer for the machinery used in manufacturing and equipment used in manufacturing and qualifying for this exemption as follows:

Rate Of Tax

A. Purchases of \$0.01 2.5 percent

to and including
\$4,999,999.99

Purchases of 2 percent
\$5,000,000.00

to and including
\$7,500,000.00

Purchases of 1 1/2 percent
\$7,500,000.01

to and including
\$10,000,000.00

Purchases of 1 percent
\$10,000,000.01

to and including
\$15,000,000.00

Purchases of 0.5 percent
\$15,000,000.01

to and including
\$20,000,000.00

Purchases in excess No tax
of \$20,000,000.00

- B. Notwithstanding this alternative rate of tax exemption, a retailer licensed for the collection of tax shall collect and remit to the City the amount of tax as provided in sections [2.7.202](#) and [2.7.203](#) of this article from a taxpayer who qualifies under the provisions of this section. The taxpayer shall not be entitled to the exemption upon purchase but shall claim the exemption only as provided in subsections C and D of this section.
- C. A taxpayer qualifying for an alternative rate of tax exemption as provided in this section shall be entitled to refund or credit, as provided in section [2.7.810](#) of this article.
- D. A taxpayer qualifying for an alternative rate of tax under this section may reduce the amount of tax remitted as provided in section [2.7.811](#) of this article.
- E. Once a taxpayer has reached twenty million dollars (\$20,000,000.00) in purchases of qualifying machinery and equipment in a calendar year or expects to exceed this amount, the taxpayer may apply to the Director for a sales tax exemption for the purchase of machinery or equipment. The certificate of exemption is only in effect for the remaining part of the year and must be renewed the following year if purchases of machinery or equipment exceed the twenty million dollars (\$20,000,000.00).
- F. To qualify for the exemption provided in this section, a purchase must also qualify for the investment tax credit against Federal income tax provided by section 38 of the "Internal Revenue Code of 1986", as amended.
- G. For equipment to be exempt under this section, the equipment must be used directly and exclusively to produce an article of tangible personal property. Auxiliary equipment is taxable.

H. Machinery and equipment used in accounting, engineering, design, research and development or other nonmanufacturing functions are not considered manufacturing machinery or equipment and therefore do not qualify for the alternate rate of tax exemption under this section.

I. For the purpose of the machinery exemption in this section "Test Machinery And Equipment" must test one hundred percent (100%) of the tangible personal property for sale within the manufacturing operation.

1. Equipment used before the first change in the raw material and after the last change in the product does not qualify for this exemption.

2. Test equipment that tests on a sample basis does not qualify for this exemption. (Ord. 85-213; Ord. 91-161; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 98-255; Ord. 01-42; Ord. 01-168)

2.7.445: SALES TAX - NONAPPLICABILITY:

For transactions consummated on and after January 1, 1986, the City's sales tax shall not apply to the sale of "construction materials", as the term is used in Colorado Revised Statutes section 29-2-109, and as defined in section [2.7.104](#) of this article, if the materials are picked up by the consumer and if the consumer presents to the retailer a building permit or other documentation acceptable to the City evidencing that a use tax has been paid to another Colorado municipality. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.446: USE TAX - PRORATION AS APPLIED TO CERTAIN CONSTRUCTION EQUIPMENT:

A. Construction equipment which is located within the boundaries of the City for a period of more than thirty (30) consecutive days shall be subjected to the full applicable use tax of the City.

B. With respect to transactions consummated on or after January 1, 1986, construction equipment which is located within the boundaries of the City for a period of thirty (30) consecutive days or less shall be subject to the City's use tax in an amount calculated as follows: The purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator of which is twelve (12), and the result shall be multiplied by two and five-tenths percent (2.5%).

C. Where the provisions of subsection B of this section are utilized, the credit provisions of section [2.7.434](#) of this part shall apply at the time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule municipalities on any equipment equal two and five-tenths percent (2.5%).

D. For the provisions of subsection B of this section to apply, the taxpayer shall comply with the following procedure:

1. Prior to or on the date the equipment is located within the boundaries of the City, the taxpayer shall file with the Director an equipment declaration on a form provided by the City. This declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the City, shall include a description of each anticipated piece of equipment, shall state the actual or anticipated purchase price of each anticipated piece of equipment, and shall include other information as reasonably deemed necessary by the City.

2. The taxpayer shall file with the City an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety (90) days after the equipment is brought into the boundaries of the City or, for equipment which is brought into the boundaries of the City for a project of less than ninety (90) days' duration, no later than ten (10) days after substantial completion of the project.

3. The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars (\$2,500.00).

E. If the equipment declaration is given as provided in subsection D of this section, then as to any item of construction equipment for which the customary purchase price is under two thousand five hundred dollars (\$2,500.00), which was brought into the boundaries of the City temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as two and five-tenths percent (2.5%) and that the local sales or use tax was previously paid. The burden of proof in any proceeding before the Director or the District Court shall be on the City to prove the local sales or use tax was not paid.

F. If the taxpayer fails to comply with the provisions of subsection D of this section, the taxpayer may not apply the provisions of subsection B of this section and shall be subject to the provisions of subsection A of this section. However, substantial compliance with the provisions of subsection D of this section shall allow the taxpayer to apply the provisions of subsection B of this section. (Ord. 85-274; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.447: PURCHASE OF MACHINERY OR EQUIPMENT LOCATED DIRECTLY AND EXCLUSIVELY IN THE CITY:

A. If a person engaged in manufacturing is directly engaged in the manufacture of tangible personal property using machinery, equipment, or a combination, and the machinery or equipment is: 1) directly and exclusively located in the City; and 2) used directly and exclusively for the manufacture of tangible personal property only, then when that machinery or equipment is sold to a buyer engaged in manufacturing, the buyer shall be exempt from taxation on the purchase price if:

1. The purchased machinery or equipment remains directly and exclusively located in the City and in direct and exclusive use for the manufacture of tangible personal property for a period of two (2) years (730 days) from the purchase date, and

2. The purchase and use of the machinery or equipment does not result in a reduction in the number of full time equivalent (FTE) employment positions in the City as stated in subsection A3 of this section during the two (2) year period defined in subsection A1 of this section, and

3. The buyer files a notice of intent to claim the exemption with the City on or before the twentieth day of the month following the purchase, which shall include the following information:

a. The number of FTE employment positions in the City provided by the seller on the date of sale of the machinery or equipment, and

b. The proposed use and location of the machinery or equipment, and

c. The sale price and list of the machinery and equipment including a brief description of the machinery or equipment purchased, and

d. The amount of sales or use tax which would be due and payable but for the exemption of this section.

4. At the conclusion of the two (2) year period stated in subsection A1 of this section, the buyer must file a notice of exemption compliance. This notice must be filed on or before the twentieth day of the month following the conclusion of the two (2) year period and must disclose:

a. The use and location of the machinery or equipment, and

b. The number of filled FTE employment positions in the City provided by the buyer in compliance with subsection A2 of this section, and

c. Certification that the number of filled FTE employment positions has remained throughout the two (2) year period at or above the number defined by subsection A3a of this section.

B. Upon failure to comply with any provision of this section, the purchase price paid for the machinery or equipment shall be subject to taxation. In addition penalties and interest accrue from the date of purchase until the time as the tax is paid.

C. For equipment to be exempt under this section, the equipment must be used directly and exclusively to produce an article of tangible personal property. Auxiliary equipment is taxable.

D. Machinery and equipment used in accounting, engineering, design, research and development or other nonmanufacturing functions are not considered manufacturing machinery or equipment and therefore do not qualify for the exemption for the purchase of machinery or equipment located directly exclusively in the City under this section.

E. For the purpose of the machinery exemption in this section "Test Machinery and Equipment" must test one hundred percent (100%) of the tangible personal property for sale within the manufacturing operation.

1. Test equipment used before the first change in the raw material and after the last change in the product does not qualify for these exemptions under this section.

2. Test equipment that tests on a sample basis does not qualify for these exemptions under this section. (Ord. 88-162, Ord. 98-255; Ord. 01-42)

2.7.448: PRECAST CONCRETE BUILDING ELEMENTS:

A person who constructs precast concrete building elements is a contractor under this City Tax Code.

A. The purchase price paid by or charged to a precast concrete contractor for materials used to fabricate precast concrete building elements within the City and which precast concrete building elements are to be incorporated into any building, dwelling, or other structure or to make improvements to real property shall be exempt from sales and use tax of the City of Colorado Springs when located:

1. Outside of the State; or

2. Outside of the City limits of Colorado Springs and outside of any Colorado jurisdiction (any incorporated town, city or city and county within the State); or

3. In connection with any Federal project which is exempt from sales or use tax by the Colorado jurisdiction; or

4. In any Colorado jurisdiction where the sales and use taxes are not included in the precast concrete contractor's price for precast concrete building elements that are paid by the general contractor to the Colorado jurisdiction (and are not refundable to the precast concrete contractor).

B. Subject to the exceptions set forth in subsection A of this section, the City sales and use tax applicable to the purchase price paid by or charged to a precast concrete contractor for materials used to fabricate precast concrete building elements which are to be incorporated into any building, dwelling or other structure or to make improvements to real property located outside of the City limits of Colorado Springs but within any Colorado jurisdiction (any incorporated town, city or city and county within the State) shall be the applicable sales and use tax rate of the incorporated town, city or city and county, provided that

the sales or use tax rate is less than the City of Colorado Springs sales and use tax rate. If the sales and use tax rate is greater than the City of Colorado Springs sales and use tax rate, the City's sales and use tax rate shall apply. (Ord. 93-176; Ord. 01-42)

2.7.449: SALES OR USE BY COMMERCIAL AIRLINE:

A. There shall be exempt from sales or use tax under this City Tax Code:

1. Purchases of aircraft for use in interstate commerce by a commercial airline; or
2. Purchases of tangible personal property that is to be permanently affixed or attached as a component part of an aircraft for use in interstate commerce by a commercial airline.

