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CITY OF GRAND JUNCTION-ADMINISTRATIVE SERVICES

SALES AND USE TAX ORDINANCE #2551 CHAPTER 3.12

History

1) The original Retail Sales and Use Tax Ordinance #1196 was adopted July 15, 1964 as Chapter #24 of the Code of Ordinances of the City.

2) Ordinance #2551 was adopted January 22, 1992 as a repealing and reenacting of Ordinance #1196. The purpose was to revise the prior code including clarifications and improvements of the standard terms and appeals processes. THIS DID NOT CHANGE THE TAX RATE OR TAX BASE.

3) In December of 1994 and then again in September of 2009, the City's Code of Ordinances was recodified. This involves the re-writing of the ordinances to include adoptions, deletions, and corrections made since the original ordinance was adopted. It also incorporates new ordinances. The purpose of a recodification is to centralize all the City's ordinances in one document (Code of Ordinances).

During this recodification, the City's Sales and Use Tax Ordinance was changed to Chapter 3.12. Again there was no change in tax rate or tax base, only a change in the Chapter number and corresponding references.

Ordinance #2551

Chapter 3.12

*State law reference(s)--Authority to tax, Colo. Const. arts. X, XX, § 6(g).

CHAPTER 3.12--TAXATION---- SALES AND USE TAX*

*State law reference(s)--Sales and use tax, C.R.S. § 29-2-101 et seq.

Chapter 3.12 - SALES AND USE TAX

3.12.010 Legislative Intent.

(a) It is the intent of the City Council, in exercising the home rule powers reserved by the State Constitution, that, through this legislation and in the manner described in this chapter, every person in the City who purchases at retail, leases, consumes, stores or puts to any use any tangible personal property or taxable services is exercising a taxable privilege. All sales, leases and purchases of tangible personal property and taxable services defined in this chapter are taxable unless specifically exempted by this chapter. The sales tax imposed upon tangible personal property by this chapter applies to each transfer of ownership, possession and control of such property and may occur more than once during the life of the property.

(b) The sales tax is a transaction levied upon all sales, purchases and leases of tangible personal property and taxable services sold or leased by persons engaged in business in the City and is collected by the vendor or lessor and remitted to the City. The use tax is levied upon the privilege of persons in the City to store, use, distribute or consume tangible personal property located in the City and taxable services purchased or leased at retail and furnished within the City, whether purchased or leased inside or outside the City, and not subject to the sales tax imposed by this chapter. The use tax is remitted to the City by the persons storing, using, distributing or consuming the tangible personal property or taxable services. The use tax is a complement to the sales tax, and its purposes are to equalize competition between in-City and out-of-City vendors and lessors of tangible personal property and services and to eliminate incentives for City residents to leave the City to purchase or lease tangible personal property and taxable services.

(See Regulation 3.12.010 [92-01] concerning limitations on use tax payable due to annexation.)

(Code 1994 § 34-101; Code 1965 § 24-2)

3.12.020 Definitions.

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

Access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent or the owner of such property or is in fact the owner thereof.

Automotive vehicle means 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 right-of-way, or any device used or designed for aviation or flight in the air. Such term 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.

Business means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

Candy means a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruit, nuts or other ingredients or flavorings in the form of bars, drops or pieces. Candy shall not include any preparations containing flour and shall require no refrigeration.

Charitable organization means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, so long as:

- (1) No part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and
- (3) Which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Construction activity means to build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or improvement, on or to real property.

Construction equipment means any purchased tangible personal property used, owned, operated or stored by a person engaging in construction activity, including, but not limited to, equipment, machinery, tools, automotive vehicles, mobile machinery and self-propelled construction equipment.

Construction materials means 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 pipe fittings, 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 means any individual person, or any other 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.

Document means all written, printed, typed, recorded or graphic matter, photographic matter, sound reproductions, computer files, tapes, inputs or outputs, however produced or reproduced, or all other matters from which information may be obtained, and drafts and nonidentical copies thereof. "Nonidentical copies" refers to reproductions, however made, of the original document which have notations, markings, comments or other material not appearing on the original.

Drugs dispensed in accordance with a prescription means drugs dispensed in accordance with an order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by such a practitioner, 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 means 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:

- (1) Maintaining or using, directly, indirectly or by a subsidiary, a building, store, office, salesroom, warehouse, or other place of business within the City;
- (2) Sending one or more employees, agents or salespersons into the City to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintaining one or more employees, agents or salespersons at a location within the City;
- (4) Owning, leasing, renting or otherwise exercising control over real or personal property within the City; or
- (5) Making more than one delivery into the City within any 12-month period.

Exempt commercial packaging materials means containers, labels or shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meet all of the following conditions:

- (1) Are used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;
- (2) Are transferred by such person along with, and as a part of, the finished product to the purchaser; and
- (3) Are not returnable to such person for reuse.

Farm closeout sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

Food means food for domestic home consumption as defined in 7 U.S.C. Section 2012(g), as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. 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 and delicatessen trays.

Gross sales means 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.

License means a City sales and use tax license.

Linen services means services involving provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls and diapers.

Lodging services means the furnishing of rooms or accommodations by any person to another 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, lodginghouse, 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 30 days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

Magazine includes print and electronic versions of publications that appear at stated intervals at least four times per year, and contains news or information of general interest to the public or to some particular organization or group of people. “Magazine” does not include books published or issued at stated intervals, advertising pamphlets, circulars, fliers, guides or handbooks, catalogs, programs, scorecards, maps, real estate brokers’ listings, price or order books, printed sales messages, shopping guides, corporate reports issued to stockholders, media advertising or direct mail advertising services. Magazines that sell for more than the original selling price are considered collectible items and are subject to sales tax. For example, a first edition of a comic book, sold for more than the original price, would be subject to sales tax as a collectible.

Manufacturing means the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials.

Manufacturing equipment means machinery or machine tools used directly and exclusively in manufacturing by a person engaged in manufacturing, compounding for sale, profit or use any article, substance or commodity.

Medical supplies means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable 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 practitioner of the healing arts as part of professional services provided to an individual; and corrective eyeglasses, contact lenses, or hearing aids.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways; and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways; and includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, or the digging of ditches.

Newspaper means 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.

Numismatic collectibles includes paper money, such as bank notes, coin-like metals and items used in place of currency and securities and/or stocks, bonds and certificates when the same are held, sold or transferred as collectibles.

Occasional sale means retail sales by charitable organizations for fundraising purposes, which funds are retained by the organization to be used in the course of that organization’s charitable service to the community, provided the following occur:

- (1) The sale of tangible personal property takes place no more than 12 days, consecutive or not, during any one calendar year; and
- (2) Gross sales do not exceed \$25,000 in one calendar year.

Pay television shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

Person means any individual, firm, partnership, joint venture, corporation, limited liability company, 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 means inserts, attachments, or supplements circulated in newspapers that:

- (1) Are primarily devoted to advertising; and
- (2) The distribution, insertion, or attachment of which is paid for by the advertiser.

Prescription drugs for animals means drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, 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 means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this chapter, 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 such exchanged property is to be sold thereafter in the usual course of the retailer's business; or such 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 recreational vehicles, watercraft, and aircraft. Any money and/or other consideration paid over and above the value of the exchanged property is subject to tax.

- (1) *Price or purchase price* includes:
 - (i) The amount of money received or due in cash and credits;
 - (ii) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business;
 - (iii) Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or any other person reimburses the retailer for part of the purchase price and other media of exchange;
 - (iv) 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 that the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of a note or other written evidence of debt 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;

- (v) Installation, delivery and wheeling-in charges included in the purchase price and not separately stated;
- (vi) Transportation and other charges to effect delivery of tangible personal property to the purchaser. See *Administrative Interpretation* on Page 70;
- (vii) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock; and
- (viii) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all materials used, labor and service performed and the profit thereon.

(2) *Price or purchase price* shall not include:

- (i) Any sales or use tax imposed by the State or by any political subdivision thereof;
- (ii) The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in the State. Out-of-State trade-ins are not included in the purchase price;
- (iii) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is included in the purchase price.

Private communications services means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

Prosthetic device means 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 practitioner of the healing arts. The term "prosthetic devices" includes, but is 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 means 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.

- (1) The term "purchase" or "sale" includes capital leases, installment and credit sales, and property and services acquired by:

- (i) A transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;
 - (ii) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;
 - (iii) Performance of taxable services; or
 - (iv) Barter or exchange for other property or services, including coupons.
- (2) The terms “purchase” and “sale” do not include:
- (i) A division of partnership assets among the partners according to their interests in the partnership;
 - (ii) 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;
 - (iii) The transfer of assets of shareholders in the formation or dissolution of professional corporations;
 - (iv) The dissolution and the pro rata distribution of the corporation’s assets to its stockholders;
 - (v) A transfer of a partnership interest;
 - (vi) The transfer in a reorganization qualifying under Section 368(a)(1) of the Internal Revenue Code of 1954, as amended;
 - (vii) 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;
 - (viii) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
 - (ix) The transfer of assets from a parent corporation to a subsidiary corporation or corporations which is owned at least 80 percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;
 - (x) The transfer of assets from a subsidiary corporation or corporations which are owned at least 80 percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least 80 percent by the parent corporation, which

transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

- (xi) The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders with identical percentages of stock, computed on a share-by-share basis, when a tax imposed by this chapter was paid by the transfer corporation at the time it acquired such assets; however, any increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation is taxable. For the purposes of this paragraph, a “closely held subsidiary corporation” is one in which the parent corporation owns stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and owns at least 80 percent of the total number of shares of all other classes of stock.

Recreation services means all services relating to athletic or entertainment participation events, including but not limited to pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin-operated amusement devices, video games and video club memberships.

Retail sales mean all sales except wholesale sales.

Retailer means any person selling, leasing or renting tangible personal property or services at retail. “Retailer” shall include any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser who makes sales as direct or indirect agent of, or obtains such property or services sold from, a dealer, distributor, supervisor or employer;
- (3) 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 consideration received is to be used for charitable or governmental purposes.

Return means the sales and use tax reporting form used to report sales and use tax.

Sales tax means the tax to be collected and remitted by a retailer on sales taxed pursuant to this chapter.

School for the purposes of 3.12.030(qq) includes both public and private schools for students in kindergarten through twelfth grade or any portion of those school grades. Preschools, trade schools, and post-secondary schools are not eligible for this exemption.

Security system services means electronic security system services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services.

Soft drinks means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or great than fifty percent of vegetable or fruit juice by volume.

Sound system services means sound system services involving provision of broadcast or prerecorded audio programming to a building or portion thereof. "Sound system service" does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

Tangible personal property means corporeal personal property.

Tax means 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 means any amount of tax that is not reported and paid on or before the due date.

Taxable sales means gross sales less any exemptions and deductions specified in this chapter.

Taxable services means services subject to tax pursuant to this chapter.

Taxpayer means any person obligated to collect and/or pay tax under the terms of this chapter.

Telecommunications service means the transmission of any two-way interactive electromagnetic communications, including but not limited to voice, image, data and any other information, by the use of any means including, but not limited to, wire, cable, fiber optical cable, microwave, radio wave or any combinations of such media. "Telecommunications service" includes, but is not limited to, basic local exchange telephone service; toll telephone service; teletypewriter service including but not limited to residential and business service; directory assistance; cellular mobile telephone or telecommunications service; specialized mobile radio and two-way pagers and paging service; and any form of mobile two-way communication. "Telecommunications service" does not include separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted.

Therapeutic device means devices, appliances or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality. If such a device, appliance or related accessory has a retail value of more than \$100.00, it must be sold in accordance with a written recommendation from a practitioner of the healing arts to qualify as a therapeutic device for purposes of this chapter.

Total tax liability and tax due means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

WATS/800 service means any outbound or inbound interstate-wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

Wholesale sales means sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to non-licensed retailers are not wholesale sales. (See Regulation 3.12.020 [92-08] for additional information.)

Wholesaler means any person selling to retailers, jobbers, dealers or other wholesalers for resale, and not for storage, use, consumption or distribution.

Yard sale means the retail sale of tangible personal property by an individual who resides on the real estate on which the retail sale occurs for which sales occur no more than four calendar days, whether consecutive or not, in any 12-month period, and which the gross sales do not exceed \$5,000 in any 12-month period, so long as such individual is not authorized to operate a home occupation, pursuant to GJMC 21.32.080, from out of the residence at which the retail sale occurs.

(Ord. 4449, 1-5-11. Code 1994 § 34-102; Code 1965 § 24-3)

Cross reference(s) – Definitions generally, GJMC [1.04.020](#).

3.12.030 Levied.

(a) Sales Tax. There is hereby levied a tax or excise upon all sales of tangible personal property and services specified in GJMC [3.12.050](#). The rate levied shall be 2.75 percent of the purchase price.

(b) Use Tax. There is hereby imposed and shall be collected from every person in the City a use tax for the privilege of storing, using, distributing, or consuming in the City any articles of tangible personal property or taxable services purchased for which no City sales tax has been paid. The rate levied shall be 2.75 percent of the purchase price.

(Code 1994 § 34-103; Code 1965 § 24-4)

3.12.040 Imposition and collection.

The taxes levied by this chapter are imposed upon, and are to be paid by, the purchaser. Each seller engaged in business in the City shall collect such tax and remit it to the City pursuant to the schedules or systems approved and specified by the City Manager.

(a) The tax imposed in this chapter shall continue to be levied and collected until specifically amended or repealed by ordinance.

(b) The tax imposed in this chapter shall be in addition to all other taxes imposed by law.

(Code 1994 § 34-104; Code 1965 § 24-5)

3.12.050 Transactions and items subject to sales tax.

The sales tax levied by GJMC [3.12.030\(a\)](#) shall apply to the purchase price of the following:

(a) Tangible personal property that is sold, leased or rented, whether or not such property has been included in a previous taxable transaction.

(b) Telecommunications services for all international, interstate and intrastate telecommunications service originating from or received on telecommunications equipment in the City if the charge for the service is billed to an apparatus, telephone, or account in this City, without regard to where the bill for such services is actually received, except:

- (1) Carrier access services; and
- (2) Interstate or international private communications service.

If a taxpayer presents to the City Manager written proof of a sales tax paid to another municipal taxing entity of such telecommunications services, the City Manager shall credit against the tax accruing under this chapter the amount of tax actually paid by the taxpayer to another municipal taxing entity. If the tax accruing under this chapter exceeds the amount of the tax actually paid by the taxpayer to another municipal taxing entity, the taxpayer shall pay the difference to the City. The credit provided for in this section shall not be allowed if the tax actually paid by the taxpayer to another municipal taxing entity was not by law required to be paid. *(See Regulation 3.12.050(b) [98-02] concerning telephone charges by Hotels/Motel)*

(c) Telecommunications services sold for resale to other persons for purposes of providing telecommunications services to the final end user will not be subject to the sales tax.

