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## Chapter 3.04

### Capital Improvement Fund

#### Sections:

- 3.04.010 Established
- 3.04.020 Source of funds

#### **3.04.010 Established.**

There is established a fund to be known as the capital improvement fund pursuant to the provisions of Article VII, Part III, Section 27 of the Charter of the city. (Ord. 421 §1, 1974)

#### **3.04.020 Source of funds.**

The excess, unbudgeted funds of the city for the year 1974 are transferred to the capital improvement fund for the payment of sewer, water and other capital improvements made by the city during the year 1974. Any funds so transferred may be used for the purposes set forth in this chapter in any year in which payment for the same shall be due and payable. From and after the year 1974, there shall be budgeted in the annual appropriations ordinance of the city such funds as the city council shall deem necessary to be placed in the capital improvement fund. (Ord. 421 §2, 1974)

## Chapter 3.06

### Public Utilities' Depreciation and Obsolescence Accounts

#### Sections:

- 3.06.010 Established
- 3.06.020 Excess cash to be allocated to accounts

#### **3.06.010 Established.**

Depreciation and obsolescence investment accounts are established for each utility operated by the city, including water, wastewater and refuse. (Ord. 757 §4 (part), 1990)

#### **3.06.020 Excess cash to be allocated to accounts.**

For the year 1989 and thereafter, excess cash remaining in an enterprise fund at year end shall be retained in the fund from which it was generated and allocated to the depreciation and obsolescence investment account; provided, however, that such allocation does not reduce working capital in the enterprise fund to zero or below. (Ord. 757 §4 (part), 1990)

## Chapter 3.08

### Purchasing

#### Sections:

- 3.08.010 Definitions
- 3.08.020 Purchasing agent; duties
- 3.08.030 Authorizations required
- 3.08.040 Formal competitive bidding
- 3.08.050 Bid opening
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- 3.08.100 Disposal of city-owned property

#### **3.08.010 Definitions.**

For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. *Supplies* includes all supplies, materials and equipment procured by the city or any of its departments or agencies.

B. *Service contracts* covers agreements and contracts for maintenance and repair on or rental of equipment of machinery, but excludes professional service contracts.

C. *Construction contracts* includes contracts for construction installation, major maintenance or repair of public buildings, facilities or works.

D. *Professional and technical contracts* are specialized design management, consulting or similar service contracts including but not limited to:

1. Engineering services;
2. Architectural and design services;
3. Materials testing services;
4. Legal, medical and insurance services;
5. Appraisal services;
6. Consulting services;
7. Accounting services; and

8. Court reporting services. (Ord. 542 §1, 1980)

**3.08.020 Purchasing agent; duties.**

A. Duties of Purchasing Agent. The responsibilities of the purchasing agent shall be in accordance with Article VII, Part IV of the city's Charter. The purchasing agent shall perform all duties required by state statutes and the city's Charter, and shall be responsible for the centralized control of the purchasing of supplies. The purchasing agent shall maintain lists of prospective vendors or bidders by the type of supplies, services or construction work. Applications shall be actively solicited, accepted and processed and qualified applicants placed on such lists at any time.

B. Purchasing and Contracting Procedures. All purchasing and contracting shall be accomplished in the best interests of the city.

1. Whenever feasible, purchasing shall be done in bulk in order to take full advantage of discounts. Departments shall be responsible for anticipating needs in a timely fashion in order to consolidate and expedite procurement of the same type of supplies or construction contracts.

2. City purchasing or contracting shall be performed so as to secure for the city the highest quality in supplies and contractual services at the least expense. Payments to vendors or contractors shall be expedited whenever possible in order to realize discounts and enhance the city's reputation as a responsible customer.

3. Full and open competition shall be encouraged in bidding for supplies or construction contracts and uniform bidding shall be discouraged. Specifications, bidding procedures, forms and contract terms shall be simplified as much as possible in order to encourage participation in bidding.