B. For the purposes of this section, the term "commercial airline" shall mean any operator:

1. That engages in the carrying by aircraft of persons or property as a common carrier for compensation for hire, or the carriage of mail, and that, in material part, operates regularly from the City's Municipal Airport to more than one other destination and publishes a flight schedule; and
2. That maintains its headquarters within El Paso County, Colorado; and
3. That employs more than five hundred (500) full time employees within El Paso County, Colorado; or
4. Any commuter airline sponsored by and associated with a commercial airline as described above. (Ord. 95-155; Ord. 01-42)

PART 5 LICENSES

2.7.501: LICENSE REQUIRED:

This section has been affected by a recently passed ordinance, Ordinance 08-218: SALES AND USE TAX MATTERS. [Go to new ordinance.](#)

- A. Retailer: It shall be unlawful for any person to engage in the business of selling at "Retail", defined in this City Tax Code, tangible personal property and services subject to the tax imposed by this City Tax Code, without first having obtained a license. The license shall be granted and issued by the Director and shall be in force and effect until revoked or cancelled.
- B. Retail Establishment: If business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required. Consolidated tax returns may, however, be filed for those various locations as set forth in section [2.7.803](#) of this article.
- C. Use Tax Account: If any person who is engaged in business in the City, but who is not required to hold a retail sales tax license with the City, purchases taxable tangible personal property subject to City use tax, that person shall establish a use tax account with the City for the purpose of reporting and paying the use tax to the City. Establishing a use tax account will be done in the same manner as applying for sales tax license with the City.
- D. Sale At Retail Without License: Any person engaged in "Business" in the City, as defined in this City Tax Code, without first having obtained a license, except as specifically provided, shall be guilty of a violation of this City Tax Code.
- E. Sale Or Transfer Of Business: Any sale, transfer or purchase of a business enterprise by any person

requires, in the case of a retailer or other person required to be licensed under this City Tax Code, the issuance of a new license. In all cases where any of the assets of any business are within the City, the payment of the use tax shall also be made on transfer of title or possession or both of the taxable tangible personal property whether involving a retail establishment or any other type of business enterprise.

F. When License Not Required: No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this City Tax Code. (1968 Code 3-77, 3-83; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.502: APPLICATION; CONTENTS:

City sales and use tax licenses shall be granted only upon application stating the name and address of the person desiring the license, the name of the business and its character, the location, including the street number, of the business and the other facts required by the Director for the purpose of enforcing this City Tax Code. Any person doing business as a wholesaler shall obtain a retailer's license if any sales are made at retail. (1968 Code 3-83; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.503: LICENSE FEES:

A one time fee of fifteen dollars (\$15.00) shall be paid to the Director upon each application for a new license. The license fee is imposed to defray some of the expense of processing new licenses.

The license and tax imposed by this City Tax Code shall be in addition to all other licenses and taxes imposed by law, except as otherwise provided. (1968 Code 3-83; Ord. 76-168; Ord. 87-157; Ord. 01-42)

2.7.504: FORM OF LICENSE; TRANSFER:

Each license shall be numbered and shall show the name, mailing address, and place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. (1968 Code 3-83; Ord. 76-168; Ord. 01-42)

2.7.505: TEMPORARY LICENSE; CASH BOND:

A. A temporary license may be applied for or required by the Director if it appears that the license will be used for sixty (60) or fewer consecutive days.

B. A cash bond of twenty five dollars (\$25.00) shall be deposited with the Director before a temporary license is issued.

1. If it appears that sales tax liability will exceed twenty five dollars (\$25.00), then the Director, may require a larger cash bond.

2. In the event that the sales tax liability is less than the posted cash bond, a refund may be applied for within thirty (30) days after the expiration of a temporary license. (1968 Code 3-83; Ord. 76-168; Ord. 01-42)

2.7.506: REVOCATION OF LICENSE; APPEAL:

The Director may, on reasonable notice and after full hearing, revoke the license of any person found by the Director to have violated any provision of this City Tax Code. Any finding and order of the Director revoking the license of any person shall be subject to review by the El Paso County District Court upon application of the aggrieved party. The procedure for review shall be in accord with rule 106(a)(4) of the Colorado Rules of Civil Procedure. (1968 Code 3-83; Ord. 76-168; Ord. 01-42)

2.7.507: CANCELLATION OF LICENSE:

Every taxpayer must notify the City to cancel a sales or use tax license when the taxpayer ceases making taxable sales and/or taxable purchases subject to City sales or use tax. The taxpayer shall make a final return for the last reporting period.

If any taxpayer reports no City sales tax or City use tax for twelve (12) consecutive monthly reporting periods ending December 31, or four (4) consecutive quarterly reporting periods ending December 31, or one 12-month annual reporting period ending December 31, this lack of taxable activity will serve as prima facie evidence that the taxpayer is not engaged in a taxable activity. The City may cancel the taxpayer's license and notify the taxpayer of the cancellation in writing at the last known mailing address of the taxpayer. (Ord. 01-42)

PART 6 TAXPAYER LIABILITY

2.7.601: EXEMPTION BURDEN OF PROOF:

The burden of proving that any retailer or consumer is exempt from collecting or paying the tax upon any goods sold or purchased, paying the same to the City, or from making returns, shall be on the retailer or consumer under reasonable requirements of proof prescribed by the Director. (1968 Code 3-76; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.602: RETAILER'S RESPONSIBILITY:

- A. Collection Of Tax: Every retailer "Engaged In Business" and selling at "Retail" shall, irrespective of the provisions of part 2 of this article, be liable and responsible for the payment of an amount equivalent to two and five-tenths percent (2.5%) ⁶³ of all sales made by the retailer of commodities or services as specified in part 3 of this article.
- B. Remittance Of Tax: Every retailer "Engaged In Business" and selling at "Retail" shall file a return with the Director on or before the twentieth day of the month for the preceding month or months under report and remit an amount equivalent to two and five-tenths percent (2.5%) ⁶⁴ of the taxable sales and also any excessive tax collections over two and five-tenths percent (2.5%) ⁶⁵ as provided in section [2.7.808](#) of this article. The retailer shall add the tax to the amount of the sale as a separate and distinct item, and the tax shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts.
- C. Tax On Credit Sales: In the case of a sale on credit, rental purchase agreement or a conditional contract sale whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a security interest in the goods or commodities to secure all or part of the purchase price, the total tax based on the taxable selling price shall become immediately due and payable. This tax shall be charged and collected by the seller.

No refund or credit shall be allowed by either party to the transaction in case of repossession. (1968 Code 3-77; Ord. 76-168; Ord. 84-27; Ord. 91-161; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.603: RESPONSIBILITY FOR USE TAX PAYMENTS:**A. City Residents:**

1. Every resident of the City who purchases or leases taxable tangible personal property or taxable

services for use, storage or consumption in the City from sources within or without the City and who has not paid the tax imposed by this City Tax Code to a retailer required or authorized to collect the tax shall file a City use tax return and pay the tax due to the City within thirty (30) days from the date of purchase or lease of the taxable tangible personal property or taxable service.

2. The City use tax return shall show the value of the tangible personal property purchased or the rental or cost of leasing the property, the use, storage, distribution or consumption of which is subject to the tax imposed by this City Tax Code, during the period of time covered by the return.

B.City Businesses:

1. Every person who operates or maintains a business in the City and who purchases or leases taxable tangible personal property for use, storage or consumption in the City in connection with that business, from sources within or without the City, and who has not paid the tax imposed by this City Tax Code to a retailer required or authorized to collect the tax, shall, monthly, make a use tax return and pay the tax due to the City, on or before the twentieth day of the month following the purchase or lease and on or before the twentieth day of each succeeding calendar month for the preceding calendar month.

2. Returns shall show the value of the tangible personal property purchased or the rental or cost of leasing the property, the use, storage, distribution or consumption of which became subject to the tax imposed by this City Tax Code during the period of time covered by the return. (1968 Code §§3-78, 3-79; Ord. 76-168; Ord. 01-42)

2.7.604: CONTRACTORS, OWNERS OR LESSEES OF REALTY:

Every purchase by a contractor shall be taxable as a purchase at retail unless the purchase is for taxable resale or otherwise exempt under this City Tax Code. Every contractor who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or make improvement to real property, including all work performed on Federal, State, County, City, exempt institution and private construction job sites in this City and shall purchase construction materials, and every owner or lessee of realty situate in the City, upon which any article or articles of tangible personal property acquired from sources within or without the City are attached or affixed and which contractor, owner or lessee has not paid the sales tax imposed by this City Tax Code thereon, to a retailer required or authorized to collect the same, shall pay a use tax by making a monthly return and paying the tax due to the City, on or before the twentieth day of the month following the purchase and on or before the twentieth day of each calendar month thereafter for the preceding calendar month.

A.Contents Of Return: Returns shall show the value of the tangible personal property purchased by the person, the use, storage, distribution or consumption of which became subject to the tax imposed by this City Tax Code during the period of time covered by the return.

B.Books And Records: Any person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure or improvement to real property within the City or who shall contract the aforesaid to be done and who shall purchase lumber, fixtures or any other building materials and supplies used therefor, or who shall contract for the purchase of the aforesaid shall keep and preserve all invoices, statements and other records showing the purchases.

C.Preservation Of Books And Records: Any failure to preserve the invoices, statements and records shall cause all estimates and assessments of the tax owed, pursuant to section [2.7.1002](#) of this article, to be the only evidence of the tax due.

D.Furnishing Of Information: It shall be the duty of the Regional Building Official ⁶⁶ and the contractors and subcontractors who are hired to do the above stated work, or any portion thereof, to furnish the Director information as he may require as to any purchases of lumber, fixtures or any other building materials and supplies for the work.

E. Building Inspections: An inspection, including a periodic or final inspection, shall not be made by the Regional Building Official, nor shall a certificate of occupancy, whether temporary or final, be issued, unless all taxes due as provided by this City Tax Code, on all construction materials connected with the construction, reconstruction, alterations, expansion, modification or improvement to real property within the City have been paid or arrangements therefor made with the Director. (1968 Code §3-80; Ord. 76-168; Ord. 81-251; Ord. 01-42)

2.7.605: NEW BUSINESS PURCHASES; SELLERS AND CONSUMERS:

A. Acquisition Of Business: The City tax shall be remitted on the price paid for tangible personal property which is acquired with the purchase of a business. The tax shall be based on the price paid for tangible personal property as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great or greater than the fair-market value of the tangible personal property. Where the transfer of ownership is a package deal made by a lump sum transaction, the tax shall be paid on the book value of tangible personal property set up by the consumer for income tax depreciation purposes, or on the fair-market value if no determination for income tax purposes has been made. When a business is taken over, by foreclosure or otherwise, in return for the assumption of outstanding indebtedness owed by former owners, the tax shall be paid on the fair-market value of all taxable tangible personal property acquired by the new owner.

B. Purchaser Liable For Prior Owner's Unpaid Tax: The seller of a business, having outstanding City sales or use tax liability, must compute and pay the tax due at the time of the sale of the business. If the seller fails to pay the tax as required, the purchaser shall be liable for any unpaid tax of a predecessor.

C. Agent Of Seller And Seller Liable For Tax: The purchaser shall report the tax on the City use tax return. The seller or the seller's agent shall be held liable for sales and use tax remittance on the sale of a business in the event the purchaser fails to remit the use tax due on the purchase.