(d) Installation in the City of equipment which is used to receive or transmit telecommunications service.

(e) Meals sold to employees, except that meals which are sold to employees at a reduced charge and which are reported to the Internal Revenue Service as part of the employee's salary, wages or income shall be exempt from taxation under this section.

(f) Natural gas, manufactured gas, liquefied gas, electricity, steam, coal, wood, fuel oil, coke, or nuclear energy furnished for commercial consumption, whether furnished by municipal, public, or private corporations or enterprises or any other person.

(g) Warranty or maintenance services relating to tangible personal property, whether included in the cost of the tangible personal property relating thereto or sold separately.

- (h) Lodging services. *(See Regulation 3.08 and 3.12.050(h) [98-01] for additional information)*
- (i) Coin-operated services that dispense tangible personal property. *(See Regulation 3.12.050(i) [98-03] for additional information)*

(j) 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 is regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities. Cover charges shall be included as part of the amount paid for such food or drink.

(k) For a period of three years from the effective date of Ordinance No. 4621 all sales and purchases of candy and soft drinks as defined in 3.12.020 by and through coin or other money (bills or cards) operated machines.

(Code 1994 § 34-105; Code 1965 § 24-6)

3.12.060 Application of use tax.

The use tax levied by GJMC [3.12.030\(b\)](#) shall apply to the purchase price of the following:

- (a) Tangible personal property purchased for use in the City without previous payment of the sales or use tax and used, stored, or consumed in the City in conjunction with the rendering of a service.
- (b) Tangible personal property purchased at wholesale or component parts purchased for manufacture which are subsequently used by the taxpayer, either personally or in the business.
- (c) Taxable services purchased without previous payment of the sales tax.
- (d) Automotive vehicles required to be registered at an address inside the City on which a municipal sales tax has not been paid. The County Clerk or the City's authorized agent is authorized to collect such tax for the City prior to or at the time of registration.
- (1) The determination of vehicle registration requirements for individuals shall be the same as for the determination of residency for voter registration purposes.
 - (2) The determination of vehicle registration requirements for a vehicle which is owned by any person and operated primarily for business purposes shall be based on the address from which such motor vehicles are principally operated or maintained.
- (e) Construction or building materials which are used or consumed within the City and upon which a sales or use tax equal to or greater than the rate set in GJMC [3.12.030\(a\)](#) has not been paid.

(See Regulation 3.12.060 [95-03] for information on annual use tax.)

(Code 1994 § 34-106; Code 1965 § 27-7)

3.12.070 Exemptions from sales tax.

The tax levied by GJMC [3.12.030\(a\)](#) shall not apply to the following:

(a) Vehicles purchased by nonresidents of the City for registration outside the City, except business vehicles pursuant to GJMC [3.12.060\(d\)\(2\)](#).

(b) Sale of tangible personal property when both of the following conditions exist:

(1) The sale is to an individual who resides, or to a business which is located, outside the City; and

(2) The articles purchased are delivered to the purchaser outside the City by common carrier or by the conveyance of the seller or by mail, and such articles delivered are used outside the City.

(c) Sale of construction materials and fixtures to licensed building contractors purchased within the City for use outside the City when compliance with all three of the following conditions exists:

(1) That such licensed building contractor shall certify to the vendor that the construction materials and fixtures so purchased are to be used outside the City;

(2) That construction materials and fixtures are delivered to the licensed building contractor outside the City by common carrier, by the conveyance of the seller, or by the motor vehicle of the licensed building contractor;

(3) That such exemption shall not apply to tools, machinery or parts for repair of such tools and machinery used by such licensed building contractor in his trade or occupation. Such certification to the vendor by the licensed building contractor shall be made on forms furnished by the Finance Director, and any sale so made without proper certification shall be subject to the sales tax provided in this chapter.

(See Regulation 3.12.070(c) [92-02] for additional information on construction materials and fixtures used outside the City.)

(d) Sale of tangible personal property for use outside the City to persons engaged in manufacturing, processing, mining, or to an irrigation company when compliance with all of the following conditions exist:

(1) That such purchaser shall certify to the vendor that the tangible personal property is to be used outside the City;

(2) That such purchase of tangible personal property is delivered to the purchaser outside the City by common carrier, or by conveyance of seller, or by the motor vehicle of such purchaser;

(3) That such exemption shall not apply to tools, machinery or parts for repairs of such tools and machinery used by such purchaser in his trade or occupation. Such certification to the vendor by the purchaser shall be made on forms furnished by the Finance Director, and any sale so made without proper certification shall be subject to the sales tax provided in this chapter.

(See Regulation 3.12.070(d) [92-03] for additional information on property for direct use in manufacturing, processing, mining or irrigation.)

- (e) The sale and purchase of medical supplies.
- (f) An occasional sale.
- (g) A yard sale.
- (h) Sale of prosthetic devices.
- (i) Sale of a drug dispensed in accordance with a prescription.
- (j) Cigarettes.
- (k) A direct sale to a charitable organization in the conduct of its charitable functions and activities, when billed to and paid for by the charitable organization.
- (l) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by charitable organizations in the conduct of their regular charitable functions and activities. *(See Regulation 3.12.070(l) (n) [92-06] for additional information.)*
- (m) All direct sales to the United States government, the State, its departments or institutions, and the political subdivisions thereof in their governmental capacities only, when billed to and paid for by the governmental entity.
- (n) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by the United States government, the State, its departments and institutions, or the political subdivisions thereof, in their governmental capacities only. *(See Regulation 3.12.070(l) (n) [92-06] for additional information.)*
- (o) All sales which the City is prohibited from taxing under the Constitution or laws of the United States, or the Constitution of the State.
- (p) Sale of tangible personal property sold to a public utility company or railroad doing business both inside and outside the City, for use in its business operations outside the City, even though delivery thereof is made inside the City.
- (q) All commodities which are taxed under the provisions of Title 39, Article 27, C.R.S. and all commodities which are taxed under such provisions and for which the tax is refunded, and the sale of special fuel, as defined in § 39-27-201(8), C.R.S., used for the operation of farm vehicles when such vehicles are being used on farms and ranches. Notwithstanding provisions to the contrary, aviation and special fuel, whether used in turbo-propeller or jet engine aircraft, shall not be exempt, except that aviation and special fuel used as fuel for the propulsion of aircraft of “air carriers” engaged in interstate, intrastate and foreign air transportation, as those terms are defined in 49 U.S.C. Section 1301, are exempt.

- (r) Neat cattle, sheep, lambs, fish for stock purposes, swine and goats; mares and stallions for breeding purposes.
- (s) Sale of feed for livestock, poultry or horses.
- (t) Sale of seed and orchard trees.
- (u) All wholesale sales.
- (v) Sale of exempt commercial packaging materials.
- (w) Sale of tangible personal property to a person engaged in the business of manufacturing or compounding for use, profit or sale, which tangible personal property meets all of the following conditions:
 - (1) Is transformed by the process of manufacturing;
 - (2) Becomes, by the manufacturing process, a necessary and recognizable ingredient, component and constituent part of the finished product;
 - (3) Its physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer and, when not sold for resale, shall be deemed wholesale sales and shall be exempt from taxation in this section.
- (x) Sale of electricity, coal, coke, fuel oil, nuclear energy or gas if used in processing, manufacturing, mining, refining, irrigation, telegraph and telephone and radio communication, street and railroad transportation services and all industrial uses.
- (y) Sale of electricity, coal, wood, gas, fuel oil or coke sold, but not for resale, to occupants of residences, whether owned, leased or rented by such occupants, for the purpose of operating residential fixtures and appliances which provide light, heat and power for such residences. For the purpose of this subsection, “gas” includes natural, manufactured and liquefied petroleum gas.
- (z) Tangible personal property sold for rental or leasing inventory, including but not limited to coin-operated devices; provided, that such property is not otherwise used except for customer demonstration or display. The rental or leasing of such tangible personal property is subject to sales tax.
- (aa) Labor sold with tangible personal property, but only if such labor is stated separately on the invoice from the tangible personal property sold; except that labor used in or necessary in manufacturing, fabricating or processing is not exempt.
- (bb) Construction materials, if the purchaser of such materials presents to the retailer a building permit, or other documentation acceptable to the City Manager, which evidences that a use tax on such materials has been paid to the City or a municipality. (*See Regulation 3.12.070(bb) - 3.12.130(a) (c) [92-04] for other options.*)

- (cc) Tangible personal property sold through coin-operated devices for a price of \$0.15 or less.
- (dd) All sales of food as defined in this chapter.
- (ee) All sales of aircraft used or purchased for use in interstate commerce by a commercial airline.
- (ff) Forty-eight percent of the purchase price of factory-built housing, as such housing is defined in § 24-32-703(3), C.R.S., shall be exempt from taxation under this chapter.
- (gg) The entire purchase price in any subsequent sale of a mobile home, as such vehicle is defined in § 42-1-102(106)(b), C.R.S., after sales tax pursuant to GJMC [3.12.030\(a\)](#) has been paid on such mobile home.
- (hh) Farm close-out sales.
- (ii) Farm implements, and parts and accessories for farm implements.
- (jj) Newspapers.
- (kk) Newsprint and printer's ink for use by publishers, newspapers, and commercial printers.
- (ll) The sale of tangible personal property that is to be permanently affixed or attached by the seller, as a component part of an aircraft. Parts sold to and to be permanently affixed or attached by the purchaser or someone on behalf of the purchaser other than the original seller are not exempt from tax.

The exemption includes but is not limited to parts for the aircraft's engine(s), fuselage, instrumentation, interior (seats, interior fixtures, finishes and trim) and paint.*
- (mm) The sale of coins and precious metal bullion, as defined by § 39-26-102(2.6), C.R.S., and of other numismatic collectibles.
- (nn) The sale, storage and use of wood and timber products made from Colorado trees killed by *spruce beetles* or *mountain pine beetles*.
- (oo) The sale, storage and use of magazines sold by subscription and produced and distributed in Colorado.
- (pp) The sale of manufacturing equipment.
- (qq) Sales made by schools, school activity booster organizations, and student classes or organizations if all proceeds of the sale are for the benefit of a school or school-approved student organization.
- (rr) For a period of three years from the effective date of Ordinance No. 4621 all sales and purchases of food as defined in 3.12.020 by and through coin or other money (bills or cards) operated machines.

The list of exemptions shall not be increased by implication or similarity. It is the intent of this chapter to exempt only those items or transactions which are specifically set forth in this section.

(Ord. 4449, 1-5-11; Ord. 4430, 7-19-10. Code 1994 § 34-107; Code 1965 § 24-8)

*Code reviser's note – Ordinance 4430, adding subsection (II) to this section, provides, “Within sixty days of the third anniversary of the adoption of this ordinance the City Council shall consider the effectiveness of the ordinance at achieving its stated purposes. Without further action by the City Council, the terms and provisions of this ordinance shall expire on the third anniversary of the effective date hereof.”

3.12.080 Exemptions from use tax.

The tax levied by GJMC [3.12.030\(b\)](#) shall not apply to the following:

- (a) Tangible personal property which is exempt from the sales tax pursuant to GJMC [3.12.070](#).
- (b) The storage, use or consumption of any tangible personal property the sale of which is subject to the sales tax imposed by the City.
- (c) Tangible personal property which is first used or consumed inside the City more than three years after its purchase, if such property has been significantly used for the principal purpose for which it was purchased outside the City.
- (d) Automotive vehicles if the owner is, at the time of registration, a nonresident of the City who purchased the vehicle for use outside the City.
- (e) The storage of tangible personal property purchased from a nonresident vendor by a common carrier, public utility company or construction company which is a resident of the City or is doing business in the City, provided such tangible personal property is stored but not used or consumed in the City.
- (f) Manufacturing equipment.
- (g) Tangible personal property used and consumed exclusively and directly in the manufacturing process when such tangible personal property does not become a necessary and recognizable ingredient, component and constituent part of the finished product.
- (h) The sale, storage and use of wood and timber products made from Colorado trees killed by *spruce beetles* or *mountain pine beetles*.
- (i) The sale, storage and use of magazines produced and distributed in Colorado.

The list of exemptions shall not be increased by implication or similarity. It is the intent of this chapter to exempt only those items or transactions which are specifically set forth in this section.

(See Regulation 3.12.080(f) [95-01] and 3.12.080(g) [95-02] for additional information.)

(Ord. 2810, 2-15-95. Code 1994 § 34-108; Code 1965 § 24-9)

3.12.090 Exemption – Burden of proof.

(a) The burden of proving that any retailer is exempt from collecting or paying sales tax shall be on the retailer under such reasonable requirements of proof as the City Manager may prescribe.

(b) The burden of proving that any consumer is exempt from paying the use tax shall be on such consumer under such reasonable requirements of proof as the City Manager may prescribe.

(Code 1994 § 34-109; Code 1965 § 24-10)

3.12.100 Deductions and credits.

(a) Deductions from Gross Sales. If included in reported gross sales, the following are deductible from gross sales:

(1) Refunds. The price of tangible personal property or taxable services returned by a purchaser when the price and the sales tax collected are refunded in cash or by credit.

(2) Bad Debts Charged Off. Taxable sales which are represented by accounts not secured by a 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; provided, however, that if such amounts are thereafter collected by the taxpayers, a tax shall be paid on the amount so collected.

(3) Interest and Finance Charges. The amount of interest or finance charges on credit extended in connection with any sale, if the interest or finance charges are separately stated from the price on the invoice.

(b) Credits from Total Tax Liability.

(1) Vendor's Fee. A retailer's collection and remittance expense equal to three and one-third percent of the sum of the sales tax collected and any excess tax collected may be taken as a credit against sales tax paid on or before the due date. However, no such credit shall be allowed for any sales tax that is not timely reported and paid by the due date. Forfeiture of the vendor's fee shall be prima facie evidence that the taxpayer was in violation of this chapter.

(2) Amounts previously paid pursuant to a tax levied by a municipality may be credited against the tax due on transactions but only as follows:

(i) When the present owner or user has previously paid a legally imposed municipal sales or use tax on the transaction or item; except that the amount of such credit shall not exceed the amount of tax on such transaction or item computed at the rate established by GJMC [3.12.030\(a\)](#).

(ii) When the present owner or user of construction equipment has not previously paid a legally imposed sales or use tax attributable to any one municipality on the full price of such equipment,

the credit shall be the aggregate value of all such taxes paid on such equipment up to the amount of tax due to the City on such equipment.

(Code 1994 § 34-110; Code 1965 § 24-11)

3.12.110 Tax on credit sales and leases.

Whenever an article is sold to a person who thereby is obligated to the vendor on an account, chattel paper, contract right, general intangible, or a writing which supports a right to the payment of a purchase price, or any part thereof, the tax shall be based on the total purchase price and shall become immediately due and payable. No refund or credit shall be allowed to either party to a transaction in case of repossession by the vendor of collateral securing the purchase price or any part of the purchase price.

