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CHAPTER 25

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DIVISION 2. AD VALOREM TAX REFUND PROGRAM FOR THE ELDERLY AND DISABLED

Sec. 25-26. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Disabled individual shall mean any person who has a physical impairment from a physiological or neurological condition or a disability attributable to mental retardation, cerebral palsy or epilepsy which prevents the exercise of normal physical function.

Household shall mean two (2) or more persons related by blood or marriage living together under one (1) roof. Any person who pays property taxes or rent on a home or dwelling unit shall not be considered to be a part of any household other than that person's own dwelling unit.

Income shall mean total income, including but not limited to salaries, scholarships, grants and loans, wages, tips, employee compensation, interest, dividends, business or farm income, rents, royalties, social security benefits, public and private pension payments, annuities, support money, cash public assistance and relief, veterans benefits (except Medicare and service-connected disability payments) workers' compensation and unemployment compensation benefits and all other forms of revenue.

Owned shall mean possessed of the legal incidents of ownership irrespective of whether the applicant's name appears on the recorded deed for the property.
(Code 1972, § 106-6; Ord. No. 60, 1994, § 1, 5-3-94)
Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 25-27. Purpose.

There is hereby enacted a tax refund program to provide relief from property taxes for low-income elderly residents and disabled residents of the City. It is the purpose of this tax refund program to refund to low-income elderly residents and disabled residents, as defined in this Division, the City's portion of property taxes for the preceding year which such persons have paid. This program is intended to apply to both the owner of property who has paid such property taxes and to the lessee of the property on which such tax has been paid.
(Code 1972, § 106-1)

Sec. 25-28. Application for refund.

Refunds under this program shall be made to persons qualified for such refunds upon written application made to the Financial Officer on forms to be provided by the Financial Officer. Such applications shall be made between August 1 and December 31, inclusive, of each year for which a refund is to be made.
(Code 1972, § 106-2)

* **Cross-reference**—Utility refund programs, § 26-596 et seq.

Sec. 25-29. Qualifications.

In order to be entitled to a refund under this program, the applicant for such refund must meet all of the following applicable requirements:

(1) The applicant or spouse, if living together, must be sixty-five (65) years of age or older by August 1 of the year in which the application is submitted or be a disabled individual as defined in this Division. No more than one (1) application shall be submitted or acted upon in connection with any single property in the City.

(2) The applicant must be a resident of the City as of August 1 of the year in which the application is submitted and must have been a resident of the City during the preceding year when the property tax was assessed.

(3) The applicant must have paid property taxes assessed in the previous year on a dwelling which was owned by the applicant and in which the applicant lived or the applicant, in the alternative, must have paid rent in the previous year when the taxes were assessed for the dwelling unit or portion thereof in which the applicant lived.

(4) The applicant household shall have an annual income which shall not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, rounded to the nearest two-hundred-fifty-dollar increment, up to a maximum household income of thirty (30) percent of the area median income for a household of four (4), as most recently published by the United States Department of Housing and Urban Development as of August 1 of the rebate year.

(5) Any applying household or member thereof shall be in full compliance with all provisions of the City Code and shall not be in default of the terms of any obligation, contract or other agreement with the City.

(Code 1972, § 106-3; Ord. No. 106, 1989, § 2, 8-1-89; Ord. No. 60, 1994, § 2, 5-3-94; Ord. No. 96, 1997, § 1, 7-15-97; Ord. No. 122, 1998, § 1, 7-21-98)

Sec. 25-30. Amount of refund.

(a) If the applicant meets the requirements of this Division, the City shall refund to the applicant an amount based upon the following:

(1) In the case of an owner of a dwelling unit, that portion of the total property tax actually paid on the property which was levied by the City for the preceding year;

(2) In the case of a person renting property on which City property taxes were paid in the preceding year, an amount equal to one and forty-four one-hundredths (1.44) percent of the rental payments made by such applicant during the preceding year;

(3) In the event an applicant owns the dwelling unit and pays taxes thereon for only a portion of a year, the refund shall be only for the pro rata amount of such City taxes representing the portion of such year during which the applicant owned the dwelling unit and paid taxes thereon as compared to the entire such year.

(b) An applicant may be entitled to a refund based on the foregoing provisions for such qualifying dwelling unit in which the applicant lived at different times during such year, but in no event shall the applicant be entitled to a refund representing more than one (1) dwelling unit for a particular time period.

(Code 1972, § 106-4)

Sec. 25-31. Refunds payable only to applicant.

(a) The City shall make tax refunds pursuant to this Division only directly to the applicant who qualifies therefor and, except as provided in Subsection (b) below, refunds shall not be paid to anyone other than the applicant. If an applicant dies prior to receiving or cashing a refund pursuant hereto, any check representing such refund shall be null and void, and such refund shall not become an asset of the decedent's estate. If the decedent is survived by a spouse who would be qualified as an applicant for such refund, the City will honor an application for a refund by such surviving spouse, even though the application is not timely made in accordance with the provisions of this Division.

(b) If any application for a refund is approved under the provisions of this Division, and the applicant for such refund subsequently becomes delinquent in the payment of any utility bill(s) owed to the City, the refund otherwise due the applicant may be applied by the City in whole or in part toward the payment of the delinquent bill(s).
(Code 1972, § 106-5; Ord. No. 60, 1994, § 2, 5-3-94)

Sec. 25-32. Rules and regulations.

The Financial Officer with the approval of the City Manager shall have the power to formulate and promulgate rules and regulations for the administration of this tax refund program not inconsistent with the provisions of this Division.
(Code 1972, § 106-7)

Secs. 25-33—25-45. Reserved.

DIVISION 3. SALES TAX REBATE ON FOOD

Sec. 25-46. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Household shall mean spouses and their children by birth or adoption, and including foster children and children placed in legal guardianship, herein referred to as family household. *Household* shall mean no more than three (3) persons not related as above described, herein referred to as nonfamily household. In either event such persons shall live at the same address and pool resources for the purpose of paying shared living expenses, such as rent, food and utilities. The City's determination shall be final with regard to eligibility as a household.

Income shall mean total income, including but not limited to salaries, scholarships, grants and loans, wages, tips, employee compensation, interest, dividends, business or farm income, rents, royalties, social security benefits, public and private pension payments, annuities, support money, cash public assistance and relief, veterans benefits (except Medicare and service connected disability payments) workers' compensation and unemployment compensation benefits and all other forms of revenue.
(Code 1972, § 107-2; Ord. No. 60, 1994, § 3, 5-3-94)
Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 25-47. Establishment.

There is hereby established a sales tax rebate program to provide relief from sales taxes charged on food purchases by low-income residents.
(Code 1972, § 107-1)

Sec. 25-48. Application for rebate.

Application for the sales tax rebate on food shall be made on forms to be provided by the City. In order to qualify for such rebate, the application must be filed between August 1 and December 31, inclusive, of each year for which a rebate is requested. Only one (1) application shall be filed per household. If any member of the household filing an application has filed a federal income tax return for the applicable year, a copy of such income tax return must be attached to the application.
(Code 1972, § 107-3)

Sec. 25-49. Qualifications.

In order to qualify for the rebate, the following requirements must be met:

(1) All members of an applicant household must have resided within the City prior to the commencement of the calendar year for which application is made and at the time the application is made. The applicant household shall have an annual income which shall not exceed fifty (50) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, rounded to the nearest fifty-

dollar increment, up to a maximum household income of fifty (50) percent of the area median income for a household of eight (8), as most recently published by the United States Department of Housing and Urban Development as of August 1 of the rebate year.

(2) Any applying household or member thereof shall be in full compliance with all provisions of the City Code and shall not be in default of the terms of any obligation, contract or other agreement with the City. If any application for a rebate is approved under the provisions of this Division, and the applicant for such refund subsequently becomes delinquent in the payment of any utility bill(s) owed to the City, the rebate otherwise due said applicant may be applied by the City in whole or in part toward the payment of the delinquent bill(s).

(Code 1972, § 107-5; Ord. No. 60, 1994, § 4, 5-3-94; Ord. No. 96, 1997, § 2, 7-15-97; Ord. No. 122, 1998, § 2, 7-21-98; Ord. No. 22, 2005, § 1, 2-15-05)

Sec. 25-50. Amount of rebate.

The amount of rebate payable hereunder shall be in the sum of forty dollars ($40.) per person per calendar year in any eligible household.
(Code 1972, § 107-4; Ord. No. 122, 1998, § 3, 7-21-98)

Sec. 25-51. Payment.

The City shall make rebate payments to family households by joint payment to adult members of the household and to parents on behalf of all children of the household. The City shall make rebate payments to nonfamily households by joint payment to all members of the household.
(Code 1972, § 107-6)

Sec. 25-52. Administration.

The Financial Officer shall administer the program established by this Division and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Division and audit and verify the applications submitted pursuant to this Division. Any rebate application form shall require the claimant to verify and sign the application under oath. The burden of proving entitlement to a rebate under this Division is on the claimant. The Financial Officer may require reasonable information to support the rebate application.
(Code 1972, § 107-7)

Secs. 25-53—25-54. Reserved.

DIVISION 4. AFFORDABLE HOUSING REBATE

Sec. 25-55. Establishment.

There is hereby established a sales and use tax rebate program to provide relief from sales and use taxes charged on purchases of materials used in the construction of affordable housing units as that term is defined in § 26-631.
(Ord. No. 191, 1999, § 1, 1-4-00)

Sec. 25-56. Application for rebate.

Application for the sales and use tax rebate for affordable housing units shall be made on forms to be provided by the City.
(Ord. No. 191, 1999, § 1, 1-4-00)

Sec. 25-57. Qualifications.

In order to qualify for the rebate, the following requirements must be met:

(1) The applicant must demonstrate to the satisfaction of the City that the materials upon which the sales and use taxes have been paid have been used in the construction of an affordable housing unit as defined in § 26-631 and that the applicant requesting the rebate is the same as the payor of the taxes, or, if not the same, has presented to the City the written permission of the payor to request and receive the rebate;

(2) The applicant shall be in full compliance with all provisions of the Code and shall not be in default of the terms of any obligation, contract or other agreement with the City. If any application for a rebate is approved under the provisions of this Division, and the applicant for such rebate subsequently becomes delinquent in the payment of any tax, fee, charge or utility bill owed to the City, the rebate otherwise due said applicant may be applied by the City in whole or in part toward the payment of the delinquent tax, fee, charge or bill.

(Ord. No. 191, 1999, § 1, 1-4-00)

Sec. 25-58. Amount of rebate.

The amount of the rebate payable hereunder shall be the full amount of sales and use taxes paid for materials used in the construction of the affordable housing unit. The rebates provided for under this Division are subject to the appropriation of necessary funds, and the provisions of this Division shall not be construed as establishing any right or entitlement to a rebate on the part of any applicant.

(Ord. No. 191, 1999, § 1, 1-4-00)

Sec. 25-59. Administration.