D. Return And Withholding Taxes: Any person who shall sell out a business or stock of goods or shall quit doing business shall be required to make out a return as provided in this City Tax Code within ten (10) days after the date that person completes the sale of the business or stock of goods, or quits business, and any successor in business, if any, shall be required to withhold a sufficient amount of the purchase money to cover the amount of the sales and use taxes due and unpaid until the time as the former owner shall produce a receipt from the Director showing that the taxes have been paid, or a certificate that no taxes are due. (1968 Code §3-81; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.606: REGISTRATION OF AUTOMOTIVE VEHICLES:

A. As used in this section "Penalty Assessment" means a written notice of the determination of the Director that a violation of Colorado Revised Statutes section 42-6-139(2), has occurred and assessment and demand for payment of the civil penalty provided in subsection C of this section.

B. It is unlawful to register a motor vehicle in violation of the provisions of Colorado Revised Statutes section 42-6-139(2).

C. Any person who causes a motor vehicle to be registered in violation of the provisions of Colorado Revised Statutes section 42-6-139(2), shall be assessed a five hundred dollar (\$500.00) civil penalty pursuant to the authority granted in Colorado Revised Statutes section 42-6-139(4). The procedure for the assessment of the civil penalty shall be as follows:

1. When the Director determines on the information as is available that a person has caused a motor vehicle to be registered in violation of the provisions of Colorado Revised Statutes section 42-6-139(2), the Director shall issue to the person a penalty assessment. If the Director also has determined pursuant to section [2.7.1002](#) or [2.7.1202](#) of this article that sales or use taxes are due to the City on the purchase of the motor vehicle, the penalty assessment may be included in a deficiency notice.

2. The person shall pay the penalty assessment within the time period of this Code provided pursuant to section [2.7.1002](#) or [2.7.1202](#) of this article for payment of any amount due pursuant to a deficiency notice, unless the person requests a hearing in the manner provided in subsection C3 of this section.

3. If the person desires to protest the penalty assessment, the person shall request in writing a hearing before any referee as provided in subsection 2.7.903D of this article in the twenty (20) day time period as provided pursuant to subsection 2.7.903A of this article for requesting a hearing. The request for a hearing shall set forth the facts that show that a violation of Colorado Revised Statutes section 42-6-139 (2), did not occur. The referee shall issue a written decision affirming or withdrawing the penalty assessment within the same time period and in the same manner as provided pursuant to section [2.7.903](#) of this article after hearing on a deficiency notice. If the decision affirms the penalty assessment, the person shall pay the civil penalty within thirty (30) days after the decision unless an appeal is made to the Director pursuant to section [2.7.904](#) of this article. If an appeal is made to the Director pursuant to section [2.7.904](#) of this article, a hearing shall be held by the Director as hearings are otherwise provided under section [2.7.904](#) of this article.

4. The person may seek judicial review of the decision by the Director made under the provisions of section [2.7.904](#) of this article under rule 106(a)(4) of the Colorado Rules of Civil Procedure as the same provide or may hereinafter be amended. The alternative dispute resolution procedure set forth in section [2.7.908](#) of this article shall not apply to review of a civil penalty assessment under this section.

5. The Director may enforce collection of the penalty assessment in the same manner as provided pursuant to this City Tax Code for the collection of unpaid sales or use taxes, penalties or interest.

6. Nothing in this section shall preclude the collection of any tax or fee provided by law, the collection of any penalties or interest thereon provided by law, or the imposition of any other civil or criminal penalty provided by law.

D.Registration; Where Made:

1. For purposes of this section, a person's residence shall be the person's principal or primary home or place of abode to be determined in the same manner as residency for voter registration purposes as provided in Colorado Revised Statutes sections 1-2-102 and 31-10-201; except that "Voter Registration" shall be substituted for "Motor Vehicle Registration" as a circumstance to be taken in to account in determining the principal or primary home or place of abode.

2. Except as may be otherwise provided by rule or regulation of the Director of Revenue of the State of Colorado, it is unlawful for any person who is a resident of this State to register any motor vehicle owned by the person or to obtain a license or to procure a certificate of title at any address other than:

a. For a motor vehicle which is owned by a business and operated primarily for business purposes, the address from which the vehicle is principally operated and maintained; a person maintaining a business within the City meeting the requirements of this subsection D2a shall be a "Business Resident" under the provisions of this section.

b. For any motor vehicle for which the provisions of subsection D2a of this section do not apply, the address of the owner's residence; except that, if a motor vehicle is permanently operated and maintained at an address other than the address of the owner's residence, the motor vehicle shall be registered at the address from which the motor vehicle is permanently operated and maintained.

E.Sales And Use Tax Requirements; Motor Vehicles:

1. Purchase In The City By A City Resident: The purchase of an automotive vehicle in the City by a person who is a City resident at the time of purchase for use within the City shall be subject to City sales or use tax. The tax shall be collected by the retailer selling the automotive vehicle and shall be paid by

the consumer. If the seller does not collect the tax, the purchaser shall pay the tax to the City or its agent prior to or at the time the registration certificate is issued by the County Clerk and Recorder of El Paso County. The tax shall be payable even if the purchaser subsequently moves out of the City after the purchase.

2. Purchases Outside City By A City Resident: The purchase of any automotive vehicle outside the City by a person who is a City resident at the time of purchase for use or storage in the City shall be subject to taxation hereunder. The tax shall be payable to the City or its agent prior to or at the time the registration certificate is issued by the County Clerk and Recorder of El Paso County. The tax shall be payable even if the purchaser subsequently moves out of the City after the purchase.

3. Payment Of Tax Before Registration: Any resident of the City who shall purchase any "automotive vehicle" as defined in this City Tax Code, whether new or used, from sources within or without this City, for use within the City shall, prior to or at the same time of registering within El Paso County and obtaining the license for the vehicle, pay City sales tax to the retailer selling the automotive vehicle, or pay the applicable tax to El Paso County Clerk and Recorder as agent of the City or make a return showing the transaction to the Director and pay the tax applicable. Failure to pay the tax on the automotive vehicle as provided in this City Tax Code shall constitute a violation of this City Tax Code.

4. Restrictions On Registration And Transfer Of Title: No automotive vehicle purchased or acquired by a resident of the City for use in the City shall be registered in El Paso County, nor shall title thereto be transferred within El Paso County, nor shall a license or registration for the use thereof in the State of Colorado be issued by the County Clerk of El Paso County, if the tax imposed by this City Tax Code upon the purchase, or use, storage, distribution or consumption of the same has not been paid to the City or its agent.

5. Failure To Register Automotive Vehicles As Resident Of City: Any resident of the City who registers an automotive vehicle, whether new or used, outside the corporate limits of the City for use within the City, shall immediately, and prior to registering and obtaining a license therefor, make a return, showing the transaction to the Director and thereupon pay the applicable tax. Failure to pay the tax on the automotive vehicle as provided in this City Tax Code shall constitute a violation of this City Tax Code.

6. Registration To Evade Taxation: It shall be unlawful for any resident of this City to evade the collection or payment of any taxes collected or due the City, or the payment of any interest or penalty due the City under this section by registering the automotive vehicle except in conformity with the provisions of this section. (Ord. 87-157; Ord. 91-161; Ord. 93-176; Ord. 94-206; Ord. 01-42)

2.7.607: LIABILITY OF FIDUCIARIES:

A. Satisfaction Of Liability: For the purpose of facilitating the settlement and distribution of estates, trusts, receiverships, other fiduciary relationships, and corporations in the process of dissolution or which have been dissolved, the Director may agree with the fiduciary or surviving directors upon the amount of taxes due from the decedent, or from the decedent's estate, the trust, receivership, or other fiduciary relationship, or corporation, for any of its taxable periods, under the provisions of the taxes covered by this City Tax Code and except upon a showing of fraud, malfeasance or misrepresentation of a material fact, payment in accord with the agreement shall be full satisfaction of the taxes for the taxable periods to which the agreement related.

B. Personal Liability: Except as provided in subsection D of this section, any personal representative of a decedent, or of the estate of a decedent, or any trustee, receiver, or other person acting in a fiduciary capacity, or any director of a corporation in the process of dissolution or which has been dissolved, who distributes the estate or fund in the person's control without having first paid any taxes covered by this City Tax Code due from the decedent, decedent's estate, trust estate, receivership, or corporation, covered by this City Tax Code and which may be assessed within the time limited by this City Tax Code, shall be personally liable to the extent of the property so distributed, for any unpaid taxes of the

decendent, decendent's estate, trust estate, receivership, or corporation, covered by this City Tax Code and which may be assessed within the time limited by this City Tax Code.

C. Notification Of Liability: The distributee of a decendent's estate, or a trust estate or fund, or the stockholder of any dissolved corporation who receives any of the property of the decendent's estate, trust estate, fund, or corporation, shall be liable to the extent of the decendent, trust estate, fund, or corporation, covered by this City Tax Code and which may be assessed within the time limited by this City Tax Code. Notice to the distributee or stockholder shall be given in the same manner and within the time limit which would have been applicable had there been no distribution.

D. Limitation Of Liability:

1. In the event tax covered by this City Tax Code is due from a decendent, or of the decendent's estate, or by a corporation, and in order for a personal liability under subsection B of this section to remain in effect, determination of the tax due shall be made and notice and demand therefor shall issue within eighteen (18) months after written request for the determination, filed after the filing of the decendent's final return or filed after the filing of the return of the decendent's estate with respect to which the request is applicable, by any personal representative of the decendent, or by the corporation, filed after the filing of its return; but a request under this provision shall not extend the period of limitation otherwise applicable.

2. This subsection D of this section will not apply in the case of a corporation unless:

a. The request notifies the Director that the corporation contemplates dissolution at or before the expiration of the eighteen (18) month period;

b. The dissolution is begun in good faith before the expiration of the eighteen (18) month period; and

c. The dissolution is completed.

3. Upon the expiration of the eighteen (18) month period, without determination being made and notice and demand being issued, the personal representative or representatives of the decendent, and the directors of the corporation no longer will be liable under the provisions of subsection B of this section. (1968 Code §3-106; Ord. 76-168; Ord. 01-42)

2.7.608: SALES BY AUCTION:

The auctioneer at any sale, except when acting as an agent for a duly licensed retailer licensed to sell the commodities or articles under auction, or when selling only tangible personal property which is exempt from retail sales or use tax, is a retailer and the business conducted by the auctioneer in accomplishing the sale is the transaction of a business as defined. (Ord. 91-161; Ord. 01-42)

PART 7 BOOKS, RECORDS AND ACCOUNTS

2.7.701: TAXPAYER TO KEEP:

It shall be the duty of every person engaged in business in the City, for the transaction of which a license is required hereunder, and of every person purchasing tangible personal property or services subject to the tax imposed hereunder who has not paid the tax imposed to a person required or authorized to collect the tax, to keep and preserve, for a period of three (3) years, suitable records of all sales or purchases made by that person and other books or accounts as may be necessary to determine the amount of the tax for the collection or payment of which he is liable hereunder.