(See Regulation 3.12.110 [92-09] for information on continuous possession, leasing, rentals.)

(Code 1994 § 34-111; Code 1965 § 24-12)

3.12.120 Maintenance and service contracts.

The full contract price of tangible personal property and services sold in connection with the maintenance or service of tangible personal property shall be subject to the tax. Application may be made to the City Manager for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under such contract. The City Manager is hereby authorized, but not required, to determine a percentage based on the ratio that the price of the tangible personal property bears to the total price under such contract.

(See Administrative Interpretation - Maintenance & Service Contracts.)

(Code 1994 § 34-112; Code 1965 § 24-13)

3.12.130 Tax on construction materials and supplies.

(a) **Estimated Percentage Basis.** Any person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure or improvement on or to real property in the City and who shall purchase or acquire construction materials used therefor from sources within or without the City, upon approval of the City Manager, may elect to be subject to the estimated percentage basis. Prior to the issuance of a building permit, the estimated cost of construction materials shall be calculated by multiplying the estimated value of this construction project, entered on the building permit by the City Building Official, or by general or mechanical contract cost if available, by 50 percent. The resulting product will be multiplied by the current sales/use tax rate in effect. Upon payment of such deposit amount, the City shall issue a deposit tax receipt identifying the address for which the purchase is being made and the City building permit number. Deposit receipt will be issued to each contractor and subcontractor engaged in construction activity under the permit and will be evidence to retailers and suppliers that City sales tax has been paid on construction materials and fixtures. For estimated values or contract costs exceeding \$500,000, the deposit amount will only be required on the first \$500,000 value. Estimated payments on the values exceeding \$500,000 will be made in monthly installments based on

percentage of contract completed. Payment of deposit will relieve contractors from filing monthly use tax returns for each permit issued. In any case, the general contractor and/or the owner shall pay such taxes and shall be jointly and severally liable for all taxes due on such materials. *Regulation 3.12.070(bb) – 3.12.130(a)(c) [92-04] for additional information.*)

(b) Those persons not electing the estimated percentage basis shall make payment and remit tax on the actual cost of construction materials used. The actual cost of construction materials shall be reported and tax paid on monthly returns for which tax will be due, pursuant to such rules and regulations as the City Manager may adopt. *(See Regulation 3.12.130(b) [92-05] for additional information.)*

(c) Each owner and each contractor shall keep and preserve all invoices, receipts and statements showing such purchases of construction materials and tangible personal property for a period of three years after final inspection by the Building Official or issuance of certificate of occupancy, whichever is later. The City may, prior to the expiration of such three-year period, conduct an audit of such records of the owner and contractor and any other relevant information to establish or to verify the total tax liability on the construction materials and tangible personal property used therein. If the total tax liability is more than the deposit paid or tax paid on monthly returns, the City Manager shall serve a notice of determination, assessment and demand for payment on the taxpayer notifying him of the deficiency, including penalty and interest. Interest on any tax deficiency related to construction materials shall accrue from the date that the certificate of occupancy or temporary certificate of occupancy or final inspection occurred or should have occurred, whichever is later, until the tax is paid in full. The amount of any use tax due and not paid constitutes a lien, which shall be first and prior to all other liens and encumbrances, upon the real property benefited by the use of such materials.

If the City Manager determines that the deposit or tax paid on monthly returns is sufficient to pay for the total tax liability, then the deposit or tax paid on monthly tax returns shall be credited against the total tax liability, and any excess amount shall be timely mailed to the person who made the deposit. *Regulation 3.12.070(bb) – 3.12.130(a)(c) [92-04] for additional information.*)

(d) No final inspection shall be made by the City Building Official and no certificate of occupancy shall be issued if the City Manager determines that all tax due on construction materials for the project for which the building permit was issued has not been paid or arrangement therefor made with the City Manager.

(Code 1994 § 34-113; Code 1965 § 24-14)

3.12.140 Computation of use tax on construction equipment.

In addition to the use tax on construction materials, use tax shall be due on construction equipment used, owned, operated or stored inside the City. No person shall use, store, operate or own construction equipment in the City without having paid the applicable use tax pursuant to this chapter.

(a) The taxpayer shall identify construction equipment used inside the City, as follows:

(1) Prior to or on the date the equipment is located inside or brought into the City, the taxpayer shall file with the City Manager an equipment declaration on a form approved by the City Manager. Such declaration shall be made under oath or affirmation; state the dates on which the taxpayer anticipates the equipment will be located inside and removed from the boundaries of the City; describe each such anticipated piece of equipment; state the purchase price of each such piece of equipment; and shall include such other information as reasonably deemed necessary by the City Manager.

(2) The taxpayer shall file with the City Manager an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every 90 days after the equipment is brought inside the City. For equipment which is brought inside the City for fewer than 90 days, such amended declaration shall be filed no later than 10 days after substantial completion of the project or within 10 days from the time the equipment is removed from the City, whichever occurs first. Amended declarations for all other projects shall be filed at least once every 90 days after the equipment is brought inside the City.

(3) The taxpayer need not declare any equipment for which the purchase price was less than \$2,500. Such equipment shall be presumed to have been purchased in a municipality having a sales or use tax at a rate at least equal to the rate established pursuant to GJMC [3.12.030\(a\)](#) and such tax shall be presumed to have been paid to that municipality.

(b) Construction equipment located inside the City for 30 consecutive days or less, for which a declaration is properly filed, shall be subject to the tax in an amount equal to one-twelfth of the purchase price of the equipment at the time it was purchased multiplied by the rate established by GJMC [3.12.030\(b\)](#).

(c) Construction equipment located inside the City for 30 consecutive days, or equipment for which a declaration has not been properly filed, shall be subject to the tax in an amount equal to the purchase price of the equipment multiplied by the rate established by GJMC [3.12.030\(b\)](#).

(d) In no event will tax be imposed in an amount greater than 100 percent of the full use tax rate on the purchase price of any piece of equipment.

(Code 1994 § 34-114; Code 1965 § 24-15)

3.12.150 Alternative sales and use tax rate on construction equipment.

(a) Upon receipt of a written request from a person in the construction business who uses, stores, operates, or owns construction equipment in the City, the City Manager is hereby authorized to establish an alternative tax calculation which shall apply to the purchase or use of construction equipment.

(b) The alternative sales and use tax calculation will be calculated as follows:

The taxpayer's gross revenue from construction activities during the prior year (gross revenue reported on the taxpayer's last fiscal year federal tax return or other annual period as approved by the City Manager) shall be the denominator. The taxpayer's revenues generated from construction activities within the City limits during the prior year shall be the numerator. The ratio of such numerator and denominator shall be converted to a percentage. Such percentage calculated shall be compared to 25 percent and the greater of the two percentages shall be multiplied by the sales/use tax rate in effect in GJMC [3.12.030\(a\)](#). The resulting product is the alternative rate to be applied to the purchase price of construction equipment sold or used inside the City limits. If a taxpayer has not been in existence for at least 365 days prior to the request, the City Manager may establish an alternative tax calculation based on verified information supplied by the taxpayer; the City Manager may refuse to determine an applicable alternative tax calculation for a taxpayer who has not been in existence for the requisite 365 days if the City Manager determines that the information available to him is insufficient to make an accurate estimate.

(c) The credit pursuant to GJMC [3.12.100\(b\)\(2\)](#) shall apply with respect to construction equipment on which the taxpayer has paid a legally imposed municipal sales or use tax. Such construction equipment would not be allowed or included in the alternative tax calculation as provided above.

(d) If a taxpayer has more than one place or location of business, revenues generated from the business located inside the City or the place of business closest to the City will be used in the calculation of the numerator.

(e) The alternative tax calculation established in this section will be effective for only 24 months from the date of approval of the City Manager on new purchases, leases and acquisitions. A taxpayer must make written application to the City Manager on forms provided by the City Manager in order to be entitled to this calculation.

(f) The City Manager may, at any time but not to exceed once each calendar year unless for good cause, inspect, interview and audit the taxpayer and the employees of the taxpayer and any and all of the taxpayer's books, documents, or other records as may be necessary to determine total tax liability. If the City Manager determines an underpayment of tax of five percent or more with respect to any reporting period has occurred, the City Manager shall impose, and the taxpayer shall pay, in addition to amounts otherwise due pursuant to this chapter, a penalty of 20 percent of the underpaid amount in addition to the costs incurred by the City (including but not limited to accounting fees, the value of accountants or other professionals engaged in such audit, inspection or interview) in making such determination.

(See Regulation 3.12.150 [92-07] for additional information on alternative sales/use tax on construction equipment.)

(Code 1994 § 34-115; Code 1965 § 24-16)

3.12.160 Acquisition, inception or cessation of business.

(a) Acquisition of an Existing Business.

(1) Seller's Duties. Each person engaged in business in the City who sells such business shall file a final return. The reporting period for such return shall end on the date of the transfer of ownership of the business.

(2) Purchaser's Duties.

(i) Each person who purchases an existing business shall determine the total tax liability of that business and shall withhold from proceeds available on an amount sufficient to pay the total tax liability to the City, unless the seller produces a receipt signed by the City Manager showing that the total tax liability has been paid or a certificate signed by the City Manager that there is no tax due.

(ii) Any amount so withheld shall be paid to the City within 10 days of the date of the sale of the business.

(iii) Each purchaser who fails to withhold such tax due or fails to pay to the City the amount so withheld within the 10-day period allowed shall be jointly and severally liable, along with the seller, for any unpaid tax due.

(b) Inception of Business – Initial Use Tax. Each person who purchases or establishes a business inside the City shall file an initial use tax return.

(1) Existing Businesses. Use tax shall be due on tangible personal property, except inventory held for lease, rental or resale, which is acquired with the purchase of a business. The tax rate shall be multiplied times the value as evidenced by the bill of sale or agreement which is a part of the total transaction at the time of the sale or transfer; provided the value is not less than the fair market value of such property. Where the transfer of ownership provides for a lump sum transaction, which does not allocate the price of tangible personal property, the use tax shall be due on the book value established by the purchaser for federal income tax depreciation purposes, or fair market value if no determination has been made. When a business is sold in exchange for the assumption of outstanding indebtedness, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser. Such tax shall be reported on an initial use tax return. The reporting period for such return shall be the calendar month of the date of sale.

(2) New Businesses. Use tax shall be paid on the price of all tangible personal property, except inventory held for lease, rental or resale, which is purchased for use inside the City. Such tax shall be reported on the initial use tax return. The reporting period for such return shall be the calendar month of the opening day of business.

(c) Cessation of Business. Each person engaged in business in the City who quits doing business in the City shall file a final return. The reporting period for such return shall end on the last day of business in the City.

(Code 1994 § 34-116; Code 1965 § 24-17)

3.12.170 Retailer responsible for collection and payment of tax.

Each retailer engaged in business in the City shall be liable for and shall pay an amount equal to the total purchase price multiplied by the rate established by GJMC [3.12.030\(a\)](#).

(a) **Tax Added to Price.** Retailers shall add the tax imposed to the price, showing such tax as a separate and distinct item. Except as provided in this subsection, no retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the sales tax or any part thereof shall be assumed or absorbed by the retailer, or that it will not be added to the price, or if added, that it or any part thereof shall be refunded.

(1) Nothing contained in this subsection shall be deemed to prohibit any retailer selling malt, vinous or spirituous liquors by the drink from electing to include in the purchase price any tax levied under GJMC [3.12.030\(a\)](#). Once having made the election, such retailer shall continue to impose and collect the tax in the manner elected unless granted authorization to change by the City Manager. Any excess taxes collected shall be remitted to the City in accordance with this chapter.

(2) Sales tax may be included in the price of items sold from coin-operated devices or the price of utilizing such devices.

(b) **Tax Constitutes Debt.** Any tax added to the price, or included in the price pursuant to subsection (a) of this section, by a retailer shall constitute a debt from the purchaser to the retailer and from the retailer to the City until paid and shall be recoverable in the same manner as other debts.

(c) **Excess Tax.** No retailer shall retain any sales tax collected in excess of the tax computed, but shall report such excess collections on the return for the period in which it was collected, include it in the calculation of tax due, and pay it to the City.

(d) **Disputed Tax.** When a dispute arises between a retailer and a purchaser who claims that the sale is exempt from tax, the retailer shall collect and the purchaser shall pay such tax. The purchaser shall submit a claim for refund to the City Manager within 60 days of the date of purchase or thereafter be barred. Any such tax refunded by the City will be paid directly to the purchaser.

(Code 1994 § 34-117; Code 1965 § 24-18)

3.12.180 Trust status of tax in possession of retailer.

All sales tax and use tax collected by or paid to any retailer shall be the property of the City and shall remain public money while in the possession of such retailer, who shall hold such money in trust for the sole use and benefit of the City until paid to the City.

(Code 1994 § 34-118; Code 1965 § 24-19)

3.12.190 Use tax – Method of payment.

Each person who has not paid the sales tax to a retailer shall, unless the credit established in GJMC [3.12.100\(b\)\(2\)](#) applies, complete the use tax schedule of a return and pay the tax due to the City.

- (a) The due date for licensed taxpayers shall be that established by GJMC [3.12.200](#).
- (b) The due date for all other taxpayers shall be 20 days from the end of the reporting period in which the taxable transaction occurred.

(See Regulation 3.12.060 [95-03] for amendment to filing/payment requirements for service businesses without a sales tax license.)

(Code 1994 § 34-119; Code 1965 § 24-20)

3.12.200 Filing returns – Due date.

- (a) Every taxpayer shall file a return, whether or not tax is due, and remit any tax due the City on or before the twentieth day of the month following the reporting period.
- (b) A retailer engaged in business in the City at two or more locations, whether inside or outside the City, who is obligated to collect sales tax, may file one return for all such locations, when accompanied by a supplemental schedule showing the gross sales and net taxable sales for each location.
- (c) Any person reporting use tax due from two or more locations may file one return for all such locations.
- (d) For good cause shown and upon written request of a taxpayer, the City Manager may extend the time for making a return and paying tax due.
- (e) No person shall make any false statement nor provide false information in connection with a return.

(Code 1994 § 34-120; Code 1965 § 24-21)

3.12.210 Reporting periods.

(See Resolution No. 10-96 for amendment to reporting periods)

- (a) Unless otherwise approved by the City Manager, each taxpayer shall file a return and pay tax based on the filing frequency periodically prescribed by resolution of the City Council.
- (b) The reporting period for a final return shall end on the date of the transfer of ownership of business.
- (c) The reporting period for an initial use tax return shall be the calendar month of the date of sale if a business was purchased or the opening day of business if a business is new.
- (d) The reporting period for a vendor selling tangible personal property at a special event inside the City who is not required to obtain a license shall end on the day the special event concludes.