The Financial Officer shall administer the program established by this Division and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Division and audit and verify the applications submitted pursuant to this Division. Any rebate application form shall require the claimant to verify and sign the application under oath. The burden of proving eligibility for a rebate under this Division is on the claimant. The Financial Officer may require reasonable information to support the rebate application.

(Ord. No. 191, 1999, § 1, 1-4-00)

Sec. 25-60. Sunset provision.

The sales and use tax rebate provisions established in this Division shall terminate and be of no further force and effect on December 1, 2001, and no rebate shall be paid after said date except for affordable housing projects for which building permits have theretofore been issued, unless this sunset provision is repealed or modified by the City Council.

(Ord. No. 191, 1999, § 1, 1-4-00)

Secs. 25-61, 25-62. Reserved.

DIVISION 5. MANUFACTURING EQUIPMENT USE TAX REBATE

Sec. 25-63. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Manufacturing equipment shall mean manufacturing equipment to be used in the City directly and exclusively in the manufacture of tangible personal property for sale or profit.

Qualifying manufacturer shall mean an industrial manufacturer who, in an industrial setting, produces a new product, article, substance or commodity that is different from and has a distinctive name, character or use from the raw or prepared materials used to manufacture the product.

(Ord. No. 040, 2007, 3-20-07)

Sec. 25-64. Establishment.

There is hereby established a manufacturing use tax rebate program to provide relief from use taxes imposed upon a qualifying manufacturer.

(Ord. No. 040, 2007, 3-20-07)

Sec. 25-65. Application for rebate.

Application for the manufacturing equipment use tax rebate on qualifying manufacturing equipment shall be made on forms to be provided by the City. In order to qualify for such rebate, the application must be filed between August 1 and December 31, inclusive, of each year for which a rebate is requested. Only one (1) application shall be filed per qualifying manufacturer.
(Ord. No. 040, 2007, 3-20-07)

Sec. 25-66. Qualifications.

In order to qualify for a rebate under the provisions of this Division, the following requirements must be met:

(1) The qualifying manufacturer must be licensed with the City and classified as a "manufacturer" under the Standard Industrial Code.

(2) The qualifying manufacturer must certify compliance with all federal, state and local laws and regulations applicable to a manufacturing facility located within the City limits.

(3) The qualifying manufacturer must be current in all payments to the City and in compliance with any contractual agreements with the City.

(4) Machinery and equipment must be tangible personal property when purchased; be necessary for, and used directly in, the manufacturing of tangible personal property to be sold; not be used in any activity other than the actual manufacturing process; not be merely useful or incidental to the manufacturing operation; and be purchased in the year the rebate is being applied for.

(5) The qualifying manufacturer must have paid the appropriate use tax.
(Ord. No. 040, 2007, 3-20-07)

Sec. 25-67. Amount of rebate.

The amount of rebate payable shall be in the sum set forth in a rebate schedule to be adopted by the City's Finance Department consistent with rules and regulations promulgated pursuant to § 25-69.
(Ord. No. 040, 2007, 3-20-07)

Sec. 25-68. Payment.

The City shall make all rebate payments to each qualifying manufacturer by a single check.
(Ord. No. 040, 2007, 3-20-07)

Sec. 25-69. Administration.

The Financial Officer shall administer the program established by this Division and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Division, and audit and verify the applications submitted pursuant to this Division. Any rebate application form shall require the claimant to verify and sign the application under oath. The burden of proving entitlement to a rebate under this Division is on the claimant. The Financial Officer may require reasonable information to support the rebate application.
(Ord. No. 040, 2007, 3-20-07)

Sec. 25-70. Reserved.

ARTICLE III.
SALES AND USE TAX*

DIVISION 1. GENERAL PROVISIONS; TAXES IMPOSED

Sec. 25-71. Definitions.

The following words, terms and phrases, as used in this Article, shall have the following meanings:

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

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

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

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

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

City shall mean the municipality of Fort Collins, Colorado.

City Manager shall mean the City Manager of the City of Fort Collins, Colorado.

Construction equipment shall mean all pieces of portable machinery, vehicles and other types of equipment used to demolish, build, erect or otherwise demolish or construct buildings, roads, bridges or any other improvements.

Construction materials shall mean tangible personal property which, when combined with other tangible personal property, loses its identity and becomes 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, wall board, wall coping, wall paper, 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 shall mean any individual person 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.

Drugs dispensed in accordance with a prescription shall mean drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of medicine, dentistry, optometry or podiatry, or given orally by

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* Cross-references—**Finance, Ch. 8; sales and use tax fund created, § 8-84; deposit for sales tax required from all places of entertainment prior to the issuance of a license, § 15-295; sales tax license required of all secondhand dealers, § 15-319; records of secondhand dealer sales tax collection for flea market sales, § 15-322; bond required from outdoor vendors for payment of sales tax, § 15-386.**

such practitioner, and immediately reduced to writing, 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 shall mean 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 (1) of the following activities by a person:

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

(2) Sends one (1) or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;

(3) Maintains one (1) or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

(4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

(5) Makes more than one (1) delivery into the taxing jurisdiction within a twelve-month period.

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

(1) Is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

(2) Is transferred by said person along with and as a part of the finished product to the purchaser; and

(3) Is not returnable to said person for reuse.

Exempt organization license shall mean a license issued to a charitable organization, as defined in this Article, which entitles the organization to make tax-free purchases of tangible personal property or taxable services in the City.

Farm close-out sale shall mean 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.

Financial officer shall mean the Financial Officer of the City of Fort Collins or such other person designated by the municipality; "Financial Officer" shall also include such person's designee.

Food shall mean: food for domestic home consumption as defined in 7 U.S.C. § 2012(g) as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. § 2012(h), as amended, except that "food" does not include prepared food or food for immediate consumption; carbonated water marketed in containers; chewing gum; seeds and plants to grow food; prepared salads and salad bars; cold sandwiches; deli trays; and food or drink vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

Fuel shall mean gas, electricity, nuclear, steam, coal, wood, fuel oil or coke.

Gross sales shall mean 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 shall mean a City of Fort Collins sales and use tax license.

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

Local exchange company shall mean any person which provides public telephone or telecommunication exchange access lines, mobile telecommunication or channels necessary to effect the transfer of two-way voice or data grade information between the final user and the local telecommunication network.

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

Medical supplies shall mean drugs, prosthetic medical and dental appliances and special beds for patients with neuromuscular or similar debilitating ailments, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry or podiatry; corrective eyeglass lenses (including eyeglass frames) and corrective contact lenses, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine or optometry; wheelchairs, and crutches, when sold for the direct, personal use of a specific individual; oxygen and hemodialysis products for use by a medical patient, hearing aids, hearing aid batteries, insulin, insulin measuring and injecting devices, glucose to be used for treatment of insulin reactions, and human whole blood, plasma, blood products and derivatives. This exemption excludes items purchased for use by medical and dental practitioners or medical facilities in providing their services, even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

Mobile machinery and self-propelled construction equipment shall mean 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 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. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance and repair of roadways, the drilling of wells and the digging of ditches.

Newspaper shall mean 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.

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

Person shall mean an individual, firm, partnership, joint venture, corporation, estate, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any group or combination acting as a unit.

Prepared food or *food for immediate consumption* shall mean food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drug stores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops and other places of business at which prepared food or drink, prepared salads in salad bars, cold sandwiches or deli trays are regularly sold, including sales from grocery stores and delicatessens, from pushcarts, motor vehicles and other mobile facilities and vending machines.

Preprinted newspaper supplements shall mean inserts, attachments or supplements circulated in newspapers that: (i) are primarily devoted to advertising; and (ii) the distribution, insertion or attachment of which is commonly paid for by the advertiser.

Prescription drugs for animals shall mean drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts for animals, 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* shall mean the price to the consumer, exclusive of any direct tax imposed by the federal government or by this Article, 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:

(1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business, or

(2) 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 recreation vehicles, watercraft and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Price or *purchase price* includes:

(1) The amount of money received or due in cash and credits.

(2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

(3) Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

(4) The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.

(5) Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.

(6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.

(7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

(8) The gross purchased price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

Price or *purchase price* shall not include:

(1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof,

(2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers usual course of business. This is not limited to exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.

(3) 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 not an allowable adjustment to the purchase price in reporting gross sales.

Private communication services shall mean 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 inter-communications system of the subscriber's stations.

Prosthetic devices shall mean 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. *Prosthetic devices* include but are not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental or orthopedic devices or appliances, oxygen concentrators and oxygen and related accessories.

Purchase or *sale* shall mean the acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed or consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installment and credit sales, and property and services acquired by any of the following:

(1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;

(2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;

(3) Performance of taxable services; or

(4) Barter or exchange for other property or services including coupons.

The terms *purchase* and *sale* do not include the following:

(1) A division of partnership assets among the partners according to their interests in the partnership;

(2) 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;

(3) The transfer of assets of shareholders in the formation or dissolution of professional corporations;

(4) The dissolution and the pro rata distribution of the corporation's assets to its stockholders;

(5) A transfer of a partnership interest;

(6) The transfer in a reorganization qualifying under Section 368(a)(1) of the Internal Revenue Code of 1954, as amended;

(7) 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;

(8) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(9) The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty (80) percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

(10) The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty (80) percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty (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;

(11) 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 in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Article was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating or physical changing of the assets by the transferor corporation. To such an extent any transfer referred to in this Paragraph (11) shall constitute a sale. For the purpose of this Paragraph (11), a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty (80) per-

cent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty (80) percent of the total number of shares of all other classes of stock.

Purchaser shall mean any person to whom a taxable service has been rendered or who has leased or purchased at retail tangible personal property which is used, stored, distributed or consumed in the City upon which a tax is imposed by this Article.

Recreation services shall mean 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 shall mean all sales except wholesale sales.

Retailer shall mean any person selling, leasing or renting tangible personal property or services at retail. *Retailer* shall include any of the following:

(1) Auctioneer;

(2) Salesperson, representative, peddler or canvasser, who makes sales as a 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 may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.

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

Sales tax shall mean the tax to be collected and remitted by a retailer on sales taxed under this Code.

Security system services shall mean electronic security system services. Such term does not include nonelectronic security services such as consulting or human or guard dog patrol services.

Sound system services shall mean sound system services involving provision of broadcast or prerecorded audio programming to a building or portion thereof. Such term 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.

Storage shall mean any keeping or retention of, or exercise of dominion or control over, tangible personal property within the City.

Tangible personal property shall mean corporeal personal property.

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

Taxable sales shall mean gross sales less any exemptions and deductions specified in this Code.

Taxable services shall mean services subject to tax pursuant to this Code.

Taxpayer shall mean any person obligated to collect and/or pay tax under the terms of this Code.

Telecommunication service shall mean 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 but not limited to wire, cable, fiber optical cable, microwave, radio wave or any combinations of such media. *Telecommunication service* includes but is not limited to basic local telephone service, toll telephone service and teletypewriter service, including but not limited to residential and business service, directory assistance, cellular mobile telephone or telecommunication service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communication. *Telecommunication service* does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.