4. Vendors or contractors who perform unsatisfactorily or default on terms of their bid may be declared irresponsible bidders and be disqualified from receiving any business from the city for a stated period of time. No vendor or contractor shall be declared an irresponsible bidder until an opinion regarding the same has been obtained from the city attorney's office.

5. Notwithstanding any provision to the contrary, the provisions of this chapter shall not be applicable to the leasing, rental or acquiring of real property, including improvements thereon. (Ord. 542 §2, 1980)

**3.08.030 Authorizations required.**

No purchase shall be made unless said purchase is authorized by the proper department head, or his or her designated and authorized representative, or by the city council. No single purchase for goods exceeding one hundred dollars (\$100.00) shall be made without a purchase order signed by the purchasing agent. No purchase of equipment or services shall be made until the finance department certifies that a sufficient unencumbered balance exists in the appropriate department's budget. (Ord. 542 §3, 1980)

### **3.08.040 Formal competitive bidding.**

All supplies, service contracts other than professional service contracts, and construction contracts, except as otherwise provided in this chapter, with an estimated cost in excess of two thousand five hundred dollars (\$2,500.00), shall be awarded through formal written bid procedures. After due notice inviting proposals, purchase orders and contracts shall be awarded to the lowest responsible bidder.

#### **A. Bid Procedure for the Purchasing of Supplies and Equipment with an Estimated Cost Exceeding Two Thousand Five Hundred Dollars (\$2,500.00).**

1. Notice inviting bids shall be published at least three (3) times in an area newspaper, in the ten (10) days preceding the public bid opening. Other publications of various types may be utilized as deemed necessary in addition to the required publication. Notice shall include a general description of the supplies or general services to be purchased or sold, or the facilities to be constructed, where bid specifications and forms may be secured, deadline for submission of bids, and time and place for opening bids.

2. When deemed necessary by the city, bid bonds or deposits may be required. A bid bond shall be required for any bid in excess of one hundred thousand dollars (\$100,000.00).

#### **B. Bid Procedure for Construction Contracts (as defined by Subsection C of Section 3.08.010).**

1. Notice inviting bids: Same as set forth in subdivision 1 of subsection A of this section.

2. Bid deposits: Same as set forth in subdivision 2 of subsection A of this section.

3. Performance bonds: A bond for the proper performance of any contract may be waived, unless specifically required. The form and sufficiency of a bond shall be subject to the approval of the city attorney.

a. A performance bond shall be required of any person, company, firm or corporation entering into a contract with the city for the construction of any public building or the prosecution or completion of any public works in excess of fifty thousand dollars (\$50,000.00).

4. Lien waivers: All persons, companies, firms or corporations entering into contracts with the city in excess of ten thousand dollars (\$10,000.00) shall be required to provide to the city lien waivers for that project, prior to final payment. In addition, the amount of retainage to be held by the city for all projects in excess of fifty thousand dollars (\$50,000.00) shall be ten percent (10%) of the contract amount. For those contracts of less than fifty thousand dollars (\$50,000.00), the retainage amount shall be equal to five percent (5%) of the contract amount. Retainage amount shall be paid only upon successful completion of the contract.

#### **C. Bid Procedure for Professional and Technical Service Contracts.**

1. At the option of the city, professional and technical services can be obtained in the following manner:

a. Selection of a firm or firms after entertaining proposals for services. Said proposals shall be made at a city council meeting and only after a request for proposal has been solicited from the firm in question by the city; or

b. Selection of a firm or firms based on past performance and service to the city which has been satisfactory. Such selection shall be made at a council meeting after the proposed contract for services has obtained the approval of the city attorney and the city council. (Ord. 542 §4, 1980)

**3.08.050 Bid opening.**

A. Sealed Bids shall be submitted sealed and shall be identified as bids on the envelope.

B. Opening. Bids shall be opened in public at the time and place stated in the public notice, unless all bidders are notified of a change by written addendum. (Ord. 542 §5, 1980)