(e) If the accounting methods employed by the taxpayer, or other conditions, are such that returns made on a calendar month basis will impose unnecessary hardship, the City Manager may, upon written request of the taxpayer, accept returns at such intervals as will, in the opinion of the City Manager, better suit the convenience of the taxpayer, but not jeopardize the collection of the tax.

(f) If any taxpayer who has been granted permission to file returns and pay tax on other than a monthly basis becomes delinquent, authorization for such alternate method of reporting may be revoked by the City Manager. Thereafter following notice of such revocation, the taxpayer shall file returns and pay tax on a monthly basis.

(Ord. 2887, 1-17-96. Code 1994 § 34-121; Code 1965 § 24-22)

3.12.220 Duty to keep books and records.

(a) Each person engaged in business in the City shall keep and preserve, for at least three years after the date of the taxable transaction, suitable records which will allow the accurate determination of the tax due. The date of such taxable transactions for construction projects inside the City shall be the date the final certificate of occupancy is issued or final inspection, whichever is later.

(b) Each person who uses construction equipment inside the City shall keep and preserve, for at least three years after the final certificate of occupancy or final inspection, whichever is later, records of the time, dates and location each piece of construction equipment was located inside the City and any sales or use tax paid on such construction equipment.

(c) Each person shall provide all records required by this section for audit by the City Manager during normal business hours.

(Code 1994 § 34-122; Code 1965 § 24-23)

3.12.230 License required.

(a) No person shall engage in business in the City without first obtaining a license.

(1) No license shall be required of any charitable organization which is exempt from the sales and use tax under this chapter.

(2) No license shall be required for a retailer selling tangible personal property at a special event inside the City for periods of seven consecutive days or less, not exceeding a total of 21 days per calendar year. The reporting period for such special event shall end on the day the special event concludes.

(b) When business is transacted by one person at two or more separate locations inside the City, a separate license for each place of business shall be required.

(Code 1994 § 34-123; Code 1965 § 24-24)

3.12.240 License – Application and content.

(a) Each person who is required to obtain a license shall deliver to the Finance Department an application stating: the name and address of the person requesting such license; the name of the business being licensed and the character thereof; the location, including the street number of such business; and such other information as may be required by the City Manager.

(b) A nonrefundable application fee as established by resolution of the City Council and on file in the City Clerk's office shall be paid before any license will be processed and issued.

(c) For each tax license issued for a period of 30 days or less, the fee shall be as established by resolution of the City Council and on file in the City Clerk's office. Each application shall be accompanied by the prepayment of anticipated tax receipts or \$50.00, whichever is greater.

(d) Each annual license shall be in effect through December 31st of the year of issuance and fees thereon will not be prorated. Each annual license shall be automatically renewed if the taxpayer has timely complied with all provisions of this chapter.

(e) Each license shall be numbered and shall show the name, location and mailing address posted in a conspicuous place at the business location for which it is issued.

(f) No license shall be transferable. After any sale of a business, the new owner shall apply for a new license.

(Code 1994 § 34-124; Code 1965 § 24-25)

3.12.250 License – Cancellation or revocation.

(a) Cancellation. The City Manager may cancel any license:

(1) Upon receipt of a written notice that the taxpayer is no longer engaged in business in the City;

(2) Upon the taxpayer's failure to respond to three consecutive notices of delinquency. The City Manager shall give notice to the taxpayer that the license has been canceled at the taxpayer's last known address on file with the Finance Department.

(b) Revocation. The City Manager may, after a reasonable notice and after an opportunity for a hearing, issue a finding and order to revoke the license of any person found to have violated any provision of this chapter.

(c) Appeal. Any licensee may appeal a finding, order or determination of the City Manager revoking their license in district court, pursuant to the process set forth in § 29-2-106.1, C.R.S.

(d) Reissuance. Before a sales tax license may be issued to a person whose license has been canceled or revoked, the licensee shall have complied with all provisions of this chapter and shall post a cash bond in an amount equal to the licensee's estimated sales tax payment for a two-month period. If the licensee timely complies with the provisions of this chapter for 12 months after the issuance of the sales tax license, the bond shall be refunded to the licensee upon request by the licensee.

(e) Engaging in Business After Revocation. No person shall engage in business in the City after such person's license has been cancelled or revoked.

(Code 1994 § 34-125; Code 1965 § 24-26)

3.12.260 Authority of City Manager.

The power to administer this chapter is hereby vested in the City Manager.

(a) Forms and Procedures. The City Manager shall prescribe forms and administrative procedures for the ascertainment, assessment and collection of the tax levied by this chapter.

(b) Regulations. The City Manager may promulgate, after hearing, regulations to effectuate the purposes of this chapter.

(c) Additional Information. The City Manager may require any person to make additional returns, render statements, furnish records, or make informational reports to determine whether or not such person is liable for payment and/or collection of tax.

(d) Subpoenas. The City Manager may issue a subpoena to command a person to attend and give testimony and/or to produce books, accounts and records.

(1) Any subpoena issued under the terms of this chapter shall be served as set forth in the Colorado Rules of Civil Procedure, including the payment of witness fees. When the witness is subpoenaed by the City, such fees shall be paid by the City. When a witness is subpoenaed at the request of a taxpayer, the City Manager shall require that the cost of service of the subpoena and the fee be paid by the taxpayer. The City Manager shall require a deposit to cover the costs of the service of subpoena and witness fees.

(2) If a subpoena issued by the City Manager is duly served and the respondent fails to attend, give testimony or to produce books, accounts and records as commanded, the City Manager may apply to, with the assistance of the City Attorney, the Municipal Court of the City for an order enforcing the subpoena. The Municipal Court shall have jurisdiction to enforce such a subpoena through appropriate proceedings including contempt.

(e) Oaths. The City Manager is authorized to administer oaths and take testimony at the hearing.

(f) Agents. The City Manager may designate one or more agents to perform any of the duties, powers and responsibilities set forth in this chapter.

(g) Partial Payments. The City Manager may accept any partial payment made and apply such payments towards the tax due. Acceptance of such payments shall not in any way limit the power to collect any total tax liability.

(h) Registration of Vehicles. If the City Manager determines that a person has registered or caused to be registered a motor vehicle outside the City and that such motor vehicle should have been registered at an address in the City, the City Manager is authorized to assess a civil penalty of \$500.00 against such person in addition to the total tax liability. A written notice of the civil penalty shall be issued, paid and protested in the same manner as a notice of assessment. The City Manager may enforce collection of such civil penalty in the same manner as provided in this chapter for the collection of tax due. Assessment and collection of such penalty shall not preclude the collection of any tax due or fee or the imposition of other civil or criminal penalty provided by law.

(i) Notices. Notices required by this chapter shall be in writing and delivered in person or sent, postpaid by first class mail, to the last known address of the taxpayer on file with the Finance Department.

(Code 1994 § 34-126; Code 1965 § 24-27)

3.12.270 Audit of records.

(a) For the purpose of ascertaining the correct amount of tax due from any person engaged in business in the City, the City Manager may conduct an audit by examining any relevant books, accounts and records of such person and by interviewing a taxpayer and the taxpayer's officers, agents and employees.

(b) The City Manager may make, permit, or cause to be made the examination, inspection, and audit or interviews of books, accounts and records of any taxpayer at a location inside the City limits during regular business hours. The taxpayer may elect to make available such books, accounts and records at a location outside the City provided the taxpayer has agreed in writing with the City Manager to reimburse the City for all costs and expenses incurred in order to perform such examination, inspection, or audit made outside the City. If any taxpayer refuses to provide any of the foregoing information when requested, the City Manager may issue a subpoena to require that the taxpayer or an agent or employee of the taxpayer attend a hearing and produce any such books, accounts and records for examination and copying.

(c) When the taxpayer does not make available suitable records, the City Manager may determine total tax liability based upon generally accepted accounting principles, expert testimony or any other method deemed reasonable by the City Manager.

(d) If a taxpayer provides records which, in the judgment of the City Manager, are so voluminous that excessive and undue time would be required to review and examine each and every record, the City Manager may use a test period or other appropriate sampling technique to determine and compute the total tax liability.

(e) Any charitable entity claiming exemption under the provisions of this chapter is subject to audit in the same manner as any other person engaged in business in the City.

(Code 1994 § 34-127; Code 1965 § 24-28)

3.12.280 Coordinated audit procedure.

(a) Any taxpayer licensed by the City pursuant to this chapter and holding a similar sales tax license in at least four other municipalities in the State that administer their own sales tax collection may request a coordinated audit as provided in this section.

(b) Within 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 City Manager 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 such notice. Such request shall include a list of those municipalities of the State 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 taxpayer 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 the statute of limitations may be audited by this City during the 12 months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an 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 City Manager shall so notify the finance director of the municipality whose notice of an audit prompted the taxpayer's request within 10 days after the receipt of the taxpayer's request for a coordinated audit. The City Manager shall 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 City Manager 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 City Manager 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 such 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 City Manager 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 City Manager 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 the 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.

(Code 1994 § 34-128; Code 1965 § 24-29)

3.12.290 Tax information confidential.

All specific information gained under the provisions of this chapter which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the City and its officers, employees or legal representatives as confidential.

(a) Except in accordance with judicial order or as otherwise provided by law, the City Manager and his employees shall not divulge or make known in any way any information disclosed in any document, report, or return filed under this chapter, except such information as is displayed on the tax license. The officials charged with the custody of documents, reports, and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City Manager in an action or proceeding under the provisions of this chapter when the report of a fact shown thereby is directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit into evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding, and no more.

(b) Nothing in this section shall be construed to prohibit the delivery to a person or a duly authorized representative thereof of a copy of any return or report filed in connection with such person's tax. Copies

of such records may be certified by the City Manager or an agent thereof and when so certified shall be evidence equaling with the originals and may be received as evidence of their contents.

(c) Nothing in this section shall be construed to prohibit the publication of statistics classified so as to reasonably prevent the identification of particular reports or returns and the items thereof or the inspection of returns by the City Attorney or other authorized representatives of the City.

(d) Notwithstanding the provisions of this section, the City Manager may furnish to the taxing officials of the State, its political subdivisions, any other state or political subdivisions, any Colorado municipality, or the United States, any information contained in tax returns and related documents filed pursuant to this chapter or in the report of an audit or investigation made with respect to a return, if the recipient jurisdiction agrees with the City Manager to grant similar privileges to the City and if such information is to be used by the jurisdiction only for tax related purposes.

(e) Any City officer or employee or any member of the office of, or officer, or employee of the City Manager who shall divulge any information classified in this chapter as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation of this chapter.

(Code 1994 § 34-129; Code 1965 § 24-30)

3.12.300 Timely payment – Computation of dates.

(a) Timely payment shall be evidenced by the postmark date if mailed; otherwise timely payment shall be evidenced by the City cashier validation date.

(b) Any due date, payment date, or deadline for paying tax due, providing information or taking other action which falls on a Saturday, Sunday or legal holiday recognized by either the federal government or the State shall be extended to the first business day following such weekend or holiday.

(Code 1994 § 34-130; Code 1965 § 24-31)

3.12.310 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 Manager shall file in a central repository 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 Manager shall file in a central repository prior to the effective date of an amendment a copy of each sales and use tax ordinance amendment enacted by the City.

(c) Failure of the City to file such ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto.

(Code 1994 § 34-131; Code 1965 § 24-32)

3.12.320 Participation in simplification meetings.

The City Manager shall cooperate with and participate on an as needed basis with a permanent Statewide sales and use tax committee convened by the State Municipal League, which is composed of State and municipal sales and use tax officials and business officials. Such committee will meet for the purpose of discussing and seeking resolution to sales and use tax collection and administration problems which may arise.

(Code 1994 § 34-132; Code 1965 § 24-33)

3.12.330 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 vendor to correctly pay, collect, and remit sales and use taxes to the City.

(a) As used in this section, "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

(b) When it is determined by the City Manager that sales and use tax owed to the City has been reported and paid to another municipality, the City Manager shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(c) The City Manager 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 vendor. 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 vendor 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 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 such extension by the City shall not be unreasonably withheld.

(d) Within 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 30 days of approval. If a claim is submitted jointly by a municipality and a vendor 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 36-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

(Code 1994 § 34-133; Code 1965 § 24-34)

3.12.340 Overpayment from returns.

If the amount remitted with the return is more than the tax due as computed from information in such return, the taxpayer shall be notified. Unless requested otherwise by the taxpayer, all overpayment shall be credited to the tax due for the next reporting period. Upon request by a taxpayer, a taxpayer may submit a claim for refund along with an amended return and other documentation as may be required by the City Manager. Interest shall not be allowed and paid upon any overpayment in respect of any sales or use tax. At the City Manager's discretion, any portion of sales or use tax, or any interest, assessable penalty, additional amount, or addition to tax, which has been erroneously refunded, shall bear interest at the rate established in GJMC [3.12.420\(a\)](#) from the date of the payment of the refund.

(Code 1994 § 34-134; Code 1965 § 24-35)

3.12.350 Tax overpayment determined through audit.

If the City ascertains, through an audit of a taxpayer's records, that the tax due is less than the full amount paid, a notice of overpayment shall be issued. Such notice will serve as documentation for a claim for refund, if such claim is signed and submitted by the taxpayer within 30 days of the date of the notice of overpayment.

(Code 1994 § 34-135; Code 1965 § 24-36)

3.12.360 Refunds of disputed tax.

Refunds of tax paid to a retailer by a purchaser who claims that the sale is exempt from the tax may be requested by such purchaser by signing and submitting claim for refund on or before 60 days from the date of such purchase.

(Code 1994 § 34-136; Code 1965 § 24-37)

3.12.370 Claim for refund.

No tax overpayment shall be refunded unless a claim for refund is signed and submitted to the City by the taxpayer.

(a) Application. An application for refund of tax shall:

- (1) Be made on a claim for refund form furnished by the City;

- (2) Be signed by the taxpayer; and
- (3) Include adequate documentation of the claim.

(b) Decision. The City Manager shall examine the claim for refund and give written notice to the taxpayer of the amount to be refunded or denied.

(c) Refunds Not Assignable. The right of any person to obtain a refund pursuant to this chapter shall not be assignable.

(d) False Claims. No person shall make any false statement in connection with a claim for refund.

(Code 1994 § 34-137; Code 1965 § 24-38)

3.12.380 Underpayment from returns.

If the amount remitted with a return is less than the tax computed from information in such return, the taxpayer shall be notified.

- (a) If the underpayment is at least \$15.00, a notice of assessment may be issued.
- (b) If the underpayment is less than \$15.00, it shall be added to the tax due for the next reporting period.

(Code 1994 § 34-138; Code 1965 § 24-39)

3.12.390 Tax deficiencies from failure to file.

- (a) If any taxpayer neglects or refuses to obtain a license, the amount of tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.
- (b) If any taxpayer neglects or refuses to file a return by the due date, the tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.
- (c) Estimated tax due shall be adjusted if a return reporting actual tax due is filed on or before the payment date of the notice of assessment.