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

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

Use tax shall mean 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 shall mean 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 communication 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 shall mean sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

Wholesaler shall mean any person selling to retailers, jobbers, dealers or other wholesalers, for resale, and not for storage, use, consumption or distribution.
(Code 1972, § 104-1; Ord. No. 192, 1987, § 1, 1-5-88; Ord. No. 60, 1988, 5-3-88; Ord. No. 132, 1991, § 1, 11-19-91; Ord. No. 054, 2010, § 1, 5-18-10)

Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 25-72. Legislative intent.

(a) It is the intent of the City Council, in exercising the home rule powers provided by the State Constitution, that through this legislation and in the manner described herein, 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 Article are taxable unless specifically exempted in this Article. The sales tax imposed upon tangible personal property by this Article 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 tax levied upon all sales and purchases of tangible personal property and taxable services sold or purchased by persons in the City and is collected by the retailer 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 sold at retail and furnished within the City, whether purchased or sold inside or outside the City, and not subject to the sales tax imposed by this Article. 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 retailers of tangible personal property and service and to eliminate incentives for City residents to leave the City to purchase tangible personal property and taxable services.
(Code 1972, § 104-2; Ord. No. 132, 1991, §§ 2, 4, 11-19-91)

Sec. 25-73. Imposition of the sales tax.

(a) There is hereby levied and there shall be collected and paid a sales tax on the full purchase price paid or charged for tangible personal property and taxable services sold or purchased at retail by every person exercising a taxable privilege in the City by the sale or purchase of such property and services. The sales tax is levied on all sales and purchases of tangible personal property or taxable services except those specifically exempted and is collected by the retailer and remitted to the City.

(b) Taxable transactions and items. The sales tax shall apply as follows:

(1) On the purchase price paid or charged for all sales and purchases of tangible personal property at retail, regardless of whether such property has been included in a previous taxable transaction;

(2) On the total amount due under a lease or contract when the right to possession or use of tangible personal property is granted therein and such transfer of possession would be taxable under this Article if an outright sale were made;

(3) In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding, however, from the consideration or purchase price, the fair market value of the exchanged property, provided that such exchanged property is to be sold in the usual course of the vendor's business;

(4) Upon telecommunication services, including access services, whether furnished by public or private corporations or enterprises, for all intrastate telecommunication services originating from or received on telecommunication equipment in the City if the charge for the service is billed to a person in the City or billed to an affiliate or division of such person in the City on behalf of a person in the City;

(5) Upon access services, whether furnished by public or private corporations or enterprises, for all interstate telecommunication services originating from or received on telecommunication equipment in the City if the charge for the service is billed to a person in the City or billed to an affiliate or division of such person in the City on behalf of a person in the City;

(6) Upon gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption and not for resale and upon steam when consumed or used by the purchaser and not resold in original form, whether furnished or sold by public or private corporations or enterprises;

(7) Upon the entire amount charged to any person or persons for lodging services;

(8) Upon the amount paid for all prepared food or food for immediate consumption, including cover charges, as defined in this Article;

(9) Upon the purchase price paid for any automotive vehicle, whether new or used, purchased inside or outside the City by a resident of the City or for a business located in the City for use or storage in the City. The tax shall be paid prior to or at the time the title and registration for the vehicle are issued by the County Clerk, whichever occurs first;

(10) Upon pay, cable or subscription television and sound system services, as defined in this Article; and

(11) Upon all sales of preprinted newspaper supplements, as defined in this Article.

(c) Transactions and items exempt from the sales tax. The following shall be exempt from the sales tax:

(1) All sales of automotive vehicles properly titled and registered to an address outside the City;

(2) All sales of tangible personal property if all of the following conditions exist:

a. The sales are to those who reside or do business outside the City;
b. The articles purchased are to be delivered to the purchaser outside the City by common carrier or by the conveyance of the retailer or by mail;
c. The articles purchased and delivered are used outside the City.

(3) All sales of gasoline or motor fuel which are taxed under the provisions of Title 39, Article 27, C.R.S.;

(4) All sales of goods manufactured in the City and sold by the manufacturer thereof directly to the ultimate consumer when delivery of such goods is made by common, contract or commercial carrier or by conveyance of the vendor or the purchaser to a point outside the City for use outside the City;

(5) All sales to the United States or the State, or departments, institutions or political subdivisions thereof, and all sales to the City and any department thereof when made in the exercise of their governmental functions, provided that such purchases are supported by official government purchase orders or charged to the governmental entity's credit card account and are paid for by draft or warrant drawn on the governmental entity's bank account or such purchases are made pursuant to a written agreement with the governmental entity in which the purchaser is to make such purchases on behalf of the governmental entity;

(6) All sales to charitable organizations of tangible personal property or services to be used in the conduct of the organization's regular activities to foster its religious or other expressed charitable purpose, provided that the organization obtains from the City an exempt organization license pursuant to § 25-94 and presents the license to the vendor at the time of the sale;

(7) All sales which the City is prohibited from taxing under the Constitution or laws of the United States or the State;

(8) All sales and purchases of neat cattle, sheep, lambs, swine and goats; all sales and purchases of mares and stallions for breeding purposes; and all farm close-out sales;

(9) All sales of drugs dispensed in accordance with a prescription, all sales of prescription drugs for animals (except prescription pet food), all sales of prosthetic devices and all sales of medical supplies, as defined in this Article;

(10) All sales of cigarettes;

(11) All charges for lodging services pursuant to a written lease for a period of at least thirty (30) consecutive days;

(12) All sales of tangible personal property to a public utility doing business both within and without the City, for use in such business operations outside the City, even though delivery is made in the City;

(13) All sales of tangible personal property through coin-operated vending machines; provided, however, that the owner of such vending machines shall pay a tax in the amount stated in § 25-75 on the value of the tangible personal property sold in excess of ten cents ($0.10) per item so vended in the coin-operated machines unless the sale shall be otherwise exempt as provided in this Article;

(14) All sales of farm machinery for use on property outside the City and all sales of farm machinery parts for use on property outside the City; provided, however, that this exemption for farm machinery parts shall not apply in the case of repairs performed or parts installed on equipment in the City. Trucks having a manufacturer's rated capacity of one (1) ton or less shall not be considered farm machinery for the purposes of this Section. Nothing herein contained shall be construed to limit any other exemption contained in this Article;

(15) All sales of feed and feed supplements and drugs for livestock or poultry and all sales and purchases of seeds, plants and fertilizers when such sales are made for commercial farming or ranching purposes;

(16) All sales of construction materials, as defined in this Article, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the vendor a building permit or other documentation acceptable to the City evidencing that a local sales or use tax has been paid or is required to be paid;

(17) All sales of tangible personal property or taxable services which transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by other statutory or home rule municipality in the State at a rate equal to or greater than the rate stated in § 25-75 and such tax was collected. If the rate of the

sales tax paid to such municipalities is less than the rate stated in § 25-75, the difference between the tax due under this Article and the tax paid previously shall be remitted to the Financial Officer;

(18) All occasional sales by charitable organizations made for fund-raising purposes. For purposes of this Subsection, *occasional sales* is defined as either of the following:

a. Sales which occur for no more than thirty (30) days in one (1) calendar year. A sale is deemed to occur when consideration is received by the organization for the item sold;

b. Sales which gross less than fifty thousand dollars ($50,000.) in one (1) calendar year.

(19) All sales of exempt commercial packaging materials, as defined in this Article;

(20) All sales of newsprint and printers' ink used to print newspapers and all sales and purchases of newspapers, as defined in this Article.

(d) The sale of food, as defined in this Article, is exempt from taxation under this Article in the manner provided below:

(1) Except as provided in Paragraphs (2) and (3) below, the sale of food, as defined in this Article, is exempt from taxation in any amount in excess of two and twenty-five one-hundredths (2.25) percent of the amount of the purchase price of such food.

(2) No sales or use tax shall apply to the sale of food purchased with food stamps. For the purposes of this Paragraph (2), *food* shall have the same meaning as provided in 7 U.S.C. § 2012(g) and as amended.

(3) No sales or use tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. § 1786. For the purposes of this Paragraph (3), *food* shall have the same meaning as provided in 42 U.S.C. § 1786, and as amended.

(Code 1972, § 104-3; Ord. No. 192, 1987, § 2, 1-5-88; Ord. No. 8, 1988, 2-2-88; Ord. No. 132, 1991, §§ 2, 5—8, 11-19-91)

Sec. 25-74. Imposition of the use tax.

(a) There is hereby levied and there shall be paid a use tax on the full purchase price paid for or acquisition costs of tangible personal property and taxable services brought into the City for the purpose of using, storing, distributing or consuming such property and services. The use tax is levied upon the privilege of storing, distributing, consuming or using in the City, personally or in connection with the operation of a business, tangible personal property or taxable services and is paid by either the retailer or the consumer.

(b) Transactions and items exempt from the use tax. The use, storage, distribution or consumption in the City of the following is hereby exempted from the use tax:

(1) Tangible personal property, the sale or use of which was previously subjected to a sales or use tax lawfully imposed on the purchaser or consumer by another statutory or home rule municipality in the State at a rate equal to or greater than the rate stated in § 25-75 and such tax was collected. If the rate of the sales or use tax paid to such municipality is less than the rate stated in § 25-75, the difference between the tax due under this Article and the tax paid previously shall be remitted to the Financial Officer;

(2) Tangible personal property purchased in order to be sold at retail in the City either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of business;

(3) Gasoline or motor fuel upon which has accrued or has been paid the tax prescribed by Title 39, Article 27, C.R.S.;

(4) Tangible personal property brought into the City by a nonresident for that person's own use, storage, distribution or consumption while temporarily in the City, and the tangible personal property of a resident if such property was purchased prior to becoming a resident of the City;

(5) Tangible personal property used, stored, distributed or consumed by the United States or the State or departments, institutions or political subdivisions thereof and the City and any department thereof, in their governmental capacities only;

(6) Tangible personal property purchased from a nonresident retailer by a resident common carrier, resident public utility or resident construction company which tangible personal property is stored in the City but not used or consumed in the City;

(7) Tangible personal property of a person engaged in the business of manufacturing or compounding for sale, profit or use any product, which tangible personal property becomes an ingredient or component part of the product which is manufactured or compounded;

(8) Fuel, as defined in this Article, for use in a continuing activity of producing tangible personal property or taxable services, including, but not limited to, processing, manufacturing, mining, refining, irrigation, telecommunication services and street and railroad transportation services;

(9) Tangible personal property used, stored, distributed or consumed by charitable organizations in the conduct of the organization's regular activities to foster its religious or other express charitable purpose, provided that the organization obtains from the City an exempt organization license pursuant to § 25-94 and presents the license as required;

(10) Neat cattle, sheep, lambs, swine and goats; and mares and stallions used for breeding purposes;

(11) Automotive vehicles and parts and accessories therefor when used or engaged in interstate commerce;

(12) Tangible personal property or services which the City is prohibited from taxing under the Constitution or laws of the United States or the State;

(13) Drugs dispensed in accordance with a prescription, prescription drugs for animals (excluding prescription pet food), prosthetic devices, and medical supplies, as defined in this Article;

(14) The storage of construction materials.