**3.08.060 Rejection of bids.**

City staff may recommend to the city council the rejection of all bids, parts of bids, or all for any one (1) or more supplies or construction projects included in a proposed contract when the public interest will be served thereby. (Ord. 542 §6, 1980)

**3.08.070 Award of contract.**

Contracts for purchase of supplies or construction work shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, the city council shall consider:

A. The ability, capacity and skill of the bidder to perform the contract or furnish the supplies required;

B. Whether the bidder can perform the contract or furnish the supplies promptly, or within the time specified, without delay or interference;

C. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

D. The quality of performance on previous contracts;

E. Previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

F. Sufficiency of financial resources and ability of the bidder to perform the contract or furnish the supplies;

G. The quality, availability and adaptability of supplies or contractual services to the particular use required;

H. The ability of the bidder to provide future maintenance and service; and

I. The number and scope of conditions attached to the bid. (Ord. 542 §7, 1980)

**3.08.080 Award to other than lowest bidder.**

A. When it appears appropriate not to make the award to the lowest bidder or special and unusual circumstances exist, a full and complete statement of the reasons for the recommendation shall be prepared by the city attorney and filed with the papers relating to the transaction. No award to a person, firm or corporation who is other than the lowest bidder shall be made until a legal opinion regarding the same is obtained from the city attorney's office.

B. Tie Bids. The bids shall be awarded by drawing lots in public, except that if bids received are for the same total amount or unit price and the quality and service, as described in Section 3.08.070 are equal, the contract shall be awarded to a local bidder. (Ord. 542 §8, 1980)

**3.08.090 Informal competitive bidding.**

A. Contracts for supplies, construction and maintenance may be accomplished in the open market through informal competitive bidding procedures under either of the following circumstances:

1. The estimated cost is less than twenty-five hundred dollars (\$2,500.00); or

2. Market conditions or special circumstances necessitate that informal bidding procedures be used or that the following conditions apply:

a. Standardization of parts, modules, accessories or additions will minimize excessive inventory or maintain compatibility with existing furnishings or installations.

b. Used, discontinued or otherwise unique equipment or supplies become available or are offered only for a limited time and may be acquired at considerably below the cost of similar new or regular items.

c. Closer location, more advantageous time allowances or similar variable factors can reduce the total cost of the product or service.

d. It is not feasible to prepare definite, certain and precise written specifications.

e. Formal, competitive bidding procedures have failed to provide sufficient responsible bidders.

f. The city has been obligated by past annexation or other agreements to enter into a contract with only one (1) principal.

g. A vendor offers to extend an existing contract under the same conditions and at the same lower price, and such extension is in the best interest of the city.

h. It is to the city's advantage to obtain parts, repair or service on existing equipment from local factory authorized dealer or distributor.

i. Supplies are perishable or cannot be purchased on ordinary procedures because of imminent spoilage or decay.

B. Informal bidding procedures shall, whenever possible, be based upon at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with criteria set forth in this section. Solicitation for bids may be made orally or in writing. (Ord. 542 §9, 1980)

**3.08.100 Disposal of city-owned property.**

All sales of obsolete or unusable property with an estimated cumulative value in excess of one hundred dollars (\$100.00) shall be through formal written bid, or by public auction, to the highest bidder, after due notice inviting proposals. (Ord. 542 §10, 1980)

**Chapter 3.10**

**Transfer of Real Property**

Sections:

- 3.10.010 Transfer of water, sewer or other utility property
- 3.10.020 Sale or transfer of other city-owned real property
- 3.10.030 Lease of real property
- 3.10.040 Intergovernmental transfers of property
- 3.10.050 Method of marketing real property
- 3.10.060 Appraisal, survey and title work
- 3.10.070 Purchase of real property