(Code 1994 § 34-139; Code 1965 § 24-40)

3.12.400 Tax deficiencies determined through audit.

If the City ascertains, through an audit of the taxpayer's records, that the tax due has not been fully reported or paid by the applicable due date, a notice of assessment shall be issued.

(Code 1994 § 34-140; Code 1965 § 24-41)

3.12.410 Penalties.

(a) Penalty for Late Payment. A penalty shall be levied on any tax deficiency. Such penalty shall be \$15.00 or 10 percent of the tax deficiency, whichever is greater.

(b) Penalty for Fraud. If any tax deficiency is due to fraud or the intent to evade the tax, the penalty shall be 100 percent of the total tax deficiency.

(c) Penalty for Repeated Enforcement. If three notices of assessment have been issued to the same taxpayer within any 36 consecutive months, a special penalty of \$100.00 or 25 percent of the tax due, whichever is greater, shall be levied.

(d) Penalty for Returned Checks. If a taxpayer pays for any tax imposed pursuant to this chapter by check for which there are insufficient funds to cover such check or on a closed account, then the City Manager may assess a penalty against such taxpayer as follows:

- (1) Ten dollars for the first violation;
- (2) Twenty-five dollars for the second violation; and
- (3) Fifty dollars for each additional violation.

(e) Abatement of Penalty. Any penalty assessed in this section may be abated by the City Manager if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the City Manager finds good cause therefor.

(Code 1994 § 34-141; Code 1965 § 24-42)

3.12.420 Interest.

Interest shall be levied on any tax deficiency.

(a) Interest shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid. The monthly interest rate shall be one and one-half percent per month.

(b) When a timely protest is made to a notice of assessment, no additional interest shall be assessed on any tax upheld by the City Manager for the period between the interest date of such assessment and the payment date established in an informal meeting or 30 days after the date of a findings of fact, conclusion and decision issued after a hearing.

(c) The City Manager, at his discretion and for good cause shown, may abate interest assessed on any tax deficiency.

(Code 1994 § 34-142; Code 1965 § 24-43)

3.12.430 Notice of assessment.

The City Manager shall issue a notice of assessment for any total tax liability.

(a) Notices of assessment shall be in writing and delivered in person or sent, postpaid by first class mail, to the last known address of the taxpayer on file with the Finance Department.

(b) The payment due date for the tax due pursuant to a notice of assessment shall be as stated in the notice of assessment.

(Code 1994 § 34-143; Code 1965 § 24-44)

3.12.440 Abatement of tax deficiency.

The City Manager, at his discretion and with good cause therefor and for the purpose of facilitating settlement, may agree to an amount of taxes due which may be less than the actual total tax liability. Payment in accordance with such agreement between the taxpayer and the City Manager fully satisfies the tax liability for the periods and terms set forth in such agreement, unless the taxpayer has committed fraud or malfeasance or misrepresented a material fact regarding the tax or liability thereof.

(Code 1994 § 34-144; Code 1965 § 24-45)

3.12.450 Protest of notice of assessment or denial of refund.

(a) Any notice of assessment for failure to file a return, underpayment of tax owed or as a result of an audit may be protested by the taxpayer or vendor to whom it is issued.

(1) Such protests must be submitted in writing to the City Manager within 20 calendar days from the date of the notice of assessment, and must identify the amount of total tax liability disputed and the basis for the contention that the tax is not due. The time period set forth in this section may, in the absolute discretion of the City Manager, be waived for good cause on written application of a vendor or taxpayer.

(2) When a timely protest is made, no further enforcement action will be instituted by the City for the portion of the assessment being protested unless the taxpayer fails to pursue the protest in a timely manner.

(b) Protest of Denial of Refund. Any denial of a claim for refund may be protested by the taxpayer who submitted the claim. Such protest must be submitted in writing to the City Manager within 20 calendar days from the date of the denial of the refund and shall identify the amount of the denial contested and the basis for the contention that the refund is due. The time period set forth in this section may, in the absolute discretion of the City Manager, be waived for good cause on written application of a vendor or taxpayer.

(c) Any timely protest entitles a taxpayer to a hearing under the provisions of this chapter.

(1) If, in the opinion of the City Manager, the issues involved in such protest are not a matter of interpretation or may be resolved administratively, the City Manager may recommend an informal meeting with the taxpayer.

(2) Participation in such an informal meeting does not prevent either the taxpayer or the City from holding a hearing if the dispute cannot be resolved by such meeting.

(Code 1994 § 34-145; Code 1965 § 24-46)

3.12.460 Hearings.

(a) The City shall commence a hearing within 90 days after the City's receipt of the taxpayer's written protest; except the City may extend such period if the delay is requested by the taxpayer. The City Manager shall notify the taxpayer in writing of the time and place of such hearing.

(b) Every hearing shall be held in the City before the City Manager.

(c) The taxpayer may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required.

(d) Based on the evidence presented at the hearing, the City Manager shall issue findings of fact, conclusions, and a decision which may modify or abate in full the tax, penalties and interest protested at the hearing, approve a refund, or uphold the assessment.

(e) After such hearing, the taxpayer shall not be entitled to a second hearing on the same notice of assessment or denial of refund.

(f) An appeal of a final decision of the City Manager shall be commenced within 30 days of mailing of the City Manager's written decision pursuant to the process set forth in § 29-2-106.1, C.R.S.

(g) Unless the decision of the City Manager is appealed as provided in this chapter, the remaining tax due, if any, shall be paid on or before 30 days after the date of the findings of fact, conclusions and decision.

(Code 1994 § 34-146; Code 1965 § 24-47)

3.12.470 Review by district court.

(a) If the petitioner or if an applicant for a refund is aggrieved by the final decision of the City Manager, then he may appeal to the district court of the County. The procedure shall be in accordance with § 29-2-106.1, C.R.S.

(b) Within 15 days after filing a notice of appeal as provided in subsection (c) of this section, 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 City Manager that are contested on appeal. The taxpayer may, at

his option, 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 accordance with the provisions of § 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest, and other charges stated in the final decision by the City Manager. The taxpayer may, at his option, deposit the disputed amount with the City Manager in lieu of posting a surety bond. If such 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 such appeal has expired, the funds deposited shall be, at the direction of the district court, either retained by the City Manager and applied against the deficiency or returned in whole or in part to the taxpayer. No claim for refund of amounts deposited with the City Manager need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the district court.

(c) Any appeal pursuant to § 29-2-106.1, C.R.S. shall, to the extent allowed by law, be filed on the district court of the County upon a verified petition of the taxpayer filed within 20 days after notice of the decision of the City Manager in any such matter.

(Code 1994 § 34-147; Code 1965 § 24-48)

3.12.480 Appeals.

(a) Subsequent to a hearing, the taxpayer may appeal the decision of the City Manager in district court pursuant to the process in § 29-2-106.1, C.R.S..

(b) Upon appeal to the district court, the taxpayer shall either file with the City Manager a bond for twice the unpaid amount or deposit the unpaid amount with the City Manager.

(Code 1994 § 34-148; Code 1965 § 24-49)

3.12.490 Lien for tax due.

(a) Issuance. If any tax due is not paid by the payment date of a notice of assessment, the City Manager may issue a notice of lien on the real and personal property of the taxpayer. Such lien shall specify the name of the taxpayer, the tax due, the date of the accrual thereof, and the location of the property if known, and shall be certified by the City Manager.

(b) Filing. The notice of lien may be filed in the office of the clerk and recorder of any county in the State. Such filing shall provide additional notice of such a lien.

(c) Priority. The attachment and priority of such a lien shall be as follows:

(1) Such lien shall be a first and prior lien upon the goods and business fixtures owned or used by any taxpayer, including those used under lease, installment sale or other contract agreement, and shall take precedence on all such property over all other liens or claims of whatsoever kind or nature.

(2) Such lien on the real and tangible personal property of the taxpayer that is not goods, stock in trade, and business fixtures shall be a first and prior lien except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached and been perfected prior to the filing of the notice of lien.

(3) The personal property of an owner who has made a bona fide lease to a taxpayer shall be exempt from the lien created in this subsection if such property can reasonably be identified from the lease description and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the county clerk and recorder of the county where the property is located or based.

(4) Motor vehicles which are properly registered in this State, showing the lessor as owner thereof, shall be exempt from such lien except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee.

(5) Where a lessor and lessee are blood relatives or relatives by law or have 25 percent or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for purposes of this section.

(d) **Enforcement Against Real Property.** If a notice of lien is filed against real property, the City Manager may request the City Attorney to file a civil action to enforce such lien. The court may determine the interest in the property of each party, decree a sale of the real property, and distribute the proceeds according to such findings. Procedure for the action and the manner of sale, the period for and manner of redemption from the sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

(Code 1994 § 34-149; Code 1965 § 24-50)

3.12.500 Perpetuance of lien.

(a) Any lien for tax due shall continue until a release of lien is filed by the City Manager.

(b) Any person who purchases or repossesses real or personal property upon which a lien has been filed by the City Manager for tax due shall be liable for the payment of such tax due up to the value of the property taken or acquired.

(Code 1994 § 34-150; Code 1965 § 24-51)

3.12.510 Release of lien.

Upon payment of the tax due or enforcement of the lien, the City Manager shall file a release of lien with the county clerk and recorder of the county in which the lien was filed.

(Code 1994 § 34-151; Code 1965 § 24-52)

3.12.520 Civil action to recover tax due.

(a) Any unpaid tax due shall constitute a debt of the taxpayer to the City and the City Manager may request the City Attorney to file a civil action to collect such tax due.

(b) The return filed by a taxpayer or the notice of assessment issued by the City Manager shall be prima facie proof of the tax due.

(c) If a judgment is obtained by the City, collection of the tax due may be made by attachment, garnishment or other means established by law. When attachment is sought, no bond shall be required of the City Manager, nor shall any sheriff require of the City Manager an indemnity bond for executing the writ of attachment or writ of execution upon any judgment.

(Code 1994 § 34-152; Code 1965 § 24-53)

3.12.530 Jeopardy assessment.

(a) Issuance. If the collection of any tax due from a taxpayer, whether or not previously assessed, may be jeopardized by delay, the City Manager may declare the taxable period immediately terminated, determine the tax, and issue a jeopardy assessment and demand for payment. Any tax so assessed shall be due and payable immediately.

(b) Security for Payment. Enforcement of a jeopardy assessment and demand for payment may be stayed if the taxpayer gives security for payment which is satisfactory to the City Manager.

(c) Dispute of a Jeopardy Assessment. If, in the opinion of the taxpayer, the jeopardy assessment is not for the correct amount of tax due, the taxpayer shall pay the tax due as assessed and submit a claim for refund to the City.

(Code 1994 § 34-153; Code 1965 § 24-54)

3.12.540 Distraint and sale.

(a) Warrant Commanding Distraint. Unless such property is exempt by State statute from distraint, sale, levy or garnishment the City Manager may sign and issue a warrant directed to any employee or agent of the City or any sheriff of any county in the State, commanding him or her to levy upon, seize and sell or convert sufficient of the real and personal property of the taxpayer for the payment of the amount due, together with interest, penalties and costs as may be provided by law, subject to valid preexisting claims or lien.

(b) Who May Act on Warrant. Such employee, agent of the City or sheriff of any county in the State shall forthwith levy upon sufficient of the property of the taxpayer, including account(s) and/or property used by the taxpayer in conducting his retail business, except property made exempt from lien by State statute. The tangible property so levied upon shall be sold in all respects with like effect and in the same manner

as is prescribed by law in respect to executions against property upon judgment of a court of record. The remedies of garnishment shall apply to the taxpayer's account(s) and money.

(c) Application for Warrant. If the taxpayer does not volunteer entry to the premises, the City Manager may apply to the Municipal Court of the City for a warrant authorizing any employee or agent of the City to search for and distrain property located inside the City to enforce the collection of tax due.

(1) The City Manager shall demonstrate to the Court that the premises to which entry is sought contains property that is subject to distraint and sale for tax due.

(2) If a jeopardy assessment and demand for payment has been issued, the City Manager shall specify to the Court why 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 of the Colorado Municipal Court Rules of Procedure.

(d) Disposal of Distrainted Property.

(1) A signed inventory of the property distrainted shall be made by the City or its agent. Prior to the sale the owner or possessor shall be served with a copy of such inventory, a notice of the sum of the tax due and related expenses incurred to date, and the time and place of sale.

(2) A notice of the time and place of the sale, together with a description of the property to be sold, shall be published in a newspaper of general circulation within the county where distraint is made or, in lieu thereof and in the discretion of the City Manager, the notice shall be posted at the courthouse of the county where distraint is made, and in at least two other places within such county.

(3) The time fixed for the sale shall not be less than 10 days nor more than 60 days from the date of distraint. The sale may be postponed by the City or agent for no more than 90 days from the date originally fixed for the sale.

(4) If the property is not sold, such property may be disposed of in the same manner as other City property, such as an annual auction, and the lien thereon shall be reduced by the amount of the net proceeds received.

(5) The property may be offered first by bulk bid, then subsequently for bid singularly or by lots, and the City or its agent may accept the higher bid.

(6) The property offered for sale may be redeemed if the owner or possessor or other person holding a security interest pays the total tax liability and all collection costs not less than 24 hours before the sale.

(7) The City Manager shall issue to each purchaser a certificate of sale which shall be prima facie evidence of its right to make the sale and transfer to the purchaser all right, title, and interest of the taxpayer in and to the property sold.

(i) When the property sold consists of certificates of stock, the certificate of sale shall be notice to any corporation, company, or association to record the transfer on its books and records.

(ii) When the property sold consists of securities or other evidences of debt, the certificate of sale shall be good and valid evidence of title.

(8) Any surplus remaining after satisfaction of the tax due plus any costs of making the distraint and advertising the sale may be distributed by the City first to other jurisdictions which have filed liens or claims of sales and use or personal property ad valorem taxes, and second to the owner, or such other person having a legal right thereto.

(e) Property Subject to Distraint. Property of the taxpayer subject to distraint shall include the personal property of the taxpayer and the personal property of corporate officers deemed to be in a fiduciary position of such sales and use tax, and the goods, stock in trade and business fixtures owned or used by any taxpayer, including those used under lease, installment sale, or other contract arrangement. Property exempt from distraint and sale shall include the personal property described as such in GJMC [3.12.490\(c\)\(3\)](#).

(f) Return of the Property. The taxpayer or any person who claims an ownership interest or right of possession in the distrained property may petition the City Manager, or the Municipal Court if the property was seized pursuant to a warrant issued by the Court, for the return of the property.

(1) The grounds for return of the property shall be that the person has a perfected interest in such property which is superior to the City's interest or that the property is exempt from the City's lien.