(Code 1972, § 104-4; Ord. No. 192, 1987, § 3, 1-5-88; Ord. No. 132, 1991, § 9, 11-19-91)

Sec. 25-75. Rate of tax.

(a) The amount of tax hereby levied is three and eight-five hundredths (3.85) percent of the purchase price of tangible personal property or taxable services except that the amount of use tax levied on manufacturing equipment is three (3) percent of the purchase price. Twenty-five one-hundredths (0.25) percent of such amount is a tax which shall expire at midnight on December 31, 2030, the proceeds of which shall be used for the purposes of acquiring, operating and maintaining open spaces, community separators, natural areas, wildlife habitat, riparian areas, wetlands and valued agricultural lands, and to provide for the appropriate use and enjoyment of these areas by the citizenry, pursuant to the provisions of the Citizen-Initiated Ordinance No. 1, 2002. Another twenty-five one-hundredths (0.25) percent is a tax which shall expire at midnight on December 31, 2015, the proceeds of which shall be used for the purpose of paying the costs of planning, design, right-of-way acquisition, incidental upgrades and other costs associated with the repair and renovation of City streets, including, but not limited to, curbs, gutters, bridges, sidewalks, parkway shoulders and medians. Another twenty-five one-hundredths (0.25) percent is a tax which shall expire at midnight on December 31, 2015, the proceeds of which shall be used for the purpose of paying the costs of planning, design, right-of-way acquisition, construction and at least seven (7) years of operation and maintenance of certain capital projects specified in the "Building on Basics" capital project program, subject to the terms and conditions of Ordinance No. 92, 2005. Another eighty-five one-hundredths (0.85) percent is a tax which shall expire at midnight on December 31, 2021, the proceeds of which shall be used in accordance with the terms and conditions of Ordinance No. 126, 2010.

(b) Notwithstanding the above, in order to avoid fractions of pennies, the tax payable by the purchaser or consumer to the retailer shall be computed in accordance with schedules or systems approved by the Financial Officer. The

schedules or systems shall be designed so that no tax levied by this Article is charged on any purchase of seventeen cents ($0.17) or less. However, the use of the schedules in collecting taxes from purchasers shall not relieve the retailer from liability for payment of the full amount of the tax levied in (a) above on all of the taxable sales or services.
(Code 1972, § 104-5; Ord. No. 8, 1989, § 1, 3-7-89; Ord. No. 9, 1989, § 1, 3-7-89; Ord. No. 132, 1991, § 2, 11-19-91; Ord. No. 125, 1992, 12-15-92; Ord. No. 29, 1997, § 1, passed by voters 4-8-97; Ord. 30, 1997, § 1, passed by voters 4-8-97; Ord. 31, 1997, § 1, passed by voters 4-8-97; Ord. No. 163, 2005, 12-20-05; Ord. No. 126, 2010, § 1, 12-21-10)

Secs. 25-76—25-90. Reserved.

DIVISION 2. LICENSING

Sec. 25-91. Sales/use tax license required.

(a) No person shall engage in the business of selling at retail tangible personal property and services subject to the tax imposed by this Article without first having obtained a license therefor, which license shall be granted and issued by the Financial Officer and shall be in full force and effect until revoked.

(b) No person shall use, store, distribute or consume any tangible personal property or services subject to the tax imposed by this Article without first having obtained a license therefor, which license shall be granted and issued by the Financial Officer and shall be in full force and effect until revoked.

(c) Such license shall be granted only upon application stating the name and address of the person desiring such license, the name and character of the business, the location, including the street number, of such business, and such other facts as may be reasonably required by the Financial Officer.

(d) If an application for a license is submitted by an individual or business which previously held a license, the Financial Officer may require that any taxes, penalties and interest due under the previous license be paid and a bond posted in an amount set by the Financial Officer to ensure payment of taxes under the new license prior to the issuance of such new license.
(Code 1972, § 104-6)

Sec. 25-92. Separate license required for each place of business.

In case business is transacted at two (2) or more separate places by one (1) person, a separate license for each place of business shall be required.
(Code 1972, § 104-7)

Sec. 25-93. Form of license; not transferable.

Each license shall be numbered and shall show the name, mailing address and place of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.
(Code 1972, § 104-8)

Sec. 25-94. Exempt organization license; application procedure.

(a) No charitable organization shall purchase tax free in the City or use in the City tangible personal property or taxable services without payment of the tax imposed by this Article unless the organization first obtains an exempt organization license from the Financial Officer and presents its license to the vendor before making a purchase, lease or use of the property or services.

(b) The application for an exempt organization license shall include the organization's certificate of incorporation and a copy of the institution's federal tax exemption letter, bylaws and financial statements showing source of funds and expenditures.

(c) Upon receipt of an application, the Financial Officer shall examine the same and shall give written notice to the applicant of his or her decision thereon. An applicant whose application has been denied may, within twenty (20) days after such decision is mailed, petition the Financial Officer for a hearing on the claim. The Financial Officer shall notify the applicant in writing of the time and place of the hearing. After such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant.

(d) By obtaining an exempt organization license, the institution agrees to make regular and complete reports of all purchases, both those that are not taxable and those that are taxable, including, without limitation, purchases of property and services resold to members and others and those used for other than the exempt purpose of the institution.

(e) An exempt organization license shall expire on the expiration date stated on such license or at such earlier time as the nature of the organization or its activities change so that it no longer qualifies as a charitable organization. The Financial Officer shall be entitled to review the status of any such organization at any time. If the Financial Officer determines that the exempt status is no longer appropriate, the Financial Officer shall notify the organization of the same and the organization shall promptly return the exempt organization license to the Financial Officer.
(Code 1972, § 104-9; Ord. No. 192, 1987, § 4, 1-5-88; Ord. No. 132, 1991, § 10, 11-19-91)

Sec. 25-95. Revocation of license.

The Financial Officer may, after giving reasonable notice and opportunity for a full hearing, revoke any license issued under this Article of any person found by the Financial Officer to have violated any provision of this Article.
(Code 1972, § 104-10; Ord. No. 192, 1987, § 5, 1-5-88)

Sec. 25-96. Appeal of revocation.

Any finding and order of the Financial Officer revoking the license of any person shall be subject to review by the Larimer County District Court. The procedure for the review shall be in accordance with Rule 106 of the Colorado Rules of Civil Procedure.
(Code 1972, § 104-11; Ord. No. 132, 1991, § 11, 11-19-91)

Secs. 25-97—25-115. Reserved.

DIVISION 3. TAXPAYER RESPONSIBILITIES

Sec. 25-116. Collection of tax.

(a) Except as provided in (b) below, the tax to be collected as required by this Article shall be stated and charged separately from the purchase price and shown separately from the purchase price on any record thereof at the time the sale is made or at the time when evidence of the sale is issued or employed by the retailer, provided that when added, such tax shall constitute a part of such price or charge and shall be a debt from the purchaser to the retailer until paid and shall be recoverable at law in the same manner as other debts. The tax shall be paid by the purchaser to the retailer, as trustee for and on account of the City, and the retailer shall be liable for the collection thereof for and on account of the City.

(b) Nothing herein contained shall be deemed to prohibit any retailer from selling malt, vinous or spirituous liquors by the drink from including in the purchase price for such drinks any tax levied under this Article. The brackets and tax amounts designated in § 25-75 shall be used by such retailers in determining amounts to be included in such prices as provided herein. No such retailer shall advertise or hold out to the public in any manner, directly or indirectly, that the tax levied by this Article is not considered as an element in the purchase price of such drinks to the consumer.
(Code 1972, § 104-12; Ord. No. 132, 1991, § 2, 11-19-91)

Sec. 25-117. Tax money in possession of retailer held in trust.

All sums of money paid by a purchaser to a retailer as taxes imposed by this Article shall be and remain public monies that are the property of the City. The retailer, as trustee, shall hold such monies in trust for the sole use and benefit of the City until paid to the Financial Officer as herein provided.
(Code 1972, § 104-13; Ord. No. 132, 1991, §§ 2, 13, 11-19-91)

Sec. 25-118. Tax on credit or secured sales; bad debts.

(a) Whenever tangible personal property is sold under a conditional sales contract or lease-purchase agreement whereby the retailer retains title as security for all or part of the purchase price or whenever the retailer takes a purchase money security interest on such tangible personal property to secure all or part of the purchase price, the total tax based on the total purchase price shall become immediately due and payable. This tax shall be charged and collected by the retailer. No refund or credit shall be allowed to either party to the transaction in case of repossession.

(b) Taxes paid on sales which are represented by accounts not secured by conditional sales contracts, lease-purchase agreements or purchase money security interests and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of income tax imposed by the laws of the State may be credited upon a subsequent payment of the tax provided in this Article; but, if any such accounts are thereafter collected by the retailer, a tax shall be paid upon the amounts collected.
(Code 1972, § 104-14; Ord. No. 132, 1991, § 2, 11-19-91)

Sec. 25-119. Tax on construction materials and supplies.

(a) Any person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure or improvement to real property in the City and who shall purchase or acquire fixtures, minerals or any other construction materials and supplies used therefor or any tangible personal property used therein from sources within or without the City and the owner of the real property shall be jointly and severally responsible for paying the tax set out in this Article. Prior to the issuance of a building permit, an amount of tax to be held on deposit shall be estimated by determining the building value for permit purposes and multiplying that value by a percentage prescribed by the Financial Officer, which amount shall be collected by the City through the owner or contractor. Upon payment of such sales or use tax deposit, the City shall issue a sales or use tax receipt identifying the address for which the purchase is being made and the City building permit number. It shall be the duty of the owner and/or contractor and subcontractors who are hired to do the above stated work or any portion thereof to submit a project cost report to the Financial Officer, on forms authorized by the Financial Officer, stating the actual amounts of any purchases of fixtures, minerals or any other construction materials and supplies or tangible personal property for such work and to remit any tax due in excess of the sales or use tax deposit. In any case, the general contractor and/or owner will be held liable for the payment of all taxes for such materials.

(b) The owner and/or contractor shall keep and preserve all invoices, receipts and statements showing such purchases of construction materials and supplies and tangible personal property for a period of three (3) years after completion of construction. The City may, within that three-year period, conduct an audit of such records of the owner and/or contractor and any other relevant information to verify the actual cost of the construction materials and supplies and tangible personal property used therein to determine the actual tax due. If the actual tax due is more than that paid by the taxpayer, the Financial Officer shall serve a notice of determination, assessment and demand for payment on the taxpayer notifying him or her of the deficiency including penalty and interest. Service of such notice and payment of the assessed amount shall be made in accordance with § 25-186.
(Code 1972, § 104-15; Ord. No. 192, 1987, § 6, 1-5-88; Ord. No. 132, 1991, §§ 14, 15, 11-19-91)

Sec. 25-120. Proration of use tax on certain construction equipment.