**3.10.010 Transfer of water, sewer or other utility property.**

The sale, lease or disposition of water, sewer or other utility property shall be authorized by a vote of the electors as required by Article III, Section 2(3)(f) of the Charter. An election shall not be necessary for real property which is not in use or has been abandoned for use as part of the water, sewer or other utility plants or systems. Upon a finding by the city council of nonuse or abandonment, such property shall be authorized for sale, lease or other transfer by ordinance. (Ord. 897 §1, 2001)

**3.10.020 Sale or transfer of other city-owned real property.**

The city council shall authorize the sale or transfer of all other real property by ordinance. Where feasible, the city council shall first pass a resolution or motion stating the intent to sell real property, designating the method of marketing of the property and further instructing staff as how to proceed. Prior to closing of the sale of real property, the city council shall authorize the sale or transfer by nonemergency ordinance. Any contract to sell real property shall be conditioned upon authorization by ordinance of the sale and shall be voidable by the city until the ordinance is finally passed. (Ord. 897 §1, 2001)

### **3.10.030 Lease of real property.**

The city council may authorize the lease of real property by motion or resolution, except for the lease of water or sewer utility property required by Charter and Section 3.10.010, to be approved by vote of the electors. (Ord. 897 §1, 2001)

### **3.10.040 Intergovernmental transfers of property.**

The city may enter into exchanges or otherwise transfer real property to another branch of local, state or federal government when such a transfer is in the best interest of the city or for the public good. Any intergovernmental agreement describing the transfer shall be approved by ordinance. This section shall not apply to water, sewer or other utility property which can only be transferred after authorization by vote of the electors pursuant to Section 3.10.010. (Ord. 897 §1, 2001)

### **3.10.050 Method of marketing real property.**

The city council shall determine how to offer city-owned real property for sale. The city council shall choose a method which allows for adequate notice to the public and which is likely to achieve a greater return to the city. The city council may choose to market the property by public auction or bid, to list the real property with a real estate broker or some other method. (Ord. 897 §1, 2001)

### **3.10.060 Appraisal, survey and title work.**

The staff shall obtain an appraisal, a survey of the property and a title commitment prior to the sale of any real property under this chapter. (Ord. 897 §1, 2001)

### **3.10.070 Purchase of real property.**

The purchase of real property shall be authorized by resolution after the staff has completed due diligence in obtaining an appraisal, survey and title commitment. (Ord. 897 §1, 2001)

## **Chapter 3.12**

### **Basic Local Exchange and Utility Services Business and Occupation Tax**

Sections:

- 3.12.010 Findings
- 3.12.020 Name of the tax
- 3.12.030 Definitions
- 3.12.040 Tax levied
- 3.12.050 Effective date/schedule of payment
- 3.12.060 Statement of lines
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- 3.12.080 Failure to pay – penalty – city action to collect
- 3.12.090 Inspection of records
- 3.12.100 Tax in lieu of certain other consideration

- 3.12.110 Penalty
- 3.12.120 Liabilities to continue
- 3.12.130 Statute of limitations

### **3.12.010 Findings.**

The council finds:

A. Companies offering regulated local exchange services and gas and electric utility service are currently subject to a business and occupation tax on the business and occupation of providing such services to the residents of the city. The city enacted a tax in 1985 and has continuously maintained that tax since that date;

B. When the current section of the city's business and occupation tax was enacted, the businesses and occupations taxed were provided by a monopoly provider under state law. However, the provision of services by these businesses and occupations has become (with respect to Basic Local Exchange Service) or may become (with respect to Gas and Electric Utility Service) competitive pursuant to both federal and state law;

C. The federal Telecommunications Act of 1996 specifically encourages new entrants to compete in the telecommunications marketplace and requires local ordinances to be competitively neutral and without barriers to entry;

D. Currently, Basic Local Exchange Service is, and in the future the provision of gas and electric service within the city may be, offered by multiple providers;

E. The city's current business and occupation tax is written in such a way as to create the possibility that new entrants would be subject to different requirements than those imposed upon the incumbent Providers;

F. The city's business and occupation tax on competitive Providers of Basic Exchange Service and Gas and Electric Service should be uniform and nondiscriminatory and should not create barriers to entry;