(2) The fact finder shall receive evidence on any issue of fact necessary to the decision of the petition. If the fact finder determines by a preponderance of the evidence in favor of the taxpayer or other petitioner, the property shall be returned.

(Ord. 3626, 5-4-04. Code 1994 § 34-154; Code 1965 § 24-55)

3.12.550 Status of tax due in bankruptcy and receivership.

Whenever the business or property of any taxpayer is subject to receivership, bankruptcy or assignment for the benefit of creditors, or is under distraint for property taxes, total tax liability shall be a prior and preferred lien against all the property of the taxpayer. No sheriff, receiver, assignee or other officer shall

sell the property of any such taxpayer under process or order of any court, without first ascertaining from the City Manager the amount of the total tax liability payable under this chapter. Such officer shall pay any total tax liability to the City before making payment to any judgment creditor or other claimants.

(Code 1994 § 34-155; Code 1965 § 24-56)

3.12.560 Violations – Summons and complaint – Penalty.

(a) It shall be a violation of this chapter to fail to perform any applicable affirmative duty specified in this chapter, including, but not limited to:

- (1) The failure of any person engaged in business in the City to obtain a license.
- (2) The failure of any taxpayer to file a timely return or to make timely payment of any tax due.
- (3) The failure of any person to comply with the registration requirements for automotive vehicles.
- (4) The making of any false or fraudulent statement, whether orally or in writing, by any person in any return, claim for refund, application for a license, hearing or as a part of any audit.
- (5) The evasion of collection of any sales tax by any person or the aiding or abetting of any other person in an attempt to evade the timely payment of tax due.

(b) The City Manager may request that the City Attorney issue a complaint and summons to appear before the Municipal Court of the City to any person who may be in violation of this chapter or of the rules and regulations promulgated by the City Manager to enforce this chapter.

(c) A violation of this chapter shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC [1.04.090](#). Each day or portion thereof that any violation of any provision of this chapter exists shall constitute a separate offense.

(Code 1994 § 34-156; Code 1965 § 24-57)

3.12.570 Statute of limitations.

Unless the limitation period has been extended as provided in this section, the statute of limitations for provisions contained in this chapter shall be as follows:

(a) Refunds.

- (1) Any claim for refund for disputed tax shall be submitted to the City on or before 60 days from the date of such purchase.
- (2) Any claim for refund resulting from a notice of overpayment shall be submitted to the City on or before 30 days after the date of such notice of overpayment.

- (3) Any other claim for refund shall be filed on or before three years after the date such overpayment was paid to the City.
- (b) Assessments. Except as otherwise provided in this chapter, no notice of assessment shall be issued more than three years after the due date of such tax due, or for a construction project which requires a City building permit, the date the final certificate of occupancy was issued for such project or final inspection, whichever is later.
- (c) Liens. Except as otherwise provided in this chapter, no notice of lien shall be issued more than three years after the due date of the tax due. If the limitation period is extended, a notice of lien may be filed on or before 30 days from the date of the notice of assessment issued for such extended period.
- (d) Returns.
- (1) When a taxpayer fails or refuses to file a return, the tax due may be assessed and collected at any time.
- (2) In the case of a false or fraudulent return filed with intent to evade tax, the tax due may be assessed, or proceedings for the collection of such tax due may be begun, at any time.
- (e) Protests. No protest of a notice of assessment or denial of a claim for refund shall be valid unless submitted to the City Manager in written form within the period allowed in this chapter.
- (f) Extension. The period of limitation may be extended before its expiration.
- (1) The taxpayer and the City Manager may agree in writing to extend the period.
- (2) If the City provides written notice to the taxpayer prior to the expiration of the period of limitation that the latter's records will be audited pursuant to this chapter, such period of limitation shall be extended for the audit period until 30 days after the date of the notice of assessment or notice of overpayment issued as a result of such audit. "Audit period" is the 36-month reporting period preceding the date of the notice of audit, or if a City building permit is required, the period between the issuance of such building permit and the issuance of a final certificate of occupancy, or final inspection.
- (g) Audits. Performance of an audit does not constitute a statute of limitations or preclude additional audits of the same period within the parameters of this section.

(Code 1994 § 34-157; Code 1965 § 24-58)

3.12.580 Enforcement, collection and delinquency policy.

- (a) The City's enforcement policies and practices relative to sales tax as outlined in this chapter are hereby confirmed and approved for continuation in the day-to-day administration of the City's sales tax.

(b) The following enforcement policies and practices are hereby approved in addition to those contained in this chapter:

(1) Automatic administrative remedies including notice of tax assessments from our sales tax system, loss of vendor's fee, penalties and interest.

(2) Telephone and/or physical visit by customer service staff to location of local vendors to obtain compliance.

(3) Payment arrangements to eliminate delinquency, while keeping current on all required filings and remittances.

(c) If the above procedures fail to achieve compliance more aggressive action will be taken including: turning the account over to the City Attorney for contact, Municipal Court complaint, bank account garnishment, and seizure and sale of assets at public auction.

(d) While proceeding through the above processes, every attempt will be made to coordinate and evaluate conditions of delinquency with the State of Colorado enforcement personnel.

(e) No open and ongoing business will be allowed to continue in operation beyond nine months of delinquency without the seizure and sale of assets being activated; unless a payment arrangement being complied with goes beyond this period. Also failure to comply with a payment arrangement on an account over nine months delinquent will result in immediate seizure of bank accounts and/or business assets.

(Res. 45-04, 5-5-04)

RESOLUTION NO. 10-96

A RESOLUTION PRESCRIBING SALES AND USE TAX RETURN FILING FREQUENCY AND REPORTING DUE DATES

RECITALS:

This resolution prescribing filing frequency and due dates for sales and use tax returns is necessitated in order for the Finance and Administrative services department of the City of Grand Junction to coordinate sales and use tax filing requirements with those of the State of Colorado. Coordination between the City and State is in the taxpayers' and the City's best interest. Such coordination will result in a reduction of the number of sales tax returns filed each year and therefore will not adversely impact the City because administrative cost savings are expected to exceed loss of income from cash flows.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

A. Each taxpayer required to file a sales and/or use tax return pursuant to Article 3.12 of the Grand Junction Code of ordinances shall file a return and pay tax as follows:

1) A taxpayer whose average monthly tax due over the last completed fiscal year is less than fifteen dollars (\$15), shall file a return and pay tax ANNUALLY;

(2) A taxpayer whose average monthly tax due over the last completed fiscal year is less than three hundred dollars (\$300), shall file a return and pay tax QUARTERLY;

(3) A taxpayer whose average monthly tax due over the last completed fiscal year is three hundred dollars (\$300) or more, shall file a return and pay tax MONTHLY.

B. All returns are due on the 20th of the month following the reporting period as stated below:

ANNUAL REPORTING PERIOD DUE JANUARY 20th

QUARTERLY REPORTING PERIODS

January, February, March DUE APRIL 20th

April, May, June DUE JULY 20th

July, August, September DUE OCTOBER 20th

October, November, December DUE JANUARY 20th

MONTHLY REPORTING PERIODS

January - DUE FEBRUARY 20th July..... DUE AUGUST 20th

February DUE MARCH 20th August DUE SEPTEMBER 20th

March DUE APRIL 20th September DUE OCTOBER 20th

April DUE MAY 20th October..... DUE NOVEMBER 20th

May DUE JUNE 20th November..... DUE DECEMBER 20th

June DUE JULY 20th December DUE JANUARY 20th

If a due date falls on a weekend day or a national holiday recognized by the City, the return is due the following business day.

C. The Finance Director shall have sole and absolute discretion in reviewing the filing frequency of any taxpayer and may change the filing frequency of that taxpayer as he deems proper based on the filing requirements prescribed herein.

D. A filing frequency other than prescribed herein may be requested by a taxpayer in writing to the Finance Director. The Finance Director may approve an alternative filing frequency if such does not jeopardize, in the Finance Director's sole and absolute judgment and discretion, the collection of the tax.

E. If a taxpayer is filing other than monthly and becomes delinquent, the Finance Director may upon written notice require the taxpayer to begin filing on a monthly basis.

F. The filing frequency of the taxpayer, once established by the Finance Director upon initial issuance of the sales and use tax license, shall remain so unless changed as described in C.,D., and E. herein.

ADMINISTRATIVE REGULATIONS

[92-01]

REGULATION 3.12.010 ANNEXATION

Tangible personal property, which was purchased prior to the effective date of annexation to the City, of any place of sale or use not previously within the corporate limits of the City of Grand Junction, is not subject to City use tax as a direct consequence of annexation. Use tax may be payable, however, based upon prior use of tangible personal property within the City limits.

Tangible personal property of any person who is engaged in business in the City, as those terms are defined in section 3.12.020, which property is purchased or used subsequent to the effective annexation date, is subject to taxation under the City Retail Sales and Use Tax Ordinance.

[92-02]

REGULATION 3.12.070(c) CONSTRUCTION MATERIALS & FIXTURES USED OUTSIDE CITY

EXEMPTION

A contractor may purchase and take delivery of construction materials and fixtures from a vendor's location inside the City limits without paying City sales tax on the purchases, if such materials and fixtures are not to be used inside the City limits of Grand Junction, subject to the requirements and restrictions set forth.

BUILDING CONTRACTOR

To be entitled to this exemption, a purchaser of construction materials and fixtures must, at the time of purchase, be a building contractor. A building contractor is one who in the normal course of business is involved in construction activity as that term is defined in Section 3.12.020 of the Sales & Use Tax Ordinance.

CONSTRUCTION MATERIALS AND FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and inseparable part of a completed project. Construction materials, include, but are not limited to, such items as:

asphalt	lime
bricks	lumber
builder's hardware	macadam
caulking material	millwork
cement	mortar
concrete	oil
conduit	paint

electrical wiring and connections	plumbing fixtures
fireplace inserts	putty
electrical heating and cooling equipment	reinforcing mesh
flooring	road base
glass	roofing
gravel	sand
insulation	sanitary sewer pipe
lath	wall board
lead	wall coping
sheet metal	wall paper
shrubs/landscaping materials	weather stripping
site lighting	wire netting and screen
steel	water meters and mains
stucco	
tile	
trees	

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and conveying units
plumbing fixtures	awnings & venetian blinds
furnaces, boilers, and heating units	burglar alarm and fire alarm fixtures
air conditioning units	vault doors and equip
refrigeration units	cabinets, counters, and lockers
telephone switchboards and instruments	carpeting
signs	

Construction equipment, machinery, or tools, or parts for repair of such equipment, machinery, or tools are not included in this definition of construction materials or fixtures and, therefore, are not eligible for this tax exemption. Hence, the purchase or short term rental of such items is taxable.

DELIVERY MADE BY SELLER

When the materials purchased are delivered by the vendor, the vendor shall, at the time of delivery, record the point of delivery on the invoice.

USE OF CONTRACTOR'S OWN VEHICLE FOR DELIVERY

When a licensed building contractor purchases construction materials and fixtures within the City limits and delivers such to a project location outside the City limits by using his own vehicle, such contractor must certify to the vendor that the purchased materials and fixtures will be used outside the City limits, in order for the transaction to be tax exempt.

Exemption Certificate Card:

The only acceptable form of certification to the vendor shall be by presentation of an exemption certificate card, **Form #GJ110**, issued by the City Finance Department.

To be entitled to this exemption, the contractor must obtain, from the City, an exemption certificate for each project. The contractor may apply by completing application **Form #GJ100** and submitting it to the City. The application is not complete unless it includes information pertaining to the contractor applying for the exemption, the general contractor on the project (if different from applicant), the ultimate owner of the construction project, the nature and location of the project, and the estimated dates of performance of services on the project. The application shall also include a listing of subcontractors scheduled on the project.

Each exemption certificate card shall list the contractor who applied for the exemption, the subcontractors to work on the project, the date of approval, the address and location of the project outside the City limits, and the exemption certificate number. An exemption certificate number is not transferable and is limited to the contractor who applied for and was approved the exemption, and to the subcontractors and project listed on the exemption certificate. Each certificate shall expire on the 30th day after the contractor's estimated completion of services.

[92-03]

REGULATION 3.12.070(d) PROPERTY FOR DIRECT USE IN MANUFACTURING, PROCESSING, MINING OR IRRIGATION

TANGIBLE PERSONAL PROPERTY SOLD TO PERSONS ENGAGED IN MANUFACTURING, PROCESSING, MINING, OR IRRIGATION

Tangible personal property for the purposes of this section is defined as that property purchased for direct *use* in the purchaser's performance of manufacturing, processing, mining, or irrigation operations conducted entirely outside the City limits of Grand Junction. Such operations might include oil & gas exploration and development, oil shale mining, uranium mining, paper and plastics manufacturing, and irrigation projects.

Tangible personal property purchased for direct use in such operations is exempt subject to the requirements of this regulation. The exemption does **not** apply to the following:

- 1) Tangible personal property used to move materials and supplies to and from job locations outside City limits;
- 2) Consumable office supplies;
- 3) Tools, machinery, or parts for repair of said tools and machinery used by purchaser in business.

USE OF PURCHASER'S OWN VEHICLE FOR DELIVERY

When a person purchases tangible personal property for direct use in such person's operations, as defined above, he may deliver the purchases by using his own vehicle. The purchaser however must certify to the vendor that said purchases will be used entirely outside the City limits in order for the transaction to be tax exempt.

Exemption Certificate Card:

The only acceptable form of certification to the vendor shall be by presentation of an exemption certificate card, **Form #GJ1310**, issued by the City Administrative services Department.

Such an exemption card will be issued on an operating area basis as approved by Finance Department personnel. The purchaser may apply for the exemption card by completing application **Form #GJ1300** and submitting it to the City.

The completed application shall include information pertaining to the purchaser applying for the exemption, the nature of the purchaser's business operations, and the locations of operations. The certificate shall expire by each January 31st.

This exemption applies only to purchasers engaged in manufacturing, processing, mining, or irrigation who conduct such operations solely outside the city limits of Grand Junction.

The exemption certificate card is not valid unless it lists the purchaser who applied for the exemption, the date of approval, the address of the purchaser, the location of operations outside the City limits, the exemption certificate number, the expiration date, and an original signature of a City employee. The exemption certificate number is limited to the purchaser to whom it was issued and to the area of operations as stated on the exemption certificate.

[92-04]

REGULATION 3.12.070(bb) – 3.12.130(a) (c) ESTIMATED PERCENTAGE BASIS OPTION**EXEMPTION**

A contractor who purchases construction materials and fixtures from a vendor inside the City limits is exempt from paying City sales tax on the purchases, if that contractor has paid **use tax** on such materials and fixtures on the estimated percentage basis. The following requirements and restrictions shall apply to entitle such purchaser to this exemption.