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

(b) With respect to transactions consummated on or after January 1, 1986, construction equipment which is located in the City for a period of thirty (30) consecutive days or less shall be subjected to the City's use tax in an amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one (1) and the denominator of which is twelve (12), and the result shall be multiplied by the rate stated in § 25-75.

(c) In order to avail himself or herself of the provisions of (b) above, the taxpayer shall substantially comply with the following procedures:

(1) At the time that the taxpayer files an application for a building permit, the applicant shall file with the Financial Officer an equipment declaration on a form provided by the City. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the City, shall include a description of each such piece of equipment, shall state the actual or anticipated purchase price of each such piece of equipment, and shall include such other information as reasonably deemed necessary by the City;

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

(3) The taxpayers need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars ($2,500.).

(d) If the equipment declaration is given as provided in (c) above, then as to any item of construction equipment for which the purchase price was under two thousand five hundred dollars ($2,500.) which was brought into the City temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as the rate stated in § 25-75 and that such local sales or use tax was previously paid. In such case, the burden of proof in any proceeding before the City, the Financial Officer or the District Court shall be on the City to prove such local sales or use tax was not paid.
(Code 1972, § 104-17; Ord. No. 132, 1991, § 16, 11-19-91)

Sec. 25-121. Location guide available.

The Financial Officer shall make available to any requesting retailer a location guide showing the boundaries of the City. For transactions consummated on or after January 1, 1986, the requested retailer may rely on such location guide and any update available to such vendor in determining whether to collect a sales or use tax. No penalty shall be imposed or action for deficiency maintained against such a retailer who in good faith complies with the most recent location guide available.
(Code 1972, § 104-17; Ord. No. 132, 1991, § 2, 11-19-91)

Sec. 25-122. Tax on automotive vehicles purchased outside City.

No automotive vehicle purchased or acquired at retail outside the City by a resident of the City for use in the City shall be registered in the County, nor shall title thereto be transferred within the County, nor shall a license or registration for the use thereof in the State be issued by the County Clerk if the tax imposed by this Article has not been paid to the Financial Officer.
(Code 1972, § 104-18)

Sec. 25-123. Remittance of sales tax collected by retailer.

(a) Retailers shall remit to the City taxes collected pursuant to this Article. 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 Financial Officer may prescribe.

(b) The Financial Officer may authorize a retailer to remit the sales tax on a basis other than an accrual basis pursuant to the written request of the retailer.

(c) Every retailer shall file a tax return each month with the Financial Officer on or before the twentieth day of each month for the preceding month and remit the tax due to the Financial Officer simultaneously therewith.

(d) If any retailer shall, during any reporting period, collect as a sales tax an amount in excess of the rate stated in § 25-75, the retailer shall remit to the Financial Officer the full amount of the sales tax imposed and such excess.

(e) If any amount of sales tax is not remitted on or before the date due, penalties and interest as set forth in Subsection 25-186(a) shall be paid by the retailer for the period from the date due to the date paid.

(f) Any retailer that collects and remits sales tax to the Financial Officer as provided in this Article may use an electronic database of state addresses that is certified by the State Department of Revenue pursuant to Section 39-26-105.3, C.R.S., to determine the jurisdictions to which tax is owed.

(g) Any retailer that uses the data contained in an electronic database certified by the state Department of Revenue pursuant to Section 39-26-105.3, C.R.S., to determine the jurisdictions to which tax is owed shall be held harmless for any tax, penalty or interest owed the City that otherwise would be due solely as a result of an error in the electronic database, provided that the retailer demonstrates that it used the most current information available in such electronic database on the date that the sale occurred. Each retailer shall keep and preserve such records as prescribed by the Financial Officer to demonstrate that it used the most current information available in the electronic database on the date that the sale occurred. Notwithstanding the above, if the error in collecting and remitting is a result of a deceptive or false representation or fraud, the provisions of this Section shall not apply.
(Code 1972, § 104-19; Ord. No. 192, 1987, § 7, 1-5-88; Ord. No. 118, 1989, § 1, 9-19-89; Ord. No. 132, 1991, §§ 2, 17, 18, 11-19-91; Ord. 046, 2004, § 1, 3-16-04; Ord. No. 130, 2007, § 1, 11-20-07; Ord. No. 106, 2009, § 1, 11-3-2009; Ord. No. 054, 2010, § 2, 5-18-10)

Sec. 25-124. Remittance of use tax.

(a) Every person who operates or maintains a business in the City, and who purchases or leases tangible personal property for use, storage, distribution or consumption in the City in connection with the business and taxable hereunder, and who has not paid the tax imposed by this Article to a retailer required or authorized to collect the same, shall make a return and pay the tax due to the Financial Officer, on or before the twentieth day of each calendar month following the month in which such purchase or lease was consummated or such later date as is approved by the Financial Officer. The burden of proving that any person is exempt from paying the use tax shall be on such person under such reasonable requirements of proof as the Financial Officer may prescribe.

(b) Every resident of the City who purchases or leases tangible personal property for use, storage, distribution or consumption in the City and taxable hereunder, and who has not paid the tax imposed thereon by this Article to a retailer required or authorized to collect the same, shall make a return and pay the tax due to the Financial Officer within thirty (30) days from the purchase or lease of such tangible personal property unless a reporting period greater than thirty (30) days is approved by the Financial Officer.

(c) If any amount of use tax is not remitted on or before the date due, penalties and interest as set forth in Subsection 25-186(a) shall be paid by the taxpayer for the period from the date due to the date paid.
(Code 1972, § 104-20; Ord. No. 192, 1987, § 8, 1-5-88; Ord. No. 132, 1991, § 2, 19, 11-19-91)

Sec. 25-125. Remittance of use tax by property owners and lessees.

Every owner or lessee of real property in the City and of improvements and structures located upon real property in the City upon which tangible personal property acquired from sources outside the City is attached or affixed who has not paid the tax imposed by this Article thereon to a retailer required or authorized to collect the same, shall make a return and pay the tax due to the Financial Officer within thirty (30) days from the purchase or lease of such tangible personal property.
(Code 1972, § 104-21; Ord. No. 132, 1991, § 2, 11-19-91)

Sec. 25-126. Remittance of tax on other than a monthly basis.

(a) If the accounting method regularly employed by the taxpayer in the transaction of his or her business or other conditions are such that reports of sales and/or use tax made on a calendar month basis will impose unnecessary hardship on the taxpayer, the Financial Officer may, upon written request of the taxpayer, accept returns at such intervals as will, in the Financial Officer's opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax.

(b) The Financial Officer may require a bond or other financial guarantee to secure payment of the tax on such less frequent basis and may revoke permission to pay the tax on such basis if payment of the tax due become delinquent.

(c) Unless otherwise approved by the Financial Officer, taxpayers must file returns and pay taxes as follows:

(1) A taxpayer whose monthly tax due is less than twenty-five dollars ($25.) may file returns and pay tax, annually, quarterly or monthly.

(2) A taxpayer whose monthly tax due is less than fifty dollars ($50.) may file returns and pay tax, quarterly or monthly.

(3) A taxpayer whose monthly tax due is fifty dollars ($50.) or more shall file and pay tax monthly.

(4) The reporting period for a final return shall end on the date of the transfer of ownership of a business.

(5) The reporting period for an initial use tax return shall be the calendar month of the date of sale of the business if the business was purchased or opening day of business if the business is new.

(6) The reporting period for a retailer selling tangible personal property at a temporary location or a special event inside the City shall end on the day the temporary location closes or the special event concludes.
(Code 1972, § 104-22; Ord. No. 132, 1991, § 20, 11-19-91)

Sec. 25-127. Form of tax returns; signatures required.

(a) The returns to be filed by the taxpayer shall contain such information and be made in such manner and upon such forms as the Financial Officer may prescribe.

(b) Each return shall be signed by one (1) of the following, depending upon the nature of the taxpayer:

(1) Sole proprietor – owner or authorized agent;

(2) Partnership – general partner or authorized agent;

(3) Corporation – president or authorized agent;

(4) Estate – personal representative;

(5) Trust – trustee;

(6) Other – authorized representative.

(c) A penalty of ten dollars ($10.) shall be charged to and due from the taxpayer for each return filed with the Financial Officer without the appropriate signature.
(Code 1972, § 104-23)

Sec. 25-128. Consolidation of returns.

A retailer doing business in two (2) or more places or locations, whether within or without the City, and collecting taxes hereunder may file one (1) return covering all such places or locations when accompanied by a supplemental report showing the gross and net taxable sales and the taxes collected thereon for each such place or location.
(Code 1972, § 104-24; Ord. No. 132, 1991, § 2, 11-19-91)

Sec. 25-129. Deferred use tax payments for large base industry.

(a) The Financial Officer may, in his or her discretion, agree to defer the payment of use tax by a large base industry. In no instance shall such negotiation result in a payment deferral for more than five (5) years from the date the use tax is due. Interest shall be charged on the deferred amount at a rate of not less than one quarter of one (.25) percent per month, compounded annually.

(b) Factors to be considered by the Financial Officer when deciding whether a payment deferral will be granted and the terms of such deferral may include, without limitation:

(1) Whether the proposed deferral is in the best interest of the City;

(2) Whether the proposed deferral would be generally consistent with the City's economic development goals and objectives;

(3) The impact of the proposed deferral upon the financial welfare of the City and the provision of municipal services;

(4) The anticipated financial return to the City from the proposed operations of the particular large base industry;

(5) The impact of the proposed deferral upon the overall health, safety and welfare of the citizens of the City; and

(6) Whether the large base industry is committed to satisfactorily mitigating any adverse environmental impacts of its operation, and is further committed to the training and human resource development of its work force.

(c) For the purposes of this Section, *large base industry* shall mean a firm that: (1) produces, or will produce, manufactured goods, at least eighty (80) percent of which are, or will be, produced for export to areas outside of the City; (2) employs, or will employ, no fewer than one hundred (100) persons for at least thirty-five (35) hours of year-round employment per week; and (3) owns or leases, or will own or lease, real property or equipment within the City limits that is used in the operation of the firm's business and that has, or will have, as of the date of the commencement of the firm's operation, a fair market value of no less than one hundred million dollars ($100,000,000.).

(d) The provisions of this Article shall not be construed as establishing any right or entitlement to a deferral of the payment of use tax on the part of any applicant. The approval of any deferral plan shall be entirely discretionary with the Financial Officer.
(Ord. No. 48, 1995, 5-2-95)

Sec. 25-130. Deferred sales and use tax payments for affordable housing projects.

All sales and use taxes for materials purchased and used in the construction of an affordable housing unit as that term is defined in § 26-631 shall, upon the request of the applicant, be deferred until the date of issuance of the certificate of occupancy (whether temporary or permanent) for such affordable housing unit, or portion thereof, or until the first day of December of the year in which the deferral was obtained, whichever first occurs. At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars ($50.) to partially defray the cost of administration. No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of taxes under this Section.
(Ord. No. 191, 1999, § 2, 1-4-00)

Secs. 25-131—25-145. Reserved.