Pursuant to subsection 2.7.106D of this article, if a taxpayer fails to file a return, the tax, with penalties and

interest, may be assessed and collected at any time. (1968 Code §3-84; Ord. 76-168; Ord. 01-42)

2.7.702: PRESERVATION:

It shall be the duty of every retailer and every person to keep and preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale, and all books, invoices, and other records.

Pursuant to subsection 2.7.106D of this article, if a taxpayer fails to file a return, the tax, with penalties and interest thereon, may be assessed and collected at any time. (1968 Code §3-84; Ord. 76-168; Ord. 01-42)

2.7.703: EXAMINATION:

All records and other receipts, invoices and documents required to be kept hereunder shall be open for examination by the Director upon demand. (1968 Code §3-84; Ord. 76-168; Ord. 01-42)

2.7.704: KEEPING OUTSIDE CITY:

If the retailer or other person keeps or maintains books, invoices, accounts or other records, or any portion thereof, outside the City, upon demand by the Director he shall make the same available at a suitable place within the City, to be designated by the Director, for examination, inspection and audit by the Director.

The Director may make, permit, or cause to be made, the examination, inspection and audit of books, invoices, accounts and other records so kept or maintained by the retailer or the person outside the City or State of Colorado where the same will be made available, provided the books, invoices, accounts and other records are not otherwise made available to the Director at the time and place deemed suitable by the Director. In the event the examination, inspection or audit is found to be necessary by the Director under the terms hereof, the retailer or person, for whom the examination, inspection or audit is required, shall be liable to reimburse the City for all costs and expenses incurred by it in order to have the examination, inspection or audit conducted outside the City. (1968 Code §3-84; Ord. 76-168; Ord. 01-42)

PART 8 TAX RETURNS AND PAYMENTS

2.7.801: REPORTING AND REMITTANCE PERIODS:

A. Every retailer shall file a tax return with the Director, on or before the twentieth day of each calendar month, for the preceding month, and shall simultaneously remit an amount equal to the amount of tax required by [part 2](#) of this article.

B. If the accounting methods regularly employed by the retailer or licensed consumer in the transaction of business, or other conditions are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Director may, upon written request of the retailer or licensed consumer, accept returns at intervals as will, in the Director's opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax, provided that the Director may by rule permit a retailer or licensed consumer whose monthly City tax liability is less than two hundred dollars (\$200.00) to make returns and pay taxes at intervals not greater than every three (3) months or whose annual City tax liability is less than fifty dollars (\$50.00) to make returns and pay taxes on an annual basis, or as approved by the Director. Tax returns filed on a quarterly or annual basis shall be filed with the Director on or before the twentieth day of the month following the end of the reporting period. (1968 Code §3-85; Ord. 76-168; Ord. 83-164; Ord. 91-161; Ord. 93-176; Ord. 01-42)

2.7.802: FORM AND CONTENTS:

- A>Returns to be filed by the taxpayer or other persons required to file returns shall contain the information and be made in a manner and upon the forms as the Director may prescribe.
- B.The City shall use the standard municipal sales and use tax reporting form and any subsequent revisions thereto adopted by the Executive Director of the Department of Revenue by the first full month commencing one hundred twenty (120) days after the effective date of the regulation adopting or revising the form. On the adoption of the forms set forth in this section by the Executive Director of the Department of Revenue, the Director shall provide for an effective date for the form within the period prescribed in subsection 2.7.801B of this part and on the form becoming effective, the form shall supersede and replace any form in conflict prescribed by the Executive Director under subsection A of this section. (Ord. 85-274; Ord. 01-42)

2.7.803: CONSOLIDATION OF RETURN:

A retailer engaged in business in two (2) or more places or locations, whether within or without the City, and collecting taxes, may file one return covering all places or locations, when accompanied by a supplemental report showing the gross and net taxable sales for each the place or location. (1968 Code §3-85; Ord. 76-168; Ord. 01-42)

2.7.804: RETAILER'S FEE; TIMELY FILING OF RETURN:

Retailers may take a retailer's fee, as collecting agent of the City, of two percent (2%) of the amount of the periodic sales tax liability. The fee, if taken, shall be shown and deducted from the retailer's sales tax liability for a reporting period on the tax return for the reporting period.

In the event a tax return is not timely filed or in the event a proper remittance is not timely made, then the retailer's fee may not be taken. (1968 Code §3-85; Ord. 76-168; Ord. 91-161; Ord. 01-42; Ord. 03-176)

2.7.805: SPECIAL ACCOUNTING:

- A.Alcoholic Beverage Sales By The Drink: Any retailer selling malt, vinous, or spirituous liquors by the drink may include in the sales price of those beverages the tax levied under this City Tax Code; provided, that no retailer shall advertise or hold out to the public in any manner, directly or indirectly, that the tax is not included as a part of the sales price to the consumer. The schedule set forth in [part 2](#) of this article shall be used by the retailer in determining amounts to be included in the sales price. No retailer shall gain any benefit from the collection or payment of the tax, except the permitted retailer's fee, nor shall the use of the schedule set forth in [part 2](#) of this article relieve the retailer from liability for payment of the full amount of the tax levied by this City Tax Code.
- B.Combined Sales Of Services And Personal Property: Every retailer, conducting a business in which the transaction between the retailer and the consumer consists of the supply of tangible personal property and services in connection with the maintenance or servicing of the consumer's property, shall be required to pay the tax levied under this City Tax Code upon the full contract price, unless application is made to the Director for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under the contract. The Director is authorized to determine the percentage based upon the ratio of the tangible personal property included in the consideration as it bears to the total of the consideration paid under the combination contract or sale which shall be subject to the tax levied pursuant to the provisions of this City Tax Code. This section shall not be construed to include elements upon which the tax is to be imposed as the full purchase price as defined in section [2.7.104](#) of this article, nor shall be construed as an allowance for the retailer to fail to itemize to the customer the taxable and nontaxable portions of the bill.

- C.Sales Tax Collections By Nonresident Retailers: Every retailer engaged in business in this City even though not maintaining an office in this City, and making sales of tangible personal property or taxable services subject to the sales tax, must, in accord with this City Tax Code, collect and remit the sales tax

on the sales in like manner as Colorado Springs retailers collect and remit the sales tax.

D. Leases And Rentals: When right to continuous possession or use of any article of tangible personal property is granted under a lease or rental contract, and the transfer of possession would be taxable under this City Tax Code if an outright sale were made, the lease or rental contract shall be considered the sale of the article and the tax shall be computed and paid upon the lease or rental payments charged. All amounts, required to be paid by the lease pursuant to the lease or rental contract, are part of the taxable lease or rental payments charged.

In lieu of computing and paying tax upon each rental or lease charge as it is paid or becomes due, the retailer may pay one lump sum payment based on the entire retail purchase price of the item to be leased or rented, upon written permission by the Director. (1968 Code §§ 3-86, 3-87, 3-88, 3-89; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.806: CONFIDENTIAL INFORMATION; EMPLOYEE RESTRICTIONS:

This section has been affected by a recently passed ordinance, Ordinance 08-218: SALES AND USE TAX MATTERS. [Go to new ordinance.](#)

A. Returns: Except in accord with judicial order or as otherwise provided, the Director, the Director's agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this City Tax Code.

B. Evidentiary Use: The persons charged with the custody of the returns shall not be required to produce any of them or evidence of anything contained therein in any action or proceeding in any court, except on behalf of the Director in any action under the provisions of this City Tax Code to which the Director is a party, or on behalf of any party to an action or proceeding under the provisions of this City Tax Code or to punish a violator thereof when the report of facts shown by the report is directly involved in the action or proceeding in either of which events the court may require the production of, and may admit in evidence, so much of the returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.

C. Exceptions To Confidential Use Of Returns: Nothing contained in this section shall be construed to prohibit the delivery to a person, or to a duly authorized representative of that person, of a copy of any return or report filed by that person in connection with this tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the City Attorney, or any other legal representative of the City, of the report or return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been instituted under this City Tax Code.

D. Wrongfully Divulged Information: It shall be unlawful for any City officer or employee, or any member of the office of, or officer or employee of the Director to wilfully divulge any information classified herein as confidential, in any manner, except in accord with proper judicial order, or as otherwise provided by law.

E. Memorandum Of Understanding: The Director is authorized to execute a memorandum of understanding with the State of Colorado Department of Revenue, department of revenue of any other state, the Commissioner of the Internal Revenue Service of the United States or a delegate, the county assessor or county treasurer of any county located within the State, or the proper official of any county, city, or town within the State for an exchange of information classified under this section as confidential, provided that the governmental entity with whom the information has been exchanged agrees to abide by the provisions of this City Tax Code pertaining to confidential information.

F. Employee's Restrictions: It shall be unlawful for any member of the Department of Finance, any deputy, agent, clerk or other officer or employee engaged in any administration which is governed by this sales and use tax article, to engage in the business or profession of tax accounting or to accept employment,

with consideration, from any person for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the City, or to accept any employment for the purpose of advising, preparing materials or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the City. (1968 Code §3-93; Ord. 76-168; Ord. 87-158; Ord. 91-161; Ord. 01-42)

2.7.807: EXAMINATION OF RETURNS:

As soon as practicable after the return is filed, the Director may examine it.

A.Recomputation: If it then appears that the correct amount of tax to be remitted is greater or less than that shown in the return, the tax shall be recomputed by the Director.

B.Overpayment: If the amount paid exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from the same person.

C.Underpayment: If the amount paid is less than the amount due, the difference, together with interest thereon at the rate as specified in section [2.7.1004](#) of this article, from the time the return was due, shall be paid by the taxpayer within twenty (20) days after written notice and demand to the taxpayer from the Director.

D.Negligent Deficiency: If any part of the deficiency in payment of sales or use tax is due to negligence, but without intent to defraud, there shall be added a penalty of ten percent (10%) of the total amount of the deficiency, and in the case interest shall be collected at the rate as specified in section [2.7.1004](#) of this article, on the amount of the deficiency from the time the return was due, from the person required to file the return, which interest and penalty shall become due and payable within twenty (20) days after written notice and demand is made by the Director.