APPLICATION

A contractor may elect to pay use tax on construction materials and fixtures used on a project inside the city limits by using the estimated percentage basis. Prior to the issuance of a building permit, the contractor must submit a completed application **Form #GJ300**. The application requires information regarding the contractor and the estimated total cost of the project. After the application is approved by the Finance Department, the contractor shall pay the deposit amount, if applicable, and shall be issued a tax deposit receipt, **Form #GJ310**. For estimated values or contract costs exceeding \$500,000, the deposit amount will only be required on the first \$500,000 value.

TAX DEPOSIT RECEIPT

The retailer must collect the applicable tax unless the purchaser of construction materials and fixtures shows the city issued tax deposit receipt, **Form #GJ310**, as evidence that use tax on such materials has been paid to the city through the estimated percentage basis. The vendor must record the tax deposit receipt number on each invoice on which sales tax was not charged and collected.

ESTIMATED PAYMENT VS. ACTUAL COSTS

Pursuant to Section 3.12.130(c) of the City Code, if total tax liability is more than the deposit made, the contractor shall remit additional use tax due on construction materials and fixtures by the 20th of the month following the earlier of (a) issuance of a certificate of occupancy; (b) actual occupancy, or

(c) completion of the project. If the tax deposit is in excess of calculated use tax on actual cost of construction materials and fixtures used, the contractor may file a claim for refund with the City including all invoices, receipts, and statements supporting such claim; in the absence of such claim, the City shall retain the funds.

CONSTRUCTION MATERIALS AND FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and *inseparable* part of a completed project. Construction materials include, but are not limited to, such items as:

asphalt	lime
bricks	lumber
builder's hardware	macadam
caulking material	millwork
cement	mortar
concrete	oil
conduit	paint
electrical wiring	pipng
and connections	pipe valves
fireplace inserts	and pipe fittings
electrical heating	plaster
and cooling equipment	plumbing fixtures
flooring	putty
glass	reinforcing mesh
gravel	road base
insulation	roofing
lath	sand
lead	sanitary sewer pipe
sheet metal	wall board
shrubs/landscaping	wall coping
materials	wall paper
site lighting	weather stripping
steel	wire netting and
stucco	screen
tile	water meters and
trees	mains

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and
plumbing fixtures	conveying units
furnaces, boilers, and	awnings & venetian blinds
heating units	burglar alarm and fire
air conditioning units	alarm fixtures
refrigeration units	vault doors and equip
telephone switchboards	cabinets, counters, and
and instruments	lockers
signs	carpeting

Construction equipment, machinery, or tools, or parts for repair of such equipment, machinery, or tools are not included in this the definition of construction materials or fixtures and, therefore, are not eligible for this tax exemption. Hence, the purchase or short term rental of such items is taxable.

[92-05]

REGULATION 3.12.130(b) ACTUAL USE TAX ON CONSTRUCTION MATERIALS AND FIXTURES

TAX ON ACTUAL COST OF CONSTRUCTION MATERIALS AND FIXTURES

Contractors who do not elect to pay use tax on construction materials and fixtures on the estimated percentage basis must pay tax on the actual cost of construction materials and fixtures used.

FOR PURCHASES OF CONSTRUCTION MATERIALS AND FIXTURES TO BE USED ON PROJECTS LOCATED INSIDE THE CITY LIMITS

SALES TAX:

For purchases transacted inside the City limits of Grand Junction (e.g., purchaser takes possession of property **inside** City) , sales tax shall be paid directly to the vendor at point of purchase.

USE TAX:

For purchases transacted outside the City limits of Grand Junction (e.g. , purchaser takes possession of property **outside** City), use tax shall be paid to the City in accordance with all applicable reporting rules and regulations.

CONSTRUCTION MATERIALS AND FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and inseparable part of a completed project. Construction materials include, but are not limited to, such items as:

asphalt	lime
bricks	lumber
builder's hardware	macadam
caulking material	millwork
cement	mortar
concrete	oil
electrical wiring	pipng
and connections	pipe valves
fireplace inserts	and pipe fittings
electrical heating	plaster
and cooling equipment	plumbing fixtures
flooring	putty
glass	reinforcing mesh
gravel	road base
insulation	roofing
lath	sand
lead	sanitary sewer pipe
sheet metal	wall board
shrubs/landscaping	wall coping

materials	wall paper
site lighting	weather stripping
steel	wire netting and
stucco	screen
tile water meters and	
trees	mains

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and
plumbing fixtures	conveying units
furnaces, boilers, and	awnings & venetian blinds
heating units	burglar alarm and fire
air conditioning units	alarm fixtures
refrigeration units	vault doors and equip
telephone switchboards	cabinets, counters, and
and instruments	lockers
signs	carpeting

[92-06]

REGULATION 3.12.070(l) (n) CONSTRUCTION MATERIALS & FIXTURES FOR TAX EXEMPT PROJECTS

PURCHASE OF CONSTRUCTION MATERIALS

Any contractor working on a project for which the City’s sales and use tax does not apply (e.g., governmental entity) may be entitled to an exemption for the purchase of construction materials and fixtures inside the City limits for use on that project, by providing proof of the issuance of a State of Colorado tax exempt project identification.

The City will accept State tax exempt identification for construction projects. The purchasers of construction materials and fixtures shall use the exemption number issued by the State as evidence to the retailer that the project is tax exempt. The vendor must record the State exemption number on each invoice on which sales tax was not charged and collected. Subcontractors working on the tax exempt project may also use the State tax exempt identification.

CONSTRUCTION MATERIALS & FIXTURES DEFINED

Construction materials are tangible personal property which become an integral and inseparable part of a completed project. Construction materials include, but are not limited to, such items as:

asphalt	pipe valves
bricks	and pipe fittings
builder’s hardware	plaster
caulking material	plumbing fixtures
cement	putty
concrete	reinforcing mesh

conduit	road base
electrical wiring and connections	roofing
fireplace inserts	sand
electrical heating and cooling equipment	sanitary sewer pipe
flooring	sheet metal
glass	site lighting
gravel	steel
insulation	stucco
lath	tile
lead	trees
lime	shrubs and other landscaping
lumber	materials
macadam	wall board
millwork	wall coping
mortar	wall paper
oil	weather stripping
paint	wire netting and screen
pipng	water meters

Any materials that do not remain as an integral and inseparable part of a completed project are not considered construction materials.

Construction fixtures are tangible personal property that are accessory to a building and which do not lose their identity as accessories when placed or installed. Construction fixtures include, but are not limited to, such items as:

lighting fixtures	elevators, hoists, and conveying units
plumbing fixtures	awnings & venetian blinds
furnaces, boilers, and heating units	burglar alarm and fire alarm fixtures
air conditioning units	vault doors and equip
refrigeration units	cabinets, counters, and lockers
telephone switchboards and instruments	carpeting
signs	

Construction equipment, machinery, or tools, or parts for repair of such equipment, machinery, or tools are not included in this the definition of construction materials or fixtures and, therefore, are not eligible for this tax exemption. Hence, the purchase or short term rental of such items is taxable.

[92-07]

REGULATION 3.12.150 ALTERNATIVE SALES/USE TAX ON CONSTRUCTION EQUIPMENT

ALTERNATIVE SALES/USE TAX RATE ON CONSTRUCTION EQUIPMENT

A contractor who has properly applied for and been approved an alternative sales/use tax rate for construction equipment may pay this rate in lieu of the full City sales/use tax rate of 2.75% on eligible construction equipment.

APPLICATION AND APPROVAL

Application for the alternative rate may be made through the City Finance Department. Application must be made and approval obtained prior to use of equipment inside the City limits. Calculation of the alternative rate is based on individual contractor's revenue activity within the City limits for the most recently completed financial year. Approval of the alternative rate is by the City Finance Director and is effective for 24 months after the date of approval. At the end of the 24 months, the alternative rate must be re-calculated and applied for again.

PAYMENT OF ALTERNATIVE TAX

For eligible construction equipment, the contractor may pay the alternative tax as follows:

- 1) The contractor may pay the full City sales tax rate to vendor at point of purchase or to the Department of Motor Vehicles at point of registration, and then file a claim for refund from the City for the difference between the full rate paid and the approved alternative rate.

or

- 2) The contractor may pay an approved -alternative tax directly to the City of Grand Junction by completing the alternative use tax return (**Form #GJ600**), and remitting the appropriate tax amount. For construction equipment that must be registered, the City will issue the contractor who pays alternative use tax directly to the City, a Use Tax Receipt (**Form #GJ610**) that may be presented to the Department of Motor Vehicles (DMV) upon registration. This receipt will be the only documentation accepted by the DMV as proof that proper sales/use tax has been paid.

ELIGIBLE CONSTRUCTION EQUIPMENT

Eligible construction equipment is equipment that meets the definition of "construction" equipment **and** was purchased by contractor subsequent to December 31, 1990.

CONSTRUCTION EQUIPMENT DEFINED

Construction equipment means any purchased tangible personal property used, owned, operated, or stored by a person engaging in construction activity. **Construction activity** means to build, construct, reconstruct, alter, expand, modify or improve any building, dwelling, other structure, or improvement, on or to real property.

Construction equipment includes, but is not limited to, such items as:

- | | |
|---------------|------------------|
| backhoe | front end loader |
| bulldozer | grader |
| cement mixer | paver |
| compactor | pile driver |
| compressor | power tool |
| concrete pump | roller |
| concrete saw | skid loader |
| conveyer | steam shovel |
| crane | tamper |
| dump truck | trackhoe |
| excavator | truck |
| fork lift | tractor |

[92-08]

REGULATION 3.12.020 WHOLESALE SALES

EXEMPTION

Sales transacted inside the City limits to **licensed** retailers, jobbers, dealers, or wholesalers **for resale** are exempt from taxation, if the following requirements and restrictions are met.

LICENSED

The purchaser of tangible personal property must be currently and properly licensed by the City in order to qualify for this exemption. The purchaser must hold a valid City retail sales tax license.

In instances where the purchaser is not required to obtain a City of Grand Junction retail sales tax license, a State of Colorado sales tax license is acceptable verification of the purchaser's resale status. If a purchaser is from another state, then a properly issued sales tax license from that state shall be acceptable verification of resale status. A **business license only** is not acceptable verification.

The retailer must record a purchaser's retail sales tax license number on all invoices for which sales tax was not charged, or keep such number on file to identify with its respective customer /account number.

FOR RESALE

The seller must reasonably believe that a sale is for resale and not a sale to the final consumer for this exemption to apply. A duty of inquiry is hereby established requiring the seller to make reasonable inquiry/investigation to determine whether a sale is for resale and not a sale to the final consumer. For example, it would not appear reasonable for an Ice Cream retailer to be purchasing hardware supplies for re-sale.

[92-09]

REGULATION 3.12.110 CONTINUOUS POSSESSION, LEASING, RENTALS

When a right to the continuous possession or use, for more than three years, of any article of tangible personal property, with the exception of automotive vehicles, is granted under a lease or contract, and such transfer of possession would be taxable if outright sale were made, such lease or contract shall be considered a sale of such article, and the tax shall be computed and paid upon the periodic rentals paid.

If a lessor has a right to continuous possession or use for three years or less of any article of tangible personal property, with the exception of automotive vehicles, under a lease or contract, and if the lessor has paid the City a sales or use tax on such tangible property upon its acquisition, such lessor shall be exempt from collecting sales tax on the periodic rental payments. The Finance Director may permit a lessor of tangible personal property leased for a period of three years or less to acquire such property free of sales tax if the lessor agrees to collect sales tax on all lease payments received on such property. Once the election is made by the lessor to collect tax on rentals or lease payments, he must continue to operate in this manner. He cannot alternate methods of paying tax on some purchases and collecting tax on rentals or leases on other purchases.

AUTOMOTIVE VEHICLES

Sales tax on the right to continuous possession of automotive vehicles shall be computed and paid as follows: if at the time of vehicle registration, lessor is licensed with the City to collect sales tax, lessor shall collect from lessee sales tax on the periodic rentals charged. If lessor is not licensed with the City to collect sales tax, lessee shall pay sales tax on the total of the periodic lease payments at time of registration.

All taxes collected on the lease are based on the lessee's location when the lease was entered into, and remain in effect until lease ends. If the lessee moves to a different taxing jurisdiction, the taxes do not change to the new jurisdiction; they remain at the original rates and go to the City.

[95-01]

REGULATION 3.12.080(f) EXEMPTION OF MANUFACTURING EQUIPMENT**MANUFACTURING & MANUFACTURING EQUIPMENT**

Manufacturing means the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials.

Manufacturing equipment means machinery or machine tools used directly and exclusively in manufacturing by a person engaged in manufacturing, compounding for sale, profit or use, any article, substance or commodity.

QUALIFYING FOR THE EXEMPTION

In order to qualify for this exemption, a purchase must also qualify for the investment tax credit provided by section 38 of the Internal Revenue Code of 1954, as amended. Generally this requires that the equipment have a useful life of three years or longer.

The purchase order or invoice, excluding blanket or open purchase orders, must be in excess of five hundred dollars (\$500.00).

Leases of equipment used in manufacturing are exempt under the following conditions:

- 1) The lease must be for more than three years;
- 2) The lessee must qualify for the investment tax credit;
- 3) The minimum lease payments must be for more than \$1,000.00 during the three year period; and
- 4) The equipment must be used within the city limits of Grand Junction directly and exclusively in manufacturing.

The equipment must be used exclusively in manufacturing of tangible personal property within the city limits of Grand Junction. If the equipment is purchased for any purpose outside the beginning and ending points of manufacturing, it is not exempt from use tax.

Direct use in manufacturing is deemed to begin at the point at which raw material reaches the first machine involved in changing the form of the material and is deemed to end at the point at which manufacturing has altered material to its completed form, including packaging, if applicable. Equipment used to move personality from one direct production step to another in a continuous flow is

deemed part of direct use. To be used directly in manufacturing, equipment must act upon and have a positive effect on the manufactured article.

The following are **not** direct uses in manufacturing:

- 1) Tangible personal property used for moving raw materials to a plant prior to their entrance into the manufacturing process;
- 2) Tangible personal property used for moving finished goods from a plant after manufacture. This includes vehicles used both to carry manufacturing equipment and to move goods after they are finished. Machinery added to a vehicle, which does not itself qualify for exemption, may qualify for the exemption providing it is used directly and exclusively in the manufacture of tangible personal property;
- 3) Tangible personal property used to transport work in process or semi-finished materials to or from storage;
- 4) Equipment used in normal repair and maintenance;
- 5) Equipment used to test and inspect the product; and
- 6) Equipment used in managerial, sales research and development, or other non-operational activities.

RECEIVING THE EXEMPTION

To receive this exemption, a declaration of entitlement (Colorado Department of Revenue form DR1191) must be timely filed by the purchaser with the vendor of the equipment and the City of Grand Junction Finance Department. A copy must also be kept by the purchaser.