DIVISION 4. REFUNDS

Sec. 25-146. Tax disputes.

Retailers engaged in business in the City shall collect and purchasers and consumers shall pay the taxes levied by this Article, notwithstanding the fact that either retailer, purchaser or consumer disputes the tax liability or claims an exemption. If the application of the tax to any transaction is disputed, the retailer shall collect and the purchaser or consumer shall pay the tax, and the taxpayer may thereafter apply to the Financial Officer for a refund of such taxes paid, as provided in this Article.
(Code 1972, § 104-25; Ord. No. 132, 1991, §§ 2, 3, 11-19-91)

Sec. 25-147. Procedure for refund of disputed tax.

A refund shall be made or credit allowed for the tax paid under dispute by any person who claims that the transaction or item was not taxable or claims an exemption as provided in this Article. Such refund shall be made by the Financial Officer after compliance with the following:

(1) *Application.* An application for a refund of sales or use tax paid under dispute by a purchaser or user who claims an exemption under Subsection 25-73(c) or Subsection 25-74(b) shall be made within sixty (60) days after the date of purchase, storage, use or consumption of the goods or services whereon an exemption is claimed. An application for refund of taxes paid in error or by mistake shall be made within three (3) years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed. Such applications must be accompanied by the original paid invoice or sales receipt and must be made upon such forms as shall be prescribed and furnished by the Financial Officer;

(2) *Burden of proof.* The burden of proving that any transaction or item is not taxable or is exempt from the tax shall be upon the person asserting such claim under such reasonable requirements of proof as the Financial Officer may prescribe;

(3) *Decisions.* Upon receipt of an application, the Financial Officer shall examine the same with all due speed and shall give written notice to the applicant of his or her decision thereon;

(4) *Hearing.* An applicant whose application for a refund has been denied may, within twenty (20) days after such decision is mailed, petition the Financial Officer for a hearing on the claim. The Financial Officer shall notify the applicant in writing of the time and place of the hearing. After such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant. The time period set forth in this Section may, in the absolute discretion of the Financial Officer, be waived for good cause on written application of the applicant.

(Code 1972, § 104-26; Ord. No. 132, 1991, § 21, 11-19-91)

Sec. 25-148. Right of refund not assignable.

The right of any person to a refund under this Article is not assignable. An application for a refund must be made by the individual who paid the tax, as shown on the sales receipt or invoice of the sale.
(Code 1972, § 104-27)

Sec. 25-149. Action for recovery of refund.

If any such person obtains any refund unlawfully, the Financial Officer is hereby empowered and directed to bring appropriate action for recovery of such refund. A conviction of a violation of Subsection 25-222(e) shall constitute prima facie evidence that all refunds received by such person pursuant to the application which contained the false statement were obtained unlawfully.
(Code 1972, § 104-28)

Secs. 25-150—25-165. Reserved.

DIVISION 5. ADMINISTRATION

Sec. 25-166. Preservation of returns and other records; confidentiality.

(a) Returns shall be preserved for a period of three (3) years from the date of filing with the Financial Officer, after which time the Financial Officer may order them destroyed.

(b) Except in accordance with a court order or as otherwise provided by law, the Financial Officer shall not divulge or make known in any way any financial information obtained from any investigation conducted by the Financial Administration Unit or disclosed in any document, report or return filed in connection with the taxes covered by this Article. The persons charged with custody of such documents, reports, investigations and returns shall not be required to produce any of them or evidence of anything contained therein in any action or proceeding in any court, except on behalf of the Financial Officer in any action or proceeding under the provisions of this Article to which the Financial Officer or the City is a party or on behalf of any party to an action or proceeding under the provisions of this Article when the report of facts 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 in evidence so much of the reports or of the facts shown thereby as are pertinent to the action or proceeding and no more.

(c) Nothing in this Section shall be construed to prohibit the delivery to a person or a duly authorized representative thereof a copy of any application, report, return or any other document kept, filed or maintained in connection with such person's tax liability. Copies of such documents may be certified by the Financial Officer and when so certified shall be evidence equally with the originals and may be received as evidence of their contents.

(d) Nothing in this Section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the contents thereof, or the inspection of any documents by the City Attorney or other legal representatives of the City.

(e) Notwithstanding the provisions of this Section, the Financial Officer may furnish to the taxing officials of the State or its political subdivisions, any other state or its political subdivisions or the United States any information contained in any application, report, return or any other document if the recipient jurisdiction agrees with the Financial Officer to grant similar privileges to the City and if such information is to be used by the jurisdiction only for tax-related purposes.
(Code 1972, § 104-29; Ord. No. 192, 1987, § 9, 1-5-88)

Sec. 25-167. Records and accounts to be kept.

It is the duty of every person engaged in business in the City for the transaction of which a license is required by this Article to keep and preserve suitable records of all sales, purchases and leases made by such person, and such other books or accounts as may be necessary to determine the amount of tax for the collection or payment of which such person is liable hereunder. It is the duty of every such person to keep and preserve all such books, invoices and other records for a period of three (3) years and such items shall be open for examination in the City at any time by the Financial Officer.
(Code 1972, § 104-30)

Sec. 25-168. Examination of returns; recomputation, credits, deficiencies.

As soon as practicable after a return is filed, the Financial Officer shall examine it. If it appears that the correct amount of tax to be remitted may be greater or less than that shown in the return, the tax shall be recomputed by the Financial Officer. If the amount paid exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from the taxpayer. If the amount paid is less than the amount due and any part of the deficiency is due to negligence or intentional disregard of the provisions of this Article or of authorized rules and regulations of the City with knowledge thereof but without intent to defraud, the amount of the deficiency together with a penalty of ten (10) percent of the amount of the deficiency plus interest on both the deficiency and the penalty at the rate imposed under § 25-188 from the date the return and the tax was due shall be due and payable by the taxpayer within twenty (20) days after written notice and demand is mailed to the taxpayer by the Financial Officer. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added a penalty of one hundred (100) percent of the deficiency and in such case, the amount of the deficiency, the penalty and interest calculated as stated above shall be due and payable by the taxpayer within twenty (20) days after written notice and demand is mailed to the taxpayer by the Financial Officer and an additional amount of three (3) percent per month on such amount shall be added from the date the return and tax was due until paid.
(Code 1972, § 104-31; Ord. No. 132, 1991, § 22, 11-19-91)

Sec. 25-169. Investigation of records relating to taxes.

For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, whether licensed under this Article or not, the Financial Officer may hold investigations, including audits, and hearings concerning any matters covered by this Article, and may examine any relevant books, papers,

records or memoranda of any such person and may require the attendance of such person, or any officer or employee of such person, or of any person having knowledge of transactions involved, and may take testimony and proof of the information. The Financial Officer shall have the power to administer oaths to such persons.
(Code 1972, § 104-32)

Sec. 25-170. Subpoenas and witness fees.

All subpoenas issued under the terms of this Article may be served by any person over the age of eighteen (18) years. The fees of witnesses for attendance in response to a subpoena shall be the same as the fees of witnesses before the District Court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Financial Officer, such fees shall be paid by the City but when a witness is subpoenaed at the instance of any other party to such proceeding, the Financial Officer may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Financial Officer, in his or her discretion, may require a deposit to cover the cost of such service and witness fees prior to issuing such subpoenas. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.
(Code 1972, § 104-33)

Sec. 25-171. Attendance of witnesses and production of evidence to be compelled by District Judge.

Any Judge of the District Court, upon the application of the Financial Officer, may compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Financial Officer, by an action for contempt or otherwise in the same manner as the production of evidence may be compelled before such court.
(Code 1972, § 104-34)

Sec. 25-172. Depositions.

The Financial Officer, or any party to an investigation or hearing before the Financial Officer, may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.
(Code 1972, § 104-35)

Sec. 25-173. Coordinated audit.

(a) Any taxpayer licensed in the City pursuant to § 25-91, and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.

(b) Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Financial Officer of the 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 Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time based limitation upon the City's right to recover tax owed by the vendor for the audit period.

(c) Except as provided in Subsection (g), any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of thirty-six (36) months may be audited by the City during the twelve (12) months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) If the City desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to Subsection (c), the Financial Officer shall so notify the finance director of the municipality whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the taxpayer's request for a coordinated audit. The Financial Officer shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the City, the City's Financial Officer shall facilitate arrangements between the 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 Financial Officer 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 the City, the City's Financial Officer 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 Financial Officer 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 thirty-six (36) months;

(4) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in Subsection (b).

(Ord. No. 132, 1991, § 23, 11-19-91)

Secs. 25-174—25-185. Reserved.

DIVISION 6. ENFORCEMENT

Sec. 25-186. Failure to make return; estimate of taxes; notices; appeal; audit.

(a) If any person fails, neglects or refuses to collect tax or to file a return and pay the tax as required by this Article, the Financial Officer shall make an estimate of the tax due based on available information and shall add thereto a penalty equal to the sum of fifteen dollars ($15.) or ten (10) percent thereof, whichever is greater, and interest on such delinquent taxes at the rate imposed by § 25-188 plus one-half (0.5) percent per month from the date of return and tax was due, not exceeding eighteen (18) percent in the aggregate.

(b) The Financial Officer shall serve upon the delinquent taxpayer personally or by first-class mail or certified mail directed to the last address of the taxpayer on file with the City written notice of such estimated taxes, penalty and interest. Such notice shall constitute a notice of determination, assessment and demand for payment and shall be due and payable within twenty (20) days from the date the notice is mailed.

(c) A protest of a notice of determination, assessment and demand for payment issued to a retailer or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the Financial Officer within twenty (20) days from the date the notice of assessment is mailed. Any such protest shall identify the amount of tax disputed and the basis for the protest. Such protest may include a request for a hearing.

(d) Such petition shall be in writing and shall be given under oath of the taxpayer. Such petition may include a request for a hearing.

(e) The Financial Officer may conduct an audit of the books and records of the taxpayer to determine the exact amount of tax due and charge the taxpayer for any amount found to be due.

(f) In response to the petition, if a hearing was requested, the Financial Officer shall notify the petitioner in writing of the time and place of the hearing. After such hearing, or after a consideration of the facts and figures contained in the petition if no hearing is requested, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such order to the petitioner.

(g) The Financial Officer may, at any time within three (3) years of the date the tax was due, conduct an audit of the books and records of the taxpayer to determine the exact amount of tax due and charge the taxpayer for any amount found to be due in excess of the amount previously paid, whether such amount was paid pursuant to a return filed by the taxpayer or a notice of determination, assessment and demand for payment.
(Code 1972, § 104-36; Ord. No. 132, 1991, § 24, 11-19-91; Ord. No. 054, 2010, § 3, 5-18-10)

Sec. 25-187. Assessment and recurring assessment penalty.