G. The business and occupation tax set forth in this chapter recognizes the potential differences in size of competitive Providers of Basic Local Exchange Services and Gas and Electric Utility Service that may operate within the city is uniform and nondiscriminatory and does not create barriers to entry;

H. The business and occupation tax set forth in this chapter is not a new tax, a tax rate increase, an extension of an expiring tax, an increase in a tax or a tax policy change directly causing a net tax revenue gain to the city; and

I. The business and tax amendments contained in this chapter are nondiscriminatory to all competitive Providers of Basic Local Exchange Service or Gas and Electric Utility Service because they are based upon the number of lines (for Basic Local Exchange Service) or accounts (for Gas and Electric Service) each company provides within the city. (Ord 978 §1, 2008)

### **3.12.020 Name of the tax.**

The tax imposed upon Providers pursuant to this chapter shall be called and referred to as the "Craig Basic Local Exchange and Utility Services Business and Occupation Tax" (hereinafter within this chapter "Business and Occupation Tax"). (Ord. 978 §2, 2008)

### **3.12.030 Definitions.**

As used in this chapter:

*Account* means each individual account that is billed for either Gas or Electric Service to any Inhabitant within the city.

*Account Number* means the number of Accounts existing on the first day of the month for Gas and/or Electric Utility Services.

*Base Account Number* means the total number of Accounts for which any company provides Gas or Electric Utility Service existing within the city on July 1, 2008.

*Basic Local Exchange Service* means "basic local exchange service" or "basic service" authorized by a Certificate of Public Convenience or Necessity or otherwise, under Title 40, Article 15, C.R.S., as amended or recodified from time to time, or by regulations promulgated thereunder.

*Base Line Count* means the total number of Lines for which the Incumbent Provider provides Basic Local Exchange Service within the city on July 1, 2008.

*Electric Utility Service* or *Electric Service* refers to the sale or delivery of electricity to Inhabitants by any entity under authority granted by and rates approved by the Colorado Public Utilities Commission ("PUC").

*Gas Utility Service* or *Gas Service* refers to the sale or delivery of natural gas to Inhabitants by an entity under authority granted by and rates approved by the PUC.

*Incumbent Provider* means any company or entity authorized by the PUC to provide basic local exchange service and providing such service, within the city, as of February 8, 1996.

*Inhabitant* means any individual, corporation, partnership, joint venture, company, firm, association or other entity residing or having a place of business within the city.

*Line* means a separate telephone number or telephone circuit identification number provided to a customer at retail, except that, to the extent a Provider provides basic local exchange service through trunks, a *line* means a network access register or its functional equivalent provided to a customer at retail.

*Line Count* means the number of lines sold to Inhabitants at retail during the preceding month for basic local exchange services.

*New Provider* means, with respect to Basic Local Exchange Service, any company, partnership, joint venture, association, proprietorship, individual or entity other than the Incumbent Provider who enters the business of providing Basic Local Exchange Service within the city after February 8, 1996, and with respect to gas and/or electric utility service means any company, partnership, joint venture, association, proprietorship, individual or entity other than the entity providing such service to Inhabitants within the city as of the effective date of the ordinance codified herein.

*New Provider's Initial Line Count* means the number of lines for which a New Provider provides Basic Local Exchange Service within the city thirty (30) days after that New Provider's effective date under Section 3.12.050 herein.

*Provider* means a company or entity providing Basic Local Exchange Service or Gas or Electric Utility Service through the use of its own facilities, through resale or through any combination of the two (2). (Ord. 978 §3, 2008)

### **3.12.040 Tax levied.**

A. There is levied on and against each Provider operating within the city a tax on the occupation and business of providing retail Basic Local Exchange Service and Gas and Electric Service to Inhabitants of the city.