E.Fraudulent Deficiency: If any part of the deficiency is due to fraud with the intent by the taxpayer to evade the tax, then there shall be added a penalty of one hundred percent (100%) of the total amount of the deficiency, and in the case, the whole amount of the tax unpaid, including additions, shall become due and payable twenty (20) days after written notice and demand is made by the Director, and an additional three percent (3%) per month on the amount shall be added from the date the return was due until paid. (Ord. 85-274; Ord. 01-42)

2.7.808: EXCESS COLLECTION; FAILURE TO REMIT COLLECTIONS:

If any retailer shall, during any reporting period, collect as a tax an amount in excess of two and five-tenths percent (2.5%) ⁶⁷ of the total taxable sales, the retailer shall remit to the Director the full net amount of this tax imposed and also such excess. The retention by the retailer of any excess of tax collections over two and five-tenths percent (2.5%) ⁶⁸ of the total taxable sales of the retailer, or the intentional failure to remit punctually to the Director the full amount required to be remitted by the provisions of this City Tax Code, is hereby declared to be a violation of this City Tax Code and shall subject the retailer to the imposition of penalty and interest, and may subject the retailer to other remedial actions provided within this City Tax Code. (1968 Code §3-85; Ord. 76-168; Ord. 84-27; Ord. 92-149; Ord. 93-176; Ord. 94-206; Ord. 95-182; Ord. 96-208; Ord. 97-97; Ord. 01-42; Ord. 01-168)

2.7.809: UNLAWFUL TO ASSUME OR ABSORB TAX:

It shall be unlawful for any retailer to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax, or any part thereof imposed by this City Tax Code will be assumed or absorbed by the retailer, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof will be refunded. (1968 Code §3-90; Ord. 76-168; Ord. 01-42)

2.7.810: REFUNDS:

A. Overpayments: For transactions consummated on or after January 1, 1986, no refund shall be made nor credit allowed for tax overpaid by any person, prior to compliance with the following conditions precedent:

1. Applications: Claims may be made for tax monies paid in error or mistake or paid in excess of the rate as specified in the alternative rate of tax exemption where an overpayment results. Application for refund must be made within three (3) years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed. The application must be made on forms prescribed and furnished by the Director, which forms shall contain the information as the Director shall prescribe.
2. Examination Of Applications: Upon receipt of the application, the Director shall examine the same with all due speed and shall give notice in writing to the applicant of the decision.
3. Proceeds Of Claims: The proceeds of any claim for an overpayment refund shall first be applied by the Director to any tax deficiencies or liabilities existing against the claimant before allowance of the claim. If any overpayment of tax monies for any period is discovered as a result of audit by the Director and deficiencies are discovered and assessed against the taxpayer as a result of the audit, the excess monies shall first be applied against any deficiencies outstanding or any liabilities existing against the claimant to the date of assessment. If an overpayment exists after the application, the claimant may elect to take a credit for the amount toward future liabilities or may have the amount refunded.
4. Appeal Of Denial Of Refund: An appeal of a denial of a refund shall be submitted in writing to the Director within twenty (20) calendar days from the date of the denial of the refund and shall identify the amount of refund requested and the basis for the appeal.

B. Dispute Exemption: No refund shall be made nor credit allowed for the tax so paid under dispute by any person who claims one or more exemptions as provided by this City Tax Code except upon compliance with the following conditions precedent:

1. Applications: Applications for refund must be made within sixty (60) days after the purchase or acquisition of the goods or service on which the exemption is claimed and must be supported by the affidavit of the applicant accompanied by the original paid invoice or sales receipt and a certificate issued by the seller. The application must be made upon the forms as shall be prescribed and furnished by the Director, which forms shall contain the information as the Director shall prescribe.
2. Proof Of Exemption: The burden of proving that any person is exempt from paying the tax upon any personal property or service purchased, acquired, used, stored or consumed within the City shall be upon the person asserting the claim for exemption under the reasonable requirements of proof as the Director may prescribe.
3. Examination Of Applications: Upon receipt of the application, the Director shall examine the same with all due speed and shall give notice in writing to the applicant of the decision.
4. Appeal Of Denial Of Refund: An appeal of a denial of a refund shall be submitted in writing to the Director within twenty (20) calendar days from the date of the denial of the refund and shall identify the amount of refund requested and the basis for the appeal.

C. False Statements:

1. False Statements: It shall be unlawful for any person to make any false statement in connection with an application for refund of any taxes.
2. Recovery Of Refunds: If any person is convicted under the provisions of subsection C1 of this section,

the conviction shall be prima facie evidence that all refunds received by the person during the preceding three (3) year period were obtained unlawfully and the Director is empowered to bring appropriate action for the recovery of the refunds. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.811: ALTERNATIVE RATE OF TAX EXEMPTION CREDIT:

A taxpayer is entitled to a credit for tax paid by the taxpayer in excess of the applicable tax under the rate of tax as specified in the alternative rate of tax exemption. The credit may be taken by the taxpayer against any tax due and owing on a sales and use tax return filed by the taxpayer during the period for which the taxpayer is eligible for a refund under section [2.7.810](#) of this part. (Ord. 85-213; Ord. 01-42)

PART 9 ADMINISTRATION

2.7.901: DUTIES AND POWERS OF DIRECTOR:

- A. Administration By Director: The administration of the licensing provisions of this City Tax Code is hereby vested in the Director; and the administration of all other provisions of this City Tax Code, and of the City retail sales and use tax, is hereby vested in and shall be exercised by the Director.
- B. Promulgate Rules And Regulations: The Director shall prescribe forms and shall, with the approval of the City Manager and after hearing, promulgate appropriate rules and regulations to effectuate the purpose of this City Tax Code, in conformity with this City Tax Code and subject to other provisions of law relating thereto, for the making of returns, for the ascertainment, assessment and collection of the taxes imposed and for the proper administration and enforcement thereof, and to provide uniform methods of adding the tax, or the average equivalent thereof, to the purchase price. The Director shall have power and authority to amend and to rescind the rules and regulations, not inconsistent with the provisions of this City Tax Code as to the promulgation of regulations. Regulations adopted, amended or rescinded by the Director shall be effective in the manner and at the time prescribed by the Director, subject to the provisions of this City Tax Code.
- C. Director May Require Reports, Records: The Director may require any person, by regulation or notice served on the person, to make the return, render the statement or keep and furnish the records, or make the information reports as the Director may deem sufficient to show whether or not the person is liable under this act for payment or collection of the tax imposed herein.
- D. Director To Examine Returns: For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax due from any taxpayer, the Director shall have power to examine or cause to be examined by any employee, agent, or representative designated by the Director for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return. Subject to the provisions of this City Tax Code, the Director is authorized to prescribe the duties and powers of employees, accountants, experts, and other persons as may be necessary in the performance of the duty of the Director. The Director may delegate to any person the power and authority as the Director deems reasonable and proper for the effective administration of this City Tax Code.
- E. Sales And Use Tax; Collection; Location Guide Of Municipal Boundaries: The Director shall make available to any requesting retailer a location guide showing the boundaries of the City. For transactions consummated on or after January 1, 1986, the requesting retailer may rely on the location guide and any update thereof available to the retailer in determining whether to collect a sales tax. No penalty shall be imposed or action for deficiency maintained against the retailer who in good faith complies with the most recent location guide available to it. (1968 Code §3-91; Ord. 76-168; Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.902: PRESERVATION OF TAX REPORTS AND RETURNS:

All reports and returns of taxes received by the Department of Finance as required by this City Tax Code shall be preserved for three (3) years and thereafter until the Director orders them to be destroyed. (1968 Code §3-92; Ord. 01-42)

2.7.903: FIRST ADMINISTRATIVE HEARING:

A. Requests For Hearing:

1. **Notices Of Assessment:** An appeal of a notice of determination, assessment and demand for payment issued to a retailer or taxpayer for failure to file a return, underpayment of tax owed, as a result of an audit or for any other reason, shall be submitted in writing to the Director within twenty (20) calendar days from the date of the notice of determination, assessment and demand for payment. Any appeal shall identify the amount of tax disputed in the basis for the appeal.

2. **Denial Of Refunds:** An appeal of the denial of refund shall be submitted in writing to the Director within twenty (20) calendar days from the date of the denial of refund and shall identify the amount of the refund requested and the basis for the appeal.

B. Contents Of Petition: The petition for hearing shall be under oath of the taxpayer and shall set forth:

1. The reason why the hearing should be granted;
2. The amount of tax disputed;
3. Any requested changes;
4. A complete description of documents and tax periods pertaining to the hearing; and
5. The name, address, telephone number and sales or use tax license number of the taxpayer.

C. Time And Place Of Hearing: The Director shall notify the taxpayer in writing of the time and place for the hearing ten (10) days prior thereto. In all cases, the hearing shall be held in Colorado Springs, Colorado.

D. Referee To Conduct Hearing: The Director shall appoint an impartial referee to conduct a hearing. The referee shall not be the Supervisor, nor any other person who has previously ruled on the tax problem being petitioned to the Director. The 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 the hearing and issue the final decision within ninety (90) days after the City's receipt of the taxpayer's written request therefor, except the City may extend the period if a delay in holding a hearing or issuing a decision thereon was occasioned by the taxpayer, but, in any event, the City shall hold the hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor.

E. Referee May Adjust Tax Under Question: Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions at any hearing, the referee may modify or abate in full the tax, penalty and interest questioned at the hearing or may approve a refund.

F. Hearing Determination Notices: Upon approval or rejection, in whole or in part, of the claim for refund or upon the finding by the referee that an assessment in whole or in part has been made properly or improperly against the taxpayer, the referee shall mail a hearing determination notice to the taxpayer setting forth the amount of claim for refund allowed or denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection of the petition, in whole or in part.