If any taxpayer has failed, neglected or refused to pay the tax imposed by this Article within the time specified for payment, the Financial Officer may assess the following penalties, in addition to the taxes, penalties and interest provided for elsewhere in this Article, the additional amount being imposed to compensate the City for administrative and collection costs incurred in collecting such delinquent taxes:

(1) Upon the first or second issuance of a notice of determination, assessment and demand for payment within twelve (12) months, fifteen dollars ($15.) per notice;

(2) Upon the third, fourth or fifth issuance of a notice of determination, assessment and demand for payment within twelve (12) months, twenty-five dollars ($25.) or fifteen (15) percent of the delinquent taxes, penalties and interest, whichever is greater, per notice;

(3) Upon the sixth or more issuance of a notice of determination, assessment and demand for payment within twelve (12) months, fifty dollars ($50.) or thirty (30) percent of the delinquent taxes, penalties and interest, whichever is greater, per notice.

(Code 1972, § 104-37)

Sec. 25-188. Rate of interest; method of calculation.

When interest is required or permitted to be charged under any provision of this Article, the annual rate of interest shall be calculated as follows:

(1) Interest at a rate of one (1) percent per month shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid.

(2) Interest at a rate of one (1) percent per month shall be calculated for each month or portion of a month on the total tax liability from the first installment date when a payment schedule is arranged.

(Code 1972, § 104-38; Ord. No. 132, 1991, § 25, 11-19-91)

Sec. 25-189. Tax constitutes lien.

(a) The sales and use tax imposed by this Article, together with all penalties and interest pertaining thereto, is a first and prior lien upon the goods, stock-in-trade and business fixtures in which the retailer has an ownership interest except for goods that have been purchased in the ordinary course of business by retail purchasers and such lien takes priority over other liens or claims of whatsoever kind or nature on such property.

(b) The sales and use tax imposed by this Article, together with all penalties and interest pertaining thereto, is a first and prior lien on the real and personal property of the taxpayer other than the goods, stock-in-trade and business fixtures in which the taxpayer has an ownership interest, except as to preexisting liens or claims of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice of lien provided for in (d) below, on the property of the taxpayer.

(c) Whenever the business or property of any taxpayer is placed in receivership, bankruptcy, seized under distraint for nonpayment of property taxes or an assignment is made for the benefit of creditors, all taxes, penalties and interest imposed by this Article and for which the taxpayer is in any way liable under this Article are a prior and preferred claim against all the property of the taxpayer, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice of lien provided for in (d) below, on the property of the taxpayer, other than the goods, stock-in-trade and business fixtures of such taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any taxpayer subject to the provisions of this Article under process or order of any court without first ascertaining from the Financial Officer the amount of any taxes, penalties or interest due and payable under this Article. If there are any such taxes, penalties or interest due, owing or unpaid, it is the duty of such officer to first pay the amount of the taxes, penalties or interest out of the proceeds of such sale before paying any monies to judgment creditors or other claimants, except that the officer may pay costs of the proceedings and other preexisting liens or claims as provided in this Subsection.

(d) If any tax, penalty or interest imposed by this Article and shown due by returns filed by the taxpayer or by assessments made by the City as provided in this Article is not paid within five (5) days after it is due, the Financial Officer may issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of its accrual, and the fact that the City claims a first and prior lien therefor on the real and personal property of the taxpayer, except as to preexisting liens or claims of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice on the property of the taxpayer, other than the goods, stock-in-trade and business fixtures in which the taxpayer has an ownership interest. The notice of lien shall be made on forms prescribed by the Financial Officer and verified by the Financial Officer and may be filed in the office of

the Clerk and Recorder of any county in the state in which the taxpayer owns real or personal property or with any person in possession of any personal property or rights to property belonging to the taxpayer.

(e) The Financial Officer shall release any lien as shown on the records of the County Clerk and Recorder as herein provided, upon payment of all taxes, penalties and interest covered thereby, in the same manner as mortgages and judgments are released.
(Code 1972, § 104-39; Ord. No. 132, 1991, § 2, 11-19-91)

Sec. 25-190. Lien on construction improvements.

(a) The full amount of unpaid taxes arising from and required to be reported pursuant to the provisions of §§ 25-119 and 25-125, together with interest and penalties as herein provided, are a first and prior lien on the property of the taxpayer and take priority over all other liens of whatsoever kind and nature, except for liens for general taxes created by state law and preexisting liens or claims of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice of lien provided for in § 25-189.

(b) The Director of Building and Zoning shall not make a final inspection on or issue a certificate of occupancy for any construction project unless a person has paid or arranged with the Financial Officer to pay all taxes due under this Article on all fixtures, minerals and other construction materials and supplies or tangible personal property used in or connected with the construction, reconstruction, alteration, expansion, modification or improvement of any building, dwelling or other structure or improvement to real property in the City.
(Code 1972, § 104-40; Ord. No. 132, 1991, § 26, 11-19-91; Ord. No. 130, 2002, § 11, 9-17-02)

Sec. 25-191. Sale of business subject to lien.

(a) Any person who sells a business or stock of goods or closes a business shall complete and file the returns required under this Article and pay the taxes, penalties and interest due within twenty (20) days of the date on which such person sold the business or stock of goods or closed the business and indicate that it is a final return, that the business is sold or closed, and the name and address of the purchaser of the business, if any.

(b) A purchaser of a business who has acquired the furniture, fixtures and/or equipment of the business shall withhold sufficient funds from the purchase money to cover the amount of taxes, penalties and interest imposed by this Article due and unpaid until the seller provides a receipt from the Financial Officer showing that such taxes, pe-

nalties and interest have been paid. If taxes, penalties and interest imposed by this Article are due and unpaid after the twenty-day period herein provided, such purchaser of the business is personally liable for the payment of the taxes, penalties and interest imposed by this Article due and unpaid to the City to the same extent as the seller of the business or stock of goods.
(Code 1972, § 104-41; Ord. No. 132, 1991, § 27, 11-19-91)

Sec. 25-192. Certificate of discharge of lien.

(a) If any real or personal property is subject to a lien for payment of tax due to the City under this Article, the Financial Officer may issue a certificate of discharge of any part of the property subject to the lien if the Financial Officer finds that the fair market value of that part of such property remaining subject to the lien is at least twice the amount of the unsatisfied tax liability plus the value of any liens on the property that have priority over the City's lien.

(b) If any real or personal property is subject to a lien for payment of tax due to the City under this Article, the Financial Officer may issue a certificate of discharge of any part of the property subject to the lien if the Financial Officer is paid in partial satisfaction of the tax liability an amount determined by the Financial Officer to be not less than the value of the City's interest in the part of the property so discharged. In determining the value of the part of the property to be discharged, the Financial Officer shall consider the fair market value of the property and the value of any liens on the property that have priority over the City's lien.

(c) A certificate of release of lien issued under this Section is conclusive evidence that the City's lien upon the property is extinguished, but does not extinguish or release any portion of the lien on property not specified in the release.
(Code 1972, § 104-42)

Sec. 25-193. Jeopardy assessment.

(a) If the Financial Officer finds that collection of the tax will be jeopardized for any reason, the Financial Officer may declare the taxable period immediately terminated, determine the tax and issue a notice of determination, assessment and demand for payment. Notwithstanding the provisions of § 25-186, the tax shall then be due and payable forthwith, and the Financial Officer may proceed to collect the tax as provided in § 25-194.

(b) If the taxpayer subject to a jeopardy assessment provides security for payment of the tax satisfactory to the Financial Officer, the Financial Officer may forego the jeopardy assessment collection proceedings.
(Code 1972, § 104-43)

Sec. 25-194. Enforcing the collection of taxes due.

(a) The Financial Officer may issue a warrant directed to any employee, agent or representative of the City or any sheriff of any county of the State, commanding such person to distrain, seize and sell any personal property in which the taxpayer has an ownership interest, except such property as is exempt from the execution and sale by any statute of the State, for the payment of tax due together with interest and penalties thereon and costs of execution in the following circumstances:

(1) When any deficiency in tax is not paid within twenty (20) days from the date of mailing of the notice of determination, assessment and demand for payment and no hearing or extension has been requested in a timely manner;

(2) When any deficiency in tax is not paid within thirty (30) days from the date of the notice of determination, assessment and demand for payment and no appeal from such notice has been docketed in the County District Court during such time, except that if the Financial Officer finds that collection of the tax will be jeopardized during such period, the Financial Officer may immediately issue a distraint warrant;

(3) When any deficiency in tax is not paid within the time prescribed in judgment and order of court on any appeal to the County District Court;

(4) Immediately upon making a jeopardy assessment or issuing a demand for payment upon jeopardy assessment as provided in § 25-193; or

(5) After or concurrently with the filing of a notice of lien as provided in Subsection 25-189(d).

(b) The Financial Officer may apply to the Judge of the Municipal Court for a warrant authorizing the Financial Officer to search for and seize property located within the City limits for the purpose of enforcing the collection of taxes under this Article. The Municipal Judge shall issue such warrant after the Financial Officer demonstrates that:

(1) The premises to which entry is sought contain property that is subject to levy and sale for taxes due; and

(2) At least one (1) of the preconditions of (a) above has been satisfied; but if a jeopardy assessment has been declared under § 25-193, the Financial Officer must set forth the reasons that collection of the tax will be jeopardized.

(c) The procedures to be followed in issuing and executing a warrant pursuant to (b) above shall comply with the Colorado Municipal Court Rules of Procedure, Rule 241(c) and (d).

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

(e) The agent charged with the collection shall make or cause to be made an account of the goods or effects distrained, and shall leave a copy of such account, signed by the agent making such distraint, with the owner or possessor of the property, at the owner's or possessor's usual place of abode with some family member over the age of eighteen (18) years, at the owner's or possessor's usual place of business with a stenographer, bookkeeper or chief clerk, or, if the taxpayer is a corporation, with any officer, manager, general agent or agent for process, with a statement of the sum demanded and the time and place of sale. The agent charged with collection shall forthwith cause to be published a notice of the time and place of sale and a description of the property to be sold in a newspaper within the county wherein distraint is made or, in lieu thereof and in the discretion of the Financial Officer, the agent or sheriff shall cause such notice to be publicly posted at the county courthouse wherein such distraint is made and copies thereof shall be posted in at least two (2) other public places within the county. The time fixed for the sale shall not be less than ten (10) days nor more than sixty (60) days from the date of such notification to the owner or possessor of the property and the publication or posting of such notices. The sale may be adjourned or postponed from time to time by the agent or sheriff, if the agent or sheriff deems it advisable, to a date certain but not for a time to exceed in all ninety (90) days from the date first fixed for the sale. When any personal property is advertised for sale under distraint, the agent or sheriff making the seizure shall proceed to sell such property at public auction, offering the property at not less than a fair minimum price that includes the expenses of making the seizure and of advertising the sale. If the amount bid for the property at the sale does not equal the fair minimum price so fixed, the agent or sheriff conducting the sale may declare the same to be purchased for the City. The property so purchased may then be sold by the agent or sheriff under such regulations as may be prescribed for disposing of City property. The goods, chattels or effects so distrained shall be restored to the owner or possessor if, prior to the sale, the amount due is paid together with the fees and other charges, or they may be redeemed by any person holding a chattel mortgage or other evidence of right of possession.