B. With respect to existing Providers of retail Basic Local Exchange Service, the monthly liability for such tax shall be an amount equal to the per-line rate, to be calculated in accordance with this subsection, multiplied by the Line Count. The monthly per line rate shall be calculated one (1) time by dividing the amount of business and occupation tax due to the city on behalf of the Provider on July 1, 2008, by the Base Line Count, the result of which shall be divided by twelve (12). Such formula can be represented as follows:

$$\text{(Payment due on July 1, 2008 / Base Line Count) / 12} \\ = \text{per-line rate}$$

C. With respect to Providers of Electric and/or Gas Utility Service, to the extent that there is competition in the provision of such service within the city, the monthly liability for such tax shall be an amount equal to the per-account rate, to be calculated in accordance with this subsection, multiplied by the Account Number. The monthly per-account rate shall be calculated one (1) time by dividing the amount of business and occupation tax due to the city on behalf of the Provider on July 1, 2008, by the Base Account Number, the result of which shall be divided by twelve (12). Such formula can be represented as follows:

$$\text{(Payment due on July 1, 2008 / Base Account Number) / 12} \\ = \text{per-account rate}$$

Any Provider of Electric and/or Gas Utility Service that has been authorized under state law to be the sole, monopoly provider of such service within all or part of the city shall continue to pay such business and occupation tax in a fixed sum equal to three percent (3%) of the gross revenues received by such utility for the calendar year of 1985, arising from the supplying, furnishing, distributing and selling of artificial or natural gas, electricity or electrical energy. At such time as any competing Providers may be authorized to provide, and do in fact begin to provide such service, the tax shall be calculated on the per-account basis as described in this subsection.

D. The finance director shall communicate by U.S. Postal Service such calculated monthly line rate and/or account rate to all current Providers subject to the per-line and/or per-account calculations not later than August 1, 2008, and shall make such rate available to all future Providers. (Ord. 978 §4, 2008)

**3.12.050 Effective date/schedule of payment.**

A. For each Provider, the tax levied by this chapter shall commence on August 1, 2008, or on the date the Provider first provides Basic Local Exchange Service or Gas or Electric Service within the city, whichever is later. The tax shall be due and payable on the last day of the month following the occurrence of the monthly liability as determined by Subsection 3.12.040.B or C above, except for Gas or Electric Providers authorized under state law to provide monopoly service, which shall continue to make annual payments, with the tax due on the first day of July each year. In the event a Provider's monthly liability is less than one hundred dollars (\$100.00), such Provider may file the required information and may make payment for the prior three (3) months on the last day of the month following the end of each calendar quarter (April, July, October and January). Returns sent by U.S. Mail shall be deemed filed on the date of the postmark. The Line Count or Account Number and the amount of payment by any individual Provider shall be deemed proprietary information contained within a tax return and afforded the confidentiality associated therewith.

B. A New Provider that becomes subject to this chapter shall determine the number of lines or accounts for the first month in which Basic Local Exchange Service or Gas or Electric Service is offered, and shall file its statement with the appropriate tax payment for such period in accordance with this section.

C. Prior to the adoption of the ordinance codified herein to restructure the city's Business and Occupation Tax, a fixed annual amount was due to the city on July 1<sup>st</sup> of each year, covering the tax liability for the preceding calendar year. Because said ordinance is effective August 1, 2008, all Providers with operations in the city during the first seven (7) months of 2008 shall be obligated to pay on July 1, 2009, an amount equal to seven-twelfths ( $\frac{7}{12}$ ) of the amount that would have been due for the entire year under the prior version of Section 3.12.030 of the code, had this amendment not been adopted. Payment for this tax shall be delinquent thirty (30) days after it becomes due. (Ord. 978 §5, 2008)

**3.12.060 Statement of lines.**

A. The Incumbent Provider shall, on July 1, 2008, determine the total number of lines for which it then provides Basic Local Exchange Service within the city (the Base Line Count) and shall, by July 10, 2008, file with the finance director a statement showing its determined total number of Lines. Such number shall be utilized for initially calculating the per-line rate pursuant to Subsection 3.12.040.B.