Every decision of the referee shall be in writing and notice thereof shall be mailed to the taxpayer within twenty (20) days following the hearing, but in any event within the time limits prescribed in subsection D of this section. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.904: SECOND ADMINISTRATIVE HEARING:

- A. An appeal of a decision of the Director in a hearing held pursuant to section [2.7.903](#) of this part shall be submitted by the taxpayer within thirty (30) days of the decision.
- B. The Director shall notify the taxpayer in writing of the time and place for the hearing ten (10) days prior thereto. In all cases the hearing shall be held in Colorado Springs, Colorado.
- C. The hearing shall be formally conducted by the Director, or by an impartial referee appointed by the Director, with a verbatim record retained thereof.
- D. The Director or impartial referee may modify or abate in full the tax, penalty and interest questioned at the hearing, or may approve, in whole or in part, the requested refund, as the evidence presented at the hearing justifies.
- E. Within twenty (20) days of the hearing, the Director or impartial referee shall issue a written final hearing determination notice. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.905: TIME LIMITATION FOR HEARING REQUESTS:

After the expiration of twenty (20) days from the mailing or personal service of the notice of determination, assessment, and demand for payment, or of the denial of refund, if the tax has not been paid, and if no request for hearing has been made as provided in section [2.7.903](#) of this part, then the notice of determination, assessment and demand for payment previously mailed or served, shall constitute a final assessment of the amount of the tax specified, together with interest, additions to tax and penalties, or the uncontested denial of refund shall constitute a final denial of refund, as the case may be, except only for the amounts as to which the taxpayer has timely filed a protest with the Director. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.906: JUDICIAL REVIEW OF HEARINGS UNDER SECTION 2.7.904 OF THIS PART:

The District Court within and for the County of El Paso shall review all determinations of the Director made under the provisions of section [2.7.904](#) of this part under rule 106(a)(4) of the Colorado Rules of Civil Procedure as the same now provides or may be hereinafter amended. (Ord. 85-274; Ord. 01-42)

2.7.907: SALES OR USE TAX - POSTING OF BONDS UPON FINAL DECISION UNDER SECTION 2.7.904 OF THIS PART:

- A. Within fifteen (15) days after filing for judicial review as provided in section [2.7.906](#) of this part, the taxpayer shall file with the District Court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the Director which are contested on appeal. The taxpayer may satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a State or national bank or by a State or Federal savings and loan association, in accord with the provisions of Colorado Revised Statutes section 11-35-101(1), equal to twice the amount of the taxes, interest and other charges stated in the final decision by the Director.
- B. The taxpayer may deposit the disputed amount with the Director in lieu of posting a surety bond. If the amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the Supreme Court or the court of appeals or after the time for the appeal has expired, the funds deposited shall be, at the direction of the court, either

retained by the Director and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed pursuant to section [2.7.1004](#) of this article. No claim for refund of amounts deposited with the Director need be made by the taxpayer in order for the amounts to be repaid in accord with the direction of the court. (Ord. 85-274; Ord. 01-42)

2.7.908: SALES AND USE TAX - ALTERNATIVE DISPUTE RESOLUTION PROCEDURE - DEFICIENCY NOTICE OR CLAIM FOR REFUND:

For transactions consummated on or after January 1, 1986, in lieu of the procedure provided in section [2.7.904](#) of this part, the taxpayer may elect a State hearing on the decision of the referee appointed pursuant to the provisions of section [2.7.903](#) of this part on deficiency notice or claim for refund pursuant to the procedures set forth in this section:

- A. As used in this section, "State Hearing" means a hearing before the Executive Director of the Department of Revenue of the State of Colorado or delegate thereof as provided in Colorado Revised Statutes section 29-2-106.1(3).
- B. When the City asserts that sales or 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 sales and uses 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 Colorado Revised Statutes section 29-2-106.1(3). Any taxpayer shall also have the right to elect a State hearing on the City's denial of the taxpayer's claim for a refund of sales or use tax paid.
- C. 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 the hearing if the taxpayer has not exhausted local remedies or if the taxpayer fails to request the hearing within the time period provided in this subsection. For purposes of this section, "Exhaustion Of Local Remedies" means:
 - 1. The taxpayer has timely requested in writing an administrative hearing as provided in section [2.7.903](#) of this part and the hearing has been held in conformity with the provisions of section [2.7.903](#) of this part, or
 - 2. The taxpayer has timely requested in writing a hearing before the City and the City has failed to hold the hearing or has failed to issue a final decision within the time periods prescribed in subsection 2.7.903F of this part.
- D. If the taxpayer has exhausted the local remedies as provided in subsection C of this section, the taxpayer may request a State hearing on the deficiency notice or claim for refund, and the request shall be made and the hearing shall be conducted in the same manner as set forth in Colorado Revised Statutes section 29-2-106.1(3) through (7).
- E. If the deficiency notice or claim for refund involves only the City, in lieu of requesting a State hearing, the taxpayer may appeal the deficiency notice or denial of a claim for refund to the District Court of the County of El Paso as provided in Colorado Revised Statutes section 29-2-106.1(8), provided the taxpayer complies with the procedures set forth in subsection C of this section. (Ord. 85-274; Ord. 01-42)

2.7.909: NOTICES; MANNER OF DELIVERY:

All notices required to be given to any person under the provisions of sections [2.7.903](#) and [2.7.904](#) of this part shall be in writing and, if mailed, shall be postpaid by certified or registered mail, "Return Receipt Requested", directed to the person at the last known address. This mailing shall be sufficient for the purpose of this City Tax Code. (1968 Code 3-107; Ord. 76-168; Ord. 85-274; Ord. 01-42)

2.7.910: COORDINATED AUDIT:

- A. Any taxpayer licensed in this City pursuant to section [2.7.501](#) of this article and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided.
- B. Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Director of this City, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued the notice. The request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage of time based limitation upon this City's right to recover tax owed by the retailer for the audit period.
- C. Except as provided in subsection G of this section, any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of statute of limitations may be audited by this City during the twelve (12) months after the request is submitted only through a coordinated audit involving all municipalities electing to participate in the audit.
- D. If this City desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to subsection C of this section, the Finance Director shall so notify the director of the municipality whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the taxpayer's request for a coordinated audit. The Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.
- E. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's Director shall facilitate arrangements between this City and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among the participating municipalities.
- F. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's Director shall, once arrangements for the coordinated audit between the City and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Director shall also propose a schedule for the coordinated audit.
- G. The coordinated audit procedure set forth in this section shall not apply:
1. When the proposed audit is a jeopardy audit,
 2. To audits for which a notice of audit was given prior to the effective date of this section,
 3. When a taxpayer refuses to promptly sign a waiver of statute of limitations, or
 4. When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in subsection B of this section. (Ord. 91-161; Ord. 01-42)

2.7.911: INTERCITY CLAIMS FOR RECOVERY:

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or retailer to correctly pay, collect, and remit sales and use taxes to the City.

- A. As used herein, "Claim For Recovery" means a claim for reimbursement of sales and/or use taxes paid to the wrong taxing jurisdiction.
- B. When it is determined by the Supervisor that sales and/or use tax owed to the City has been reported and paid to another municipality, the City shall promptly notify the retailer that taxes are being improperly collected and remitted, and that as of the date of the notice, the retailer must cease improper tax collections and remittances.
- C. The City may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the City, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or retailer. The decision to make a claim for a recovery lies in the sole discretion of the City. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or retailer releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the City submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of the extension by the City shall not be unreasonably withheld.
- D. Within ninety (90) days after receipt of a claim for recovery, the City shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the City shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a retailer or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.
- E. The City may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.
- F. The period subject to a claim for recovery shall be limited to the thirty six (36) month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. 91-161; Ord. 01-42)

2.7.912: NOTICE OF SALES AND USE TAX ORDINANCE AMENDMENT:

- A. In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the City shall file with the Colorado Municipal League prior to the effective date of this section a copy of the City sales and use tax ordinance reflecting all provisions in effect on the effective date of this section.
- B. In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the City shall file with the Colorado Municipal League, prior to the effective date of any amendment, a copy of each sales and use tax ordinance amendment enacted by the City.
- C. Failure of the City to file the ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto. (Ord. 91-161; Ord. 01-42)

2.7.913: PARTICIPATION IN SIMPLIFICATION MEETINGS:

The Director shall cooperate with and participate on an as-needed basis with a permanent Statewide sales and use tax committee convened by the Colorado Municipal League which is composed of State and municipal sales and use tax officials and business officials. The committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise. (Ord. 91-161; Ord. 01-42)

PART 10 OFFENSES; FAILURE TO FILE, PAY

2.7.1001: DISCOVERY:

A. Investigation Of Books And Records: For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the Director may hold investigations, examinations, audits and hearings concerning any matters covered by this City Tax Code and may investigate, examine, and audit any relevant books, papers, records, or memoranda of any person and may require the attendance of the person or any officer or employee of the person, or of any person having knowledge of the sales, and may take testimony and require proof of any information. The Director shall have power and authority to administer oaths to the persons.

B. Depositions: The Director or any party in an investigation or hearing before the Director may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

C. Subpoena By Director: If any taxpayer shall refuse voluntarily to furnish any of the foregoing information when requested by the Director, the Director may issue subpoenas to require the attendance and production by the taxpayer of any of the foregoing information in the taxpayer's possession, and may administer oath(s) and take testimony. Compliance with any subpoena issued may be enforced by application of the Director to the Municipal Court of the City, where enforcement may be in the same manner as contempt of court is enforced pursuant to section [11.3.113](#) of this Code.

D. Judicial Subpoena: If the Director is unable to secure from the taxpayer information relating to the correctness of the taxpayer's return or the amount of the taxes due by the taxpayer, the Director may apply to any Judge of the Municipal Court of the City for the issuance of subpoenas to the other persons as the Director believes may have knowledge in the premises.

Upon showing to the satisfaction of the court that the taxpayer cannot be found, or evades service of subpoena, or fails or refuses to produce records or give testimony, or is unable to furnish the records or testimony, the Judge shall have power, after service of summons upon the persons named in the petition of the Director, and after hearing, to cause the issuance of subpoenas under the seal of the court to the persons sought to be so summoned requiring them or any of them to appear before the Director and give testimony relating to the taxpayer's return or sales or purchases.

In the event any person so served with subpoena shall fail to respond thereto, the Judge may proceed against the person as in cases of contempt.

E. Issuance Of Subpoenas And Witness Fees: All subpoenas issued under the terms of this City Tax Code may be served by any person over the age of eighteen (18) years. The fees of witnesses for attendance and trial shall be the same as the fees of witnesses before the District Court, the fees to be paid when the witness is excused from further attendance.