[95-02]

REGULATION 3.12.080 (g) EXEMPTION OF CONSUMABLE MANUFACTURING MATERIALS

MANUFACTURING & CONSUMABLE MANUFACTURING MATERIALS

Manufacturing means the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials. Consumable Manufacturing Materials means tangible personal property used and consumed exclusively and directly in the manufacturing process when such tangible personal property does not become a necessary and recognizable ingredient, component and constituent part of the finished product.

QUALIFYING FOR THE EXEMPTION

In order to qualify for this exemption, a consumable material must be used exclusively in manufacturing of tangible personal property within the city limits of Grand Junction. If the consumable material is purchased for any purpose outside of the beginning and ending points of manufacturing, it would not be exempt, and tax on its value must be paid.

Direct use in manufacturing is deemed to begin at the point at which raw material reaches the first machine involved in changing the form of material and deemed to end at the point at which manufacturing has altered material to its completed form, including packaging if applicable. To be

used directly in manufacturing, a consumable material must act upon, and have a positive effect on, the manufactured article.

The following are **not** direct uses in manufacturing:

- 1) Tangible personal property used for moving raw materials to a plant prior to their entrance into the manufacturing process.
- 2) Tangible personal property used for moving finished goods from a plant after manufacture. This includes vehicles used both to carry manufacturing equipment and to move goods after they are finished. Machinery added to a vehicle, which does not itself qualify for exemption, may qualify for the exemption providing it is used directly and exclusively in the manufacture of tangible personal property.
- 3) Tangible personal property used to transport work in process or semi-finished materials to or from storage;
- 4) Tangible personal property used in normal repair and maintenance;
- 5) Tangible personal property used to test and inspect the product;
- 6) Tangible personal property used in managerial, sales research and development, or other non-operational activities.

RECEIVING THE EXEMPTION

If the exemption applies, the manufacturer does not pay the City of Grand Junction use tax on qualifying consumable materials. If sales tax is paid to a vendor when purchasing qualifying consumable materials, the manufacturer may file a claim for sales tax refund with the City Finance Department.

[95-03]

REGULATION 3.12.060 ANNUAL USE TAX.

USE TAX

Use tax is the tax levied by the City on the use, storage, or consumption of taxable property or services inside the City limits. Use tax is paid by the user **ONLY WHEN** City sales tax was not paid to the seller.

Businesses that do not have a sales tax license with the City remit use tax due once each year

RATE, CALCULATION, CREDITS, AND EXEMPTIONS

The City's use tax rate is 2.75% (the same as the sales tax rate). Use tax due is calculated as 2.75% of the purchase price of items used, stored, kept or consumed in business operations. (Again, use tax only applies to those purchases on which City sales tax was not paid.)

NOTE: The purchase price before any State or County taxes are added should be used when calculating the amount due. Annual use tax is the sum of all use tax due on purchases for the filing year which is the calendar year January 1st through December 31st.

If sales taxes are paid to another municipality, a credit of up to 2.75% can be applied against Grand Junction use tax owed on that purchase.

Items that are exempt from City sales tax are also exempt from City use tax.

ANNUAL RETURN AND MID-YEAR REMINDER MAILINGS

Annual City use tax returns and instructions are mailed in December of the filing year and are due by January 20th of the following year. For example, the return for 1995 would be mailed in December, 1995 and due by January 20, 1996. Annual returns are mailed to a pre-determined list of service industry businesses. NOTE: If a business is not on this list, it does not relieve that business of the requirement to file use tax due pursuant to Chapter 3.12 of the City's code of ordinances. It is the duty of each business to file use taxes whether or not the City contacts the business.

Mid-year reminders are also mailed to the same businesses. The reminders are mailed in June or July of the filing year and discuss the filing requirements for that year. They also explain the use tax giving example calculations and record keeping suggestions.

FILING REQUIREMENTS

If use tax due for any one business is less than \$50.00, that business is not required to file the annual use tax return or pay the use tax due. If an annual use tax return is not filed with the City, the City will assume that the use tax liability, if any, falls below the minimum of \$50.00; the business assumes the risk of any error since penalties and interest apply to any amount which are due but late. All individuals and businesses are and remain responsible for determining and paying any tax liability.

[98-01]

REGULATION 3.08 and 3.12.050(h) LODGING SERVICES

DEFINITION

Lodging services means the furnishing of rooms or accommodations by any person to another person who for consideration uses, possesses, or has a right to use or possess any room in a hotel, inn, bed and breakfast, residence, apartment, 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 30 days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

TAXABILITY

The *full price* charged for lodging services as defined is subject to **City sales tax of 2.75% and lodging tax of 3%**. *Full price* includes added costs for the room such as rollaway beds, cribs, pet surcharges, etc.

EXEMPTIONS

Charges for banquet/meeting rooms along with services such as laundry services, fax services, valet services and other such services are not subject to sales tax or lodging tax. Equipment rental for banquet/meeting rooms *is subject to City sales tax* if no City sales/use tax was paid when the equipment rental inventory was purchased. Equipment rental for banquet/meeting rooms is not subject to lodging tax.

Lodging services provided for 30 consecutive days or more are not subject to sales or lodging tax. For this exemption to apply to contract billings (i.e., SkyWest, Roadway, etc.), there must be a written agreement for occupancy for a period of 30 consecutive days or more and the company/lodger must be billed based on a monthly contract rate, not daily rate. For instance, if the company needs three rooms

per day for 30 or more consecutive days, they must pay for the three rooms for the whole month whether the rooms are used or not. If the company needs more than three rooms on a particular day but not for the whole month, the additional rooms are subject to sales and lodging tax.

Government employees, educational & religious groups, and charitable organizations are exempt from sales and lodging tax. See City of Grand Junction FYI *How to Document Tax-Exempt Sales* for information on requirements and documentation needed.

TELEPHONE CHARGES BY HOTEL/MOTELS:

The charges for local and long distance telephone calls are subject to City sales tax but not lodging tax. See Regulation [98-02] 3.12.050(b) *Telephone Charges By Hotels/Motels* for further information and clarification.

TAXABILITY OF ITEMS PURCHASED BY HOTEL/MOTELS

GUEST AMENITIES:

Such supplies as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, coffee and other items available for guests use are **not subject to sales or use tax** at the time of purchase by the hotel or motel.

Linens, furniture, pool equipment and supplies, and similar items **are** subject to sales or use tax at the time of purchase by the hotel or motel.

CONTINENTAL BREAKFASTS:

If a continental breakfast is provided for guests of a lodging service at no extra charge if either accepted or declined, the food, drink, paper and plastic supplies used to provide the continental breakfast to the hotel/motel guests are **not subject to City sales or use tax** at the time of purchase by the hotel or motel.

[98-02]

REGULATION 3.12.050(b) TELEPHONE CHARGES BY HOTELS/MOTELS

Hotels and motels that charge as a separate cost for local and/or long distance telephone calls are required to collect and remit sales tax to the City of Grand Junction on the markup of the telephone charge. This tax is in addition to any tax(es) the hotel/motel remits to the telephone utility for line charges, availability or administrative costs on local and long distance phone calls.

LONG DISTANCE CALLS

All long distance calls (intrastate, interstate, and international) are subject to City sales tax, whether the calls are placed by guests or staff. The entire amount hotels/motels charge their patrons for long distance telephone calls (including markup) is subject to tax. The amount hotels/motels paid the long distance carrier for the calls may be taken as a deduction on the sales tax return. These transactions are reported on the City of Grand Junction Sales/Use Tax Return as follows:

The full amount charged for long distance calls (not including the sales tax) by the Hotel/Motel shall be included in Gross Sales reported on the City of Grand Junction Sales/Use Tax Return. The amount the hotel/motel paid for the long distance calls (not including the

taxes charged by the long distance carrier) may be deducted as an “Other Deduction” on the City of Grand Junction Sales/Use Tax Return.

LOCAL CALLS

Any charge to the guest and/or patron for local calls is subject to sales tax. Hotels/motels that charge for local calls may take a deduction on their sales/use tax return for monthly line charges (not including taxes paid to the carrier). This deduction is limited to the lines dedicated or calls made by customers from their rooms and does not include lines used for calls by sales or administrative staff nor does it include dedicated fax or computer lines. If telephone lines are dedicated to room use, a deduction can be taken for the cost of those lines. If it cannot be determined which lines are dedicated or if lines are not dedicated to a particular use, the deduction can be determined by applying the following formula:

Divide the number of local calls billed to patrons by the total number of local calls made from the hotel/motel. Then, multiply the result by the total line charges paid to the telephone company for local service.

As with long distance calls, the full amount charged for local calls (not including the sales tax) by the Hotel/Motel shall be included in Gross Sales reported on the City of Grand Junction Sales/Use Tax Return. The line charges as determined above (not including the taxes charged by the carrier) may be deducted as an “Other Deduction” on the City of Grand Junction Sales/Use Tax Return. The amount deducted cannot be more than the amount included in Gross Sales.

[98-03]

REGULATION 3.12.050(i) VENDING MACHINES

Any person or company who removes the receipts from vending machines is liable for remitting City sales taxes on the vending machine revenues. If a person or company only receives a fixed fee or a percentage of receipts from vending machine(s), and has no access to the machine, then such person or company is not liable for remitting sales tax. Typically, the owner or lessor of a machine periodically replenishes the machine, removes the receipts and remits sales tax on the proceeds. In some cases a lessee or operator stocks the machine and removes the money, which would require that the lessee or non-owner operator be liable for remittance of sales tax.

DEFINITION

A vending machine is a money-operated (coins or bills) machine offering tangible personal property and/or food and/or drink to a consumer. This definition does not include such things as video games, pinball machines, pool tables or other money-operated machines which do not dispense food, drink or other tangible personal property. Machines where players *may* receive a toy(s)/prize(s) require tax to be paid on the merchandise as it is purchased for use in the machine, rather than payment of tax on collection of the machine's gross receipts.

LICENSING

Owners, operators, lessors and lessees of vending machines who control the receipts of vending machine(s) must have a City of Grand Junction sales tax license.

TAXABILITY OF ITEMS

Items selling for 15 cents or less are exempt from sales tax. If the item vends for more than 15 cents, the sales tax is calculated on the vended price; subtracting the first 15 cents from the items you sell is illegal.

HOW TO CALCULATE GROSS SALES

For the example cited below, if your total vending machine collections in Grand Junction are \$500, the computation would be as follows (based on tax rates in effect on the publishing date of this Regulation): Colorado sales tax is 3 percent, Mesa County sales tax is 2 percent, and the Grand Junction sales tax is 2.75 percent, for a total of 7.75 percent.

\$500 divided by 1.0775 = \$464.04

Gross sales, therefore, would be \$464.04 not including tax. This amount would be included in your gross sales reported on Line 1 of your City Sales/Use Tax Return.

ADMINISTRATIVE INTERPRETATION

MAINTENANCE AND SERVICE CONTRACTS

AUGUST 22, 1994 *(Revised 6/18/96, 6/26/01)*

Warranty and maintenance services relating to tangible personal property are taxable services under Chapter 3.12 of the City of Grand Junction Code of Ordinances. Therefore, maintenance and service contracts are subject to City sales and use taxes as follows:

NOTE: All vendors of maintenance and service contracts must be properly licensed with the City of Grand Junction.

If a contract is *mandatory and part of the purchase price* of item to be maintained or serviced, the full contract price is subject to sales tax and the vendor of the contract must collect, report, and remit the appropriate tax to the City.

If a contract is *optional and sold separately* from the item to be maintained or serviced, sales tax is not collected on the full contract price at the time of the sale. When performing the warranty or maintenance service the vendor of the contract has two options regarding the payment of City tax.

- 1) The vendor may separately identify tangible personal property (parts, supplies, and materials) and labor/service sold on the invoice to the customer. Sales tax must then be charged and collected on the sales price of the total tangible personal property sold to the customer as part of the maintenance and service contract. Labor or service charges are not subject to sales tax *as long as they are separately identified*. The vendor shall then report and remit sales tax in accordance with City policies and procedures.

or

- 2) The vendor may choose not to separately identify tangible personal property sold as part of the maintenance contract. In this case the vendor must pay **SALES** or

USE tax on the actual cost of tangible personal property (parts, supplies, and materials) used in the performance of the contract. The vendor shall pay **SALES** tax when purchasing tangible personal property from a seller who is licensed to collect Grand Junction city sales tax. When City sales tax is **not paid** upon purchase of tangible personal property, the vendor shall report and remit **USE** tax in accordance with City policies and procedures. The vendor may make application to the Finance Director for permission to use a percentage basis of reporting tangible personal property costs.

NOTE: Once a vendor has chosen one of the two options, the vendor must be consistent in the application of the option to **all** transactions.

EQUIPMENT USED IN THE PRODUCTION OF ELECTRICITY FROM A RENEWABLE ENERGY SOURCE

March 6, 2008

The sale of manufacturing equipment, as defined by Section 34-102 of the Code of Ordinances, was exempted from use tax under Ordinance No 2810. This interpretation expands that exemption to include the following:

- Machinery and machine tools, or parts for such machinery, used in the production of electricity from a renewable energy source, including but not limited to wind.

The exemption for purchases of renewable energy electricity production machinery and parts applies whether or not the purchases are capitalized or expensed. This exemption applies to the machinery, such as the wind generator or solar panel, but not to supporting structures or to transmission lines coming from the machinery. This exemption is applicable for both commercial and residential installations.

The effective date of this interpretation is January 1, 2008.

FREIGHT, DELIVERY AND TRANSPORTATION

November 2, 2005

The transportation of tangible personal property between a retailer and a purchaser is a service presumed to be not subject to sales or use tax. Transportation charges are not taxable if they are **both** (1) separable from the sales transaction, **and** (2) stated separately on a written invoice or contract.

Transportation charges: include carrying, handling, delivery, mileage, freight, postage, shipping, trip charges, stand-by and other similar charges or fees.

Separable charges: Transportation charges are separable from the sales transaction if they are performed after the taxable property or service is offered for sale and the seller allows the purchaser the option either to use the seller's transportation services or use alternative transportation services (including but not limited to the purchaser picking up the property at the seller's location). The fact that transportation charges are stated separately does not, in and of itself, mean the charges are a separable charge.

Stated separately: Transportation charges will be regarded as “separately stated” only if they are set forth separately in a written sales contract, retailer’s invoice or other written document issued in connection with the sale.

Intermediate or “freight in” charges: Transportation charges incurred in connection with transporting tangible personal property from the place of production or the manufacturer to the seller or to the seller’s agent or representative, or to anyone else acting in the seller’s behalf, either directly or through a chain of wholesalers or jobbers or other middlemen, are deemed “freight-in” charges and are not a transportation charge exempt from tax.

Overstated transportation charges: The amount of transportation charges excluded from the calculation of tax shall be the amount of transportation charges separately stated, provided that such separate statement is not to avoid the tax upon the actual sales price of tangible personal property.

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