B. With respect to any Incumbent state-regulated monopoly provider of Gas or Electric Service, at such time as the Provider is notified that changes in the law allow for competitive Gas or Electric Service and that such competitive service is offered in the city, such Incumbent Provider shall determine the total number of Accounts for Gas and/or Electric Service within the city (the Base Account Number), and shall, within thirty (30) days of such notice, file with the finance director a

statement showing its determined total number of Accounts. Such numbers shall be utilized for initially calculating the per-account rate pursuant to Subsection 3.12.040.C.

C. Effective with the first tax payment required by Section 3.12.050, each Provider subject to this chapter shall file statements with the finance director, in such form as the finance director may require, including oaths, verifications or acknowledgements, showing the Line Count or Account Number, as applicable, for the period for which payment relates.

D. A New Provider that first becomes subject to this chapter during any calendar year shall, thirty (30) days after that New Provider's effective date under Section 3.12.050 above, determine the number of Lines or Accounts, as applicable, for which it provides retail Basic Local Exchange Service or Gas and/or Electric Service within the city (New Provider's initial Line Count or initial Account Number), and shall file a statement of that number within thirty (30) days after the effective date. (Ord. 978 §6, 2008)

### **3.12.070 Tax reported to residents.**

To the extent authorized by state statute, and the regulations promulgated thereunder, Providers may separately state on each Inhabitant's bill the proportionate share of the Provider's liability imposed pursuant to this chapter. (Ord 978 §7, 2008)

### **3.12.080 Failure to pay – penalty – city action to collect.**

If any Provider subject to the provisions of this chapter fails to pay the taxes as provided in Section 3.12.050 above, the full amount thereof, together with a penalty of ten percent (10%) of the amount of taxes unpaid and interest accruing and compounded at a monthly rate of one percent (1%), shall become a debt due and owing from such Provider to the city. The city attorney, upon direction of the city council, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction, an action at law to collect the debt. (Ord. 978 §8, 2008)

### **3.12.090 Inspection of records.**

To enforce this chapter, the city and its officers, agents or representatives shall have the right, at all reasonable hours and times, to examine and copy the books and records of every Provider subject to this chapter. Such records shall be retained by the city for audit and enforcement purposes only. These records shall be treated as confidential by the city and shall not be disclosed to any other party except under a court order or in connection with enforcement of this chapter. (Ord. 978 §9, 2008; Ord. 663 §9, 1985)

### **3.12.100 Tax in lieu of certain other consideration.**

The Business and Occupation Tax levied pursuant to this chapter is in lieu of all other occupation taxes imposed upon any Provider subject to this chapter. It is in addition to any otherwise applicable ad valorem taxes and fees. (Ord. 978 §10, 2008)

### **3.12.110 Penalty.**

Any corporation or the agent, officer or manager of any Provider covered by the terms of this chapter who shall fail, neglect or refuse to file the monthly statement or pay any part of the tax imposed pursuant to the provisions of Section 3.12.040 of this chapter, shall, upon conviction, be punished by a fine not to exceed three hundred dollars (\$300.00). Each day during which the officer, agent, manager or person so fails or refuses to make and file such statement or make such payment is a separate and distinct offense. (Ord. 978 §11, 2008)

### **3.12.120 Liabilities to continue.**

All offenses committed and all tax liabilities incurred before the effective date of the ordinance codified herein, under prior versions of the Business and Occupation Tax shall be and remain unconditionally due and payable, shall constitute a debt to the city and shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect. (Ord. 978 §12, 2008)

### **3.12.130 Statute of limitations.**

A. Except as provided in this section, or unless such time is extended by waiver, the amount of tax levied by this chapter, together with interest thereon and penalties with respect thereto, shall not be assessed or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the later of the date on which the tax was or is payable or the filing of the tax return.