When the witness is subpoenaed at the insistence of the Director, the fees shall be paid in the same manner as other expenses under the terms of this City Tax Code, and when a witness is subpoenaed at

the instance of any party to any proceeding, the Director may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Director may require a deposit to cover the cost of the service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record. (1968 Code §3-95; Ord. 76-168; Ord. 91-130; Ord. 01-42)

2.7.1002: ASSESSMENT OF TAXES:

- A. If any person or taxpayer or retailer fails, neglects or refuses to collect the tax, or to make a return, or to pay the tax required in full, then the Director, on the information as is available, shall make an estimate of the tax due. In addition to the estimated tax there shall be added penalties and interest, when imposed by section [2.7.1003](#) of this part. The Director shall give the delinquent taxpayer, person or retailer written notice of determination, assessment and demand for payment, which notice shall be served personally, or by United States mail, first class postage prepaid, mailed to the last known address of the taxpayer as shown in the Sales Tax Division's records, and which assessment of the deficiency amount shall be due and payable twenty (20) days after service or mailing of the notice. If the tax deficiency amount, penalty and interest is not paid, or no request for hearing under section [2.7.903](#) of this article is made within twenty (20) days after notice of determination, assessment and demand for payment is mailed or personally delivered to the taxpayer, the taxpayer shall waive the right of protest of the amount, and the assessment shall be final.
- B. An appeal of a notice of assessment issued to a retailer or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the Director within twenty (20) calendar days from the date of the notice of assessment. Any appeal shall identify the amount of tax disputed and the basis for the appeal. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.1003: FAILURE TO FILE TAX RETURN, PAY TAX:

- A. Interest On Underpayment, Nonpayment, Or Extensions Of Time For Payment Of Tax: If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on the amount, at the rate imposed under section [2.7.1004](#) of this part, shall be paid for the period from the last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued by the Director. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises.
1. Interest prescribed under this section shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.
 2. If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which the overpayment is allowed.
 3. Interest prescribed under this section on any sales or use tax may be assessed and collected at any time during the period within which the tax to which the interest relates may be assessed and collected.
- B. Sales Or Use Tax; Deficiency Due To Negligence: If any part of the deficiency in payment of the sales or use tax is due to negligence or intentional disregard of the ordinances or of authorized rules and regulations of the City, but without intent to defraud, there shall be added a penalty of ten percent (10%) of the total amount of the deficiency, and in such case interest shall be collected at the rate as specified in section [2.7.1004](#) of this part, on the amount of the deficiency from the time the return was due, from the person required to file the return, which interest and penalty addition shall become due and payable within twenty (20) days after written notice and demand is made to the person by the Director.
- C. Deficiency Due To Fraud: If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added a penalty of one hundred percent (100%) of the total amount of the deficiency and

in such case, the whole amount of the tax unpaid, including additions, shall become due and payable twenty (20) days after written notice and demand is made by the Director, and an additional three percent (3%) per month on the amount shall be added from the date the return was due until paid.

D. Sales Tax; Use Tax; Neglect Or Refusal To Make Return Or To Pay: If a person neglects or refuses to make a return in payment of the sales or use tax or to pay any sales or use tax as required, the Director shall make an estimate, based upon the information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars (\$15.00) for failure or ten percent (10%) of the delinquent tax, whichever is greater, and interest on the delinquent taxes at the rate imposed under section [2.7.1004](#) of this part plus one-half percent (1/2%) per month from the date when due, not exceeding eighteen percent (18%) interest in the aggregate. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

2.7.1004: RATE OF INTEREST:

When interest is required or permitted to be charged under the provisions of this City Tax Code, the annual rate of interest shall be that established by the State Commissioner of Banking pursuant to Colorado Revised Statutes section 39-21-110.5. (Ord. 85-274; Ord. 01-42)

2.7.1005: ADDITIONAL CORPORATE AND PARTNERSHIP PENALTY:

In addition to the personal liability provided in section [2.7.607](#) of this article, all officers of a corporation and all members of a partnership required to collect, account for, and pay over any tax administered by this City Tax Code who wilfully fail to collect, account for, or pay over the tax or who wilfully attempt in any manner to evade or defeat any tax, or the payment thereof, are subject to, in addition to other penalties provided by law, a penalty equal to one hundred fifty percent (150%) of the total amount of the tax not collected, accounted for, or paid over, or which was otherwise evaded. An officer of a corporation or a member of a partnership shall be deemed to be subject to this section if the corporation or partnership is subject to filing returns or paying taxes administered by this City Tax Code and if the officers of corporations or members of partnerships voluntarily or at the direction of their superiors assume the duties or responsibilities of complying with the provisions of any tax administered by this City Tax Code on behalf of the corporation or partnership. (Ord. 85-274; Ord. 01-42)

2.7.1006: DIRECTOR MAY WAIVE PENALTY; CREDIT; LIMITATION:

The Director is authorized to waive, for good cause shown, any penalty assessed in this article and interest imposed in excess of six percent (6%) per annum. (Ord. 85-274; Ord. 01-42)

2.7.1007: UNLAWFUL ACTS:

It shall be unlawful for any retailer, consumer or any other person subject to the tax levied by this City Tax Code:

- A. To fail to make any required return by the due date, or
- B. To make any false or fraudulent return, or
- C. To make any false statements in any return, or
- D. To fail to make payment to the Director by the due date of any taxes collected or due the City, or any interest or penalty due the City, or
- E. To evade the collection or payment of any taxes collected or due the City or the payment of interest or penalty due the City, or

F. To fail to pay by the due date the tax, interest, penalty, or

G. To aid or abet another in any attempt to evade payment of the tax, interest or penalty, or

H. To issue to the City a check in payment of any taxes collected or due the City or in payment of penalty or interest due the City, which check is dishonored by the drawee of the check. In any prosecution for a violation of this subsection, introduction of the check dishonored by the drawee, bearing notice of the dishonor from the drawee, shall constitute in evidence a prima facie showing that the check was issued by the drawer at a time when the drawer had on deposit with the drawee insufficient funds to allow the drawee to honor the check on presentment. (1968 Code §3-110; Ord. 76-168; Ord. 81-251; Ord. 83-112; Ord. 91-161; Ord. 01-42)

2.7.1008: PAYMENT BY CASH OR GUARANTEED FUNDS:

When any person, taxpayer or retailer liable for the payment of a tax imposed by this City Tax Code has issued to the City three (3) or more checks dishonored by the drawee on account of insufficient funds or for any reason whatsoever, then the Director may require that the person, taxpayer or retailer pay any taxes collected for or due to the City or any penalty or interest due to the City by cash or funds in the other form that will in the discretion of the Director guarantee payment of the tax, penalty or interest to the City. (Ord. 81-251; Ord. 91-161; Ord. 01-42)

2.7.1009: COST OF COLLECTION:

If any person, taxpayer or retailer liable for the payment of a tax has repeatedly failed, neglected or refused to pay the tax within the time specified for the payment, and the Director has been required to exercise enforcement proceedings three (3) or more times through the issuance of a notice of determination, assessment and demand for payment to enforce collection of any taxes due, the Director is hereby authorized to assess and collect the amount of the taxes due together with all interest and penalties provided by law and also an additional amount of fifty dollars (\$50.00) which is imposed to compensate the City for administrative and collection costs incurred in collecting the delinquent taxes. The Director may modify or abate in full the cost of collection for good cause shown. (Ord. 85-274; Ord. 91-161; Ord. 01-42)

PART 11 LIENS

2.7.1101: SALES AND USE TAX CONSTITUTES LIEN:

The tax imposed by this City Tax Code, together with the interest and penalties as provided and the costs of collection which may be incurred, shall be and until paid, remain a first and prior lien superior to all other liens upon the tangible personal property sold, purchased, stored, used, distributed or consumed, as well as upon the real property, goods, merchandise, furniture and fixtures, tools, equipment, cash, bank accounts and accounts receivable, of any retailer, or used by any retailer in conducting the retail business under lease, title retaining contract or other contract arrangement, within the City. (1968 Code §3-101; Ord. 76-168; Ord. 01-42)

2.7.1102: PRECEDENCE OF LIENS:

The lien shall take precedence on all the property over other liens or claims of whatsoever kind or nature, except that a lien upon real property shall be subject to a valid mortgage or other liens of record on and prior to the recording of notice as required. (1968 Code §3-101; Ord. 76-168; Ord. 01-42)

2.7.1103: NOTICE OF TAX LIEN:

If any taxes, penalty or interest imposed by this City Tax Code and shown by return filed by a taxpayer or as shown by assessments duly made as provided, are not paid within five (5) days after the same are due, the Director shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof and that the City claims a first and prior lien on the real and tangible personal property of the taxpayer. (1968 Code §3-101; Ord. 76-168; Ord. 01-42)

2.7.1104: FORM OF NOTICE AND FILING OF LIEN:

The notice shall be on forms prepared by the Director and shall be verified by the Director and may be filed in the office of the clerk and recorder of any county in this State in which the taxpayer owns real or tangible personal property, and the filing of the notice shall create a lien on the property in that county and constitute notice thereof. After the notice has been filed, or concurrently therewith or at any time when taxes due are unpaid, whether the notice be filed or not, the Director may issue a distraint warrant as provided. (1968 Code §3-101; Ord. 76-168; Ord. 01-42)

2.7.1105: TRANSACTIONS, COMMODITIES SUBJECT TO TAX LIENS:

- A. **Business Purchases:** If the purchaser of a business or stock of goods shall fail to withhold the required amount of purchase money as required by section [2.7.605](#) of this article and the tax remains due and unpaid after the ten (10) day period allowed, the purchaser, as well as the seller, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, any person who takes any stock of goods or business fixtures of or used by any retailer under lease, title-remaining contract or other contract arrangement, by purchase, foreclosure sale, or otherwise, takes same subject to the lien for any delinquent sales and use taxes owned by the seller, and shall be liable for the payment of all delinquent sales taxes of the prior owner, not, however, exceeding the value of the property so taken or acquired.
- B. **Construction Materials:** The full amount of any tax due and not paid for lumber, fixtures or any other building materials and supplies, together with penalties and interest thereon as provided, shall constitute a lien upon the real property benefited by the work. The Director is hereby authorized to file a notice of the lien with the County Clerk and Recorder of El Paso County.
- C. **Personal Property Affixed To Real Property:** The full amount of unpaid taxes arising from and required to be paid on personal property affixed to real property under this City Tax Code together with interest and penalties, shall constitute a first and prior lien on the real property and any proceeds therefrom, which lien shall have precedence over all other liens of whatsoever kind and nature except as to liens for general taxes created by State law and except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or consumer whose rights shall have attached prior to the filing of the notice of tax lien on the property of the taxpayer other than on the goods, stock-in-trade and business fixtures of the taxpayer.
- D. **Consignments Subject To Tax Lien:** The liens created on merchandise shall extend not only to any and all merchandise belonging to the retailer who is in default on payment of the sales and use tax but also to any merchandise held on consignment. If the retailer applies to the Director for permission to separate the tax accounts of merchandise held on consignment from merchandise owned by the retailer, the Director may grant permission on condition that the merchandise owned by the retailer is physically separated from merchandise held on consignment in a manner satisfactory to the Director, and that sales and tax records of the merchandise held on consignment be kept separate from the sales and tax records of goods owned by the retailer, also in a manner satisfactory to the Director.

If the merchandise be so segregated and the records so kept separate, the tax on sales of items of merchandise owned by the retailer shall not be a lien on the merchandise held on consignment, but the tax on sales of items held on consignment shall be a lien on the merchandise so held and also a lien on the merchandise, furniture and fixtures, tools and equipment owned by the retailer.

If the retailer holds merchandise on consignment by different consignors the retailer may, with the approval of the Director, separate the different consignments for lien purposes and keep separate tax and sales tax records, and the only lien for sales tax on any consignment shall be the lien on sales of items out of the consignment.