(f) In all cases of sale, the agent or sheriff making the sale shall issue a certificate of sale to each purchaser, and such certificate is prima facie evidence of the right of the agent or sheriff to make such sale and conclusive evidence of the regularity of the proceedings in making the sale; it transfers to the purchaser all right, title and interest of the delinquent taxpayer in and to the property sold. Where such property consists of certificates of securities or other evidence of indebtedness in the possession of the agent or sheriff, the taxpayer shall endorse such certificates to the purchaser thereof and supply the purchaser with proof of the taxpayer's authority to transfer the same or with any other requisite that may be necessary to obtain registration of the transfer of the certificate. Any surplus remaining above first the City's taxes, penalties, interest, costs and expenses of making the seizure and of advertising the sale and then the amounts distributed pro rata to other jurisdictions under recorded sales and use or personal property ad valorem tax liens shall be returned to the property owner or such person having a legal right to the property; and, on demand, the Financial Officer shall render an accounting in writing of the sale.

(g) In the case where a taxpayer has refused or neglected to pay any tax due to the City under this Article and a lien has been filed as provided in Subsection 25-189(d), the Financial Officer may, in addition to pursuing other collection remedies, certify the amount of the tax, penalties and interest due, together with ten (10) percent of the delinquent amount for costs of county collection, to the County Treasurer to be levied against the person's property for collection by the County in the same manner as delinquent general taxes upon such property are collected. Before certifying such amounts to the County for collection, the Financial Officer shall provide to the property owner an opportunity for a hearing to contest the authority of the City to incur the tax, or the amount thereof. The Financial Officer shall mail the notice to the property owner by first class mail addressed to the last known owner of the property on the records of the County Assessor. If the Financial Officer's decision after a hearing affirms the imposition of charges, the decision shall include notice that the charges are due and payable within ten (10) days of the date of the decision and that, if not paid when due, they will be certified to the County Treasurer for collection, along with ten (10) percent of the charges for the cost of county collection. Whenever the Financial Officer certifies any such amounts to the County Treasurer for collection, the Financial Officer shall record notice of such certification with the County Clerk and Recorder.
(Code 1972, § 104-44; Ord. No. 132, 1991, § 28, 11-19-91)

Sec. 25-195. Recovery of unpaid tax by action at law.

(a) In addition to other remedies provided in this Article, the Financial Officer may treat any such taxes, penalties or interest due and unpaid as a debt due to the City from the taxpayer. If a taxpayer fails to pay the tax, or any portion thereof, or any penalty or interest thereon, when due, the Financial Officer may recover at law the amount of such taxes, penalties and interest in any County or District Court wherein the taxpayer resides or has a principal place of business that has jurisdiction over the amounts sought to be collected. The return filed by the taxpayer or the notice of determination, assessment and demand for payment issued by the Financial Officer is prima facie proof of the amount due.

(b) The City Attorney is hereby authorized upon request by the Financial Officer to commence any legal action or suit for the recovery of the tax due under this Article.

(c) Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff. In any such proceedings no bonds shall be required of the City nor shall any sheriff require of the Financial Officer any indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The City may also prosecute appeals or writs of error in such cases without the necessity of providing bond therefor.

(d) In any case in which a taxpayer has refused or neglected to pay any tax, penalty or interest due to the City under this Article and a lien has been filed upon any real or personal property, the Financial Officer may cause a civil action to be filed in the County District Court in which is situated any such property subject to such lien to enforce the lien and subject any real or personal property or any right, title or interest in such property to the payment of the amount due. The court shall decree a sale of such real property and distribute the proceeds of such sale, according to the court's findings concerning the interest of the parties and of the City. The proceedings in such action, the manner of sale, the period for and manner of redemption from such sale, and the execution of deed of conveyance shall be in accordance with the law of foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the property involved in such action if equity so requires.
(Code 1972, § 104-45)

Sec. 25-196. City may be party in title actions.

In any action affecting the title to real property or the ownership or right to possession of personal property, the City may be made a party defendant for the purpose of obtaining an adjudication or determination of its lien upon the property involved therein.
(Code 1972, § 104-46)

Sec. 25-197. Injunctive relief.

The Financial Officer may seek injunctive or other equitable relief in any court of competent jurisdiction to enforce provisions of this Article.
(Code 1972, § 104-47)

Sec. 25-198. Waiver of penalties by Financial Officer.

The Financial Officer is hereby authorized to waive, for good cause shown, any interest, penalty or fee imposed under this Article.
(Code 1972, § 104-48; Ord. No. 132, 1991, § 29, 11-19-91)

Sec. 25-199. Obligations of fiduciaries and others.

(a) For the purpose of facilitating settlement and distribution of estates, trusts, receiverships, other fiduciary relationships and the assets of corporations in the process of dissolution or that have been dissolved, the Financial Officer may agree with the fiduciary or surviving corporate directors upon an amount of taxes due from the decedent or from the decedent's estate, the trust, receivership or other fiduciary relationship, or corporation for any of the periods of tax liability under this Article. Payment in accordance with such agreement fully satisfies the tax liability for the periods that the agreement covers, unless the taxpayer has committed fraud or malfeasance or misrepresented a material fact regarding the tax or liability therefor.

(b) Except as provided in (d) below, any personal representative of a decedent or the estate of a decedent, any trustee, receiver or other person acting in a fiduciary capacity, or any director of a corporation in the process of dissolution or that has been dissolved who distributes the estate or fund under such person's control without having first paid any taxes covered by this Article due from such decedent, decedent's estate, trust estate, receivership or corporation and that may be assessed within the periods authorized by this Article is personally liable to the extent of the property distributed by such person for any unpaid taxes of the decedent, decedent's estate, trust estate, receivership or corporation imposed by or due under this Article and assessed within the periods authorized by this Article.

(c) The distributee of a decedent's estate, a trust estate or fund and the stockholder of any dissolved corporation who receives any of the property of such decedent's estate, trust estate, fund or corporation is liable under this Article to the same extent that the decedent, trust estate, fund or corporation is liable under this Article.

(d) If a tax under this Article is due from a decedent or the decedent's estate, personal liability of the persons set forth in this Section remains in effect only if a determination of the tax due is made and notice and demand therefor issues within eighteen (18) months after the decedent's personal representative files with the Financial Officer a written request for such determination, filed after he or she has filed the decedent's final return or the decedent's estate's return to which the request applies. A request for determination under this Subsection does not extend the otherwise applicable period of limitation.

(e) If a tax under this Article is due from a corporation that is in the process of dissolution or has been dissolved, personal liability of directors or stockholders as provided in this Section remains in effect only if a determination of the tax due is made and notice and demand issued within eighteen (18) months after the corporation files with the Financial Officer a written request for such determination, filed after it has filed the corporation's return, but only if the request states that the dissolution was begun in good faith before the expiration of the eighteen-month period and the dissolution is completed. A request for determination under this Subsection does not extend the otherwise applicable period of limitation.
(Code 1972, § 104-49)

Sec. 25-200. Intercity claims for recovery.

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

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

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

(3) The City may make a written claim for recovery directly to the municipality that received tax and/or penalty and/or interest owed to the City, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or retailer. The decision to make a claim for a recovery lies in the sole discretion of the City. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or retailer releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim and a request that the municipality approve or deny, in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the City submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the City shall not be unreasonably withheld.

(4) Within ninety (90) days after receipt of a claim for recovery, the City shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the City shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a retailer or taxpayer, the check shall be made to the parties jointly. Denial of a claim of recovery may only be made for good cause.

(5) 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 taxpayer.

(6) The period subject to a claim for recovery shall be limited to the thirty-six-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

(Ord. No. 132, 1991, § 30, 11-19-91)

Secs. 25-201—25-215. Reserved.

DIVISION 7. MISCELLANEOUS

Sec. 25-216. Review of decisions of Financial Officer.

The taxpayer may apply for a review of the decision of the Financial Officer in a hearing held pursuant to § 25-169. Such review shall be in the Larimer County District Court in accordance with Rule 106 of the Colorado Rules of Civil Procedure. The review must be sought no later than thirty (30) days after the date of the decision of the Financial Officer.

(Code 1972, § 104-50; Ord. No. 192, 1987, § 10, 1-5-88; Ord. No. 132, 1991, § 31, 11-19-91)

Sec. 25-217. Review bond required.

For transactions consummated on or after January 1, 1986, within fifteen (15) days after making application to the District Court for review of the decision of the Financial Officer, the party making such application shall file with the District Court a surety bond in twice the amount of the taxes, penalties, interest and other charges stated in the final decision by the Financial Officer which are contested on appeal. The taxpayer may, at his or her 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 Section 11-35-101(1), C.R.S., equal to twice the amount of taxes, penalties, interest and other charges stated in the final decision by the Financial Officer. The taxpayer may, at his or her option, deposit the disputed amount with the Financial Officer in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the contested amount during the pendency of the action. At the conclusion of the action, after appeal or after the time for such appeal has

expired, the funds deposited shall be, at the direction of the court, either retained by the Financial Officer and applied against the amount due or returned in whole or in part to the taxpayer with interest at the rate imposed by § 25-188 from the date it was paid to the Financial Officer. No claim for refund of amounts deposited with the Financial Officer need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the court.
(Code 1972, § 104-51)

Sec. 25-218. Notices.

All written notices required to be mailed, served or given to any taxpayer under the provisions of this Article shall be hand delivered or mailed, postage prepaid, addressed to such taxpayer at the last known address of the taxpayer on file with the City and shall be deemed to have been received by the taxpayer when so mailed or delivered.
(Code 1972, § 104-52; Ord. No. 132, 1991, § 32, 11-19-91)

Sec. 25-219. License and tax in addition to all other licenses and taxes.

The license and tax imposed by this Article shall be in addition to all other licenses and taxes imposed by law, except as herein otherwise provided.
(Code 1972, § 104-53)

Sec. 25-220. Hearings to be held in City.

Every hearing before the Financial Officer shall be held in the City.
(Code 1972, § 104-54)

Sec. 25-221. Administration by Financial Officer; rules and regulations.

The administration of all provisions of this Article is hereby vested in and shall be exercised by the Financial Officer who shall prescribe forms and formulate and promulgate reasonable rules and regulations in conformity with this Article for the making of returns, for the ascertainment, assessment and collection of taxes imposed and for the proper administration and enforcement thereof.
(Code 1972, § 104-55)

Sec. 25-222. Violations.

(a) It shall be unlawful for any retailer to fail to collect or for any purchaser or consumer to fail to pay any tax, penalty or interest levied by this Article regardless of whether the tax liability is disputed or an exemption is claimed.

(b) It shall be unlawful for any retailer to retain any tax collected in excess of the rate stated in § 25-75 or to fail to remit punctually to the Financial Officer the full amount required by the provisions of this Article, including taxes, penalties and interest.

(c) It shall be unlawful for any person to fail or refuse to make or file any return required to be made or filed by this Article or to make any false or fraudulent