B. In case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time.

C. Before the expiration of such period of limitation, the taxpayer and the director of finance may agree in writing to an extension hereof, and the period so agreed on may be extended by subsequent agreements in writing. (Ord. 978 §13, 2008)

## **Chapter 3.16**

### **Sales Tax**

#### Sections:

- 3.16.010 Imposition; amount
- 3.16.020 Applicability and exemptions
- 3.16.030 Credit for sales or use taxes previously paid
- 3.16.040 Calculations
- 3.16.045 Expenses of collection and remittance
- 3.16.050 Collection, administration and enforcement
- 3.16.060 Effective date

**3.16.010 Imposition; amount.**

A. There is imposed upon all retail sales of tangible personal property and upon furnishing those services taxable by the state, pursuant to Section 39-26-104, C.R.S., a tax equal to two and one-quarter percent (2¼%) of the gross receipts from such sales or services. Gross receipts shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made.

B. For the purposes of this chapter, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the city or to a common carrier for delivery to a destination outside the limits of the city.

C. If a retailer has no permanent place of business within the city or has more than one (1) place of business, the place at which a retail sale is consummated for the purposes of imposing the sales tax created by this chapter shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue. (Ord. 889 §1, 2000; Ord. 774 §4, 1990; Ord. 674 §1, 1986)

**3.16.020 Applicability and exemptions.**

A. The tangible personal property and services taxable pursuant to this chapter shall be the same as those taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S., except for the exemption allowed by Section 39-26-114(11), C.R.S., for the purchases of machinery or machine tools, and except for the exemption of sales and purchases of those items included in Section 39-26-114(1)(a)(XXI), C.R.S., and except for the exemption of sales of food as specified in Section 39-26-114(1)(a)(XX), C.R.S.

B. No sales tax shall apply to the sale of construction and building materials, as those terms are used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the city evidencing that a local use tax has been paid or is required to be paid. Likewise, notwithstanding any other provisions of law, no sales tax shall apply to the sale of construction and building materials, as those terms are used in Section 29-2-109, C.R.S., if such materials are delivered by the retailer or his or her agent to a site within the limits of the city, and if a use tax has been previously paid by the retailer and collected by the city with respect to those materials. (Ord. 674 §2, 1986)

**3.16.030 Credit for sales or use taxes previously paid.**

The sales tax shall not fully apply to the sale of tangible personal property at retail or the furnishing of taxable services if the underlying transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city, town or home rule city and county. A credit shall be granted against the sales tax imposed by this chapter with respect to such transaction in an amount equal to the lawfully imposed local sales or use tax previously paid by the purchaser or user to such other statutory or home rule city, town or home rule city and county. The amount of the credit shall not exceed the amount of the sales tax imposed by this chapter. (Ord. 674 §3, 1986)

**3.16.040 Calculation.**

The calculation of the sales tax by retail merchants shall be in accordance with schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue. (Ord. 674, §4, 1986)

**3.16.045 Expenses of collection and remittance.**

Every retailer or vendor shall be liable and responsible for the collection and remittance of the sales tax herein imposed, less three and one-third percent ( $3\frac{1}{3}\%$ ) of the sum so remitted to cover the vendor's expense in collecting and remitting said tax; but, if any vendor is delinquent in remitting said tax, the vendor shall not be allowed to retain any amounts to cover his or her collection expenses. (Ord. 784 §4, 1991)

**3.16.050 Collection, administration and enforcement.**

The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue of the state in the same manner and with the same authority as the collection, administration and enforcement of the Colorado State Sales Tax. For the purposes of collection, administration and enforcement of this chapter, the provisions of Article 26 of Title 30, C.R.S., and all rules and regulations promulgated by the Director of Revenue, shall apply and are incorporated into this chapter. (Ord. 674 §5, 1986)

**3.16.060 Effective date.**

The tax rate changes established by election on April 6, 1999, and adopted by Ordinance No. 889 (2000) shall take effect on December 1, 2000. (Ord. 889 §2, 2000; Ord. 774 §6, 1990)