A sale at retail out of a stock of merchandise in the regular course of business shall release the item or items sold from the sales tax lien hereby created, but newly acquired merchandise shall come and remain under the lien until sold at retail or until the tax is paid.

- E. **Status Of Unpaid Tax In Bankruptcy And Receivership:** When the business or property of any taxpayer subject to this City Tax Code shall be placed in a receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for property or State taxes, all taxes, penalties, and interest imposed by this City Tax Code shall constitute a first, prior and preferred lien against all the property of the taxpayer, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or consumer whose rights shall have attached prior to the filing of the notice as provided on the property of the taxpayer.

However, the goods, stock-in-trade, cash, deposits, accounts receivable, and business fixtures of the taxpayer shall not be subject to the above stated exception, and the taxes, penalties and interest shall be and remain a first, prior and preferred lien against the property of taxpayer.

No sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this City Tax Code under process or order of any court, when that property is subject to a prior recorded City tax lien, except after notice of the sale date is given to the City. If there be any taxes due owing and unpaid, it shall be the duty of the officer to first pay the amount of the taxes out of the proceeds of the sale before making payment of any monies to any judgment creditor or any other claimants of whatsoever kind or nature except the costs of the proceedings and other preexisting claims or liens as provided above. (1968 Code §3-101; Ord. 76-168; Ord. 91-161; Ord. 01-42)

2.7.1106: CITY A PARTY TO TITLE ACTIONS FOR DETERMINATION OF LIENS:

In any action affecting the title to real estate or the ownership or rights to possession of personal property the City may be made a party for the purpose of obtaining a judgment or determination of its lien upon the property involved. (1968 Code §3-101; Ord. 76-168; Ord. 01-42)

2.7.1107: FILING AND RELEASE OF LIENS:

Any employee, agent, or representative of the Director to whom a warrant has been issued, pursuant to section [2.7.1201](#) of this article may serve a notice of lien on the forms as the Director may prescribe upon the person in possession of any personal property or rights to property belonging to the taxpayer, and if not previously recorded, the lien shall be effective as to the property or interest from the date of the service. The Director may release the lien as to all or any part of the property or any interest therein subject to the lien upon the terms as the Director may deem proper. (1968 Code §3-101; Ord. 76-168; Ord. 01-42)

2.7.1108: CERTIFICATE OF DISCHARGE; VALUES DETERMINED:

- A. **Certificate Of Discharge Of Property Subject To Lien:** If any property, real or personal, shall be subject to a lien for the payment of any tax due the City, the Director may issue a certificate of discharge of any part of the property subject to the lien if the Director finds that the fair-market value of that part of the property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect to the tax and the amount of all prior liens upon the property.

- B. **Certificate Of Discharge To Part Of Property:** If any property, real or personal, shall be subject to a lien for the payment of any tax due the City, the Director may issue a certificate of discharge of any part of the

property subject to the lien if there be paid over to the Director in part satisfaction of the liability in respect to the tax an amount determined by the Director, which shall not be less than the value, as determined by the Director, of the interest of the City in the part to be so discharged.

- C. How Values Determined: In determining the values, the Director shall give consideration to the fair-market value of the part to be so discharged and to the lien or liens thereon as shall have priority over the lien of the City.
- D. Certificate Of Release Conclusive: A certificate of release or of partial discharge issued under this section shall be held conclusive that the lien of the City upon the property released therein is extinguished, but shall not extinguish nor release any portion of the lien property not specified in the release. (1968 Code 3-101; Ord. 76-168; Ord. 01-42)

PART 12 METHODS OF ENFORCING COLLECTION

2.7.1201: FORECLOSURE BY DISTRAINT:

Liens created hereunder may be foreclosed by seizing under distraint warrant and selling so much of the merchandise, furniture and fixtures, tools and equipment, or other property not otherwise excluded, as may be necessary to discharge the liens.

- A. When Distraint Issued: When any of the subparagraphs of this subsection are met, the Director may issue a warrant directed to any employee, agent, or representative of the Department of Finance, sometimes referred to collectively as "Agent" or "Revenue Collector", commanding to distraint, seize, and sell the personal property of the taxpayer except the personal property as is exempt from execution and sale by any statute of this State for the payment of the tax due together with penalties and interest accrued thereon and costs of execution.

1. When any deficiency in tax is not paid within twenty (20) days from the mailing or service of notice of determination, assessment and demand for payment therefor and no hearing has been requested and no appeal from the deficiency assessment has been docketed with any District Court of this State within the period; or
2. When any other amount of tax, penalty or interest is not paid within twenty (20) days from the mailing or service of assessment and demand for payment thereof; or
3. Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in section [2.7.1202](#) of this part.

- B. Warrant: The Director may apply to any Judge of the Municipal Court for a warrant authorizing the Director, to search for and seize property located within the City limits for the purpose of enforcing the collection of sales and use taxes. Municipal Court Judges shall issue the warrant after the Director demonstrates that:

1. The premises to which entry is sought contain property that is subject to levy and sale for taxes due; and
2. At least one of the preconditions of subsection A of this section has been satisfied, provided that if the Director has declared a jeopardy assessment under section [2.7.1202](#) of this part, he sets forth the reasons that collection of the tax will be jeopardized.
3. The procedures to be followed in issuing and executing a warrant pursuant to this subsection shall comply with rule 241(C) and (D) of the Colorado Municipal Court Rules of Procedure, provided that an

officer authorized by law under rule 241(C) and (B) shall include the Director.

4. The taxpayer may contest a warrant previously issued under the procedure provided by rule 241(E) of the Colorado Municipal Court Rules of Procedure, except that no proceeding to contest the warrant may be brought after five (5) days prior to the date fixed for sale of the distrained property.

- C. **Notice Of Distraint Seizure:** The agent charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the agent making the distraint, shall be left with the owner or possessor, at the owner's or possessor's usual place of abode with a family member over the age of eighteen (18) years, or at the owner's or possessor's usual place of business with a stenographer, bookkeeper, chief clerk, or if the taxpayer is a corporation, shall be left with any officer, manager, general agent or agent for process, with a note of the sum demanded and the time and place of sale; and shall forthwith cause to be published a notice of the time and place of sale, together with a description of the property to be sold, in some newspaper within the county wherein distraint is made or, in lieu thereof and in the discretion of the Director, the agent shall cause the notice to be publicly posted at the courthouse of the county wherein the distraint is made and copies thereof to be posted in at least two (2) other public places within the county.
- D. **Procedure For Sale:** The time fixed for the sale shall be not less than ten (10) days nor more than sixty (60) days from the date of notification to the owner or possessor of the property and the publication or posting of the notices. The sale may be adjourned from time to time by the agent if he deems it advisable but not for a time to exceed in all ninety (90) days from the date first fixed for the sale. When any personal property is advertised for sale under distraint as aforesaid, the agent making the seizure shall proceed to sell the property at public auction, offering the same at not less than a fair minimum price including the expenses of making the seizure and of advertising the sale, and if the amount bid for the property at the sale is not equal to the fair minimum price so fixed, the agent conducting the sale may declare the same to be purchased by the agent for the City. The property so purchased may be sold by the agent under the regulations as may be prescribed by the Director.
- E. **Recovery Of Property By Owner:** In any case of distraint for the payment of taxes, the goods, chattels or effects so distrained shall be restored to the owner or possessor if, prior to the sale, the amount due is paid together with the fees and other charges, or may be redeemed by any person holding a security interest or other evidence of right of possession.
- F. **Certificate Of Sale; Evidence Of Purchase:** In all cases of sale, the agent making the sale shall issue a certificate of sale to each consumer, and the certificate shall be prima facie evidence of the right of the agent to make the sale and conclusive evidence of the regularity of the proceedings in making the sale; and shall transfer to the consumer all right, title and interest of the delinquent taxpayer in and to the property sold; and where the property consists of certificate of stock in the possession of the agent, the certificate of sale shall be notice, when received, to any corporation, company, or association of the transfer, and the certificate of the sale shall be authority for the corporation, company, or association to record the transfer on its books and records; and where the subject of sale is securities or other evidences of debt, in the possession of the agent, the certificate of sale shall be good and valid evidence of title in the person holding the same as against any other person. Any surplus remaining above the taxes, penalties, interest, costs and expenses of making the seizure and of advertising the sale, shall be returned to the owner or the other person having a legal right thereto, and, on demand, the Director shall render an account in writing of the sale. (1968 Code §3-102; Ord. 76-168; Ord. 86-55; Ord. 91-161; Ord. 01-42)

2.7.1202: JEOPARDY ASSESSMENT:

- A. **Jeopardy Enforcement:** If the Director finds that collection of the tax will be jeopardized by delay, the Director may declare the taxable period immediately terminated, determine the tax and issue notice and demand for payment thereof; and, having done so, the tax shall be due and payable forthwith and the Director may proceed immediately to collect the tax.

- B. Immediate Enforcement Action: In any other case wherein it appears that the revenue is in jeopardy, the Director may immediately issue demand for payment; and, regardless of the provisions of this City Tax Code, the tax shall be due and payable forthwith and the Director may proceed immediately to collect the tax.
- C. Security For Payment: Collection under either subsection A or B of this section may be stayed if the taxpayer gives security for payment as shall be satisfactory to the Director. (1968 Code §3-103; Ord. 76-168; Ord. 01-42)

2.7.1203: RECOVERY OF UNPAID TAX:

- A. The Director may also treat any taxes, penalties or interest due and payable as a debt due the City from the retailer or other person.
- B. In case of failure to pay the taxes or any portion thereof, or any penalty or interest thereon, when due, the Director may recover at law the amount of the taxes, penalties and interest in any county or District Court of the county where the taxpayer resides or has a place of business, or in the courts in El Paso County.
- C. The return of the taxpayer or the assessment made by the Director, as provided, shall be prima facie proof of the amount due.
- D. The City Attorney is hereby authorized upon request by the Director to commence any legal action or suit for the recovery of the tax due under this City Tax Code. (1968 Code §3-104; Ord. 76-168; Ord. 01-42)

2.7.1204: COMPROMISE:

- A. Compromise Limitation: The Director may compromise any civil or criminal case arising under this City Tax Code, prior to reference to the City Attorney's Office for prosecution or defense; and the City Attorney shall, upon the written direction of the Director, compromise any case after reference to the City Attorney's Office for prosecution or defense.
- B. Compromise Record: Whenever a compromise is made by the Director in any case, there shall be placed on file in the Office of the Director the opinion of the Director with reasons which may include financial inability of the taxpayer to pay a greater amount, with a statement of:
1. The amount of tax assessed;
 2. The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed; and
 3. The amount paid in accord with the terms of the compromise. (1968 Code §3-105; Ord. 76-168; Ord. 87-157; Ord. 01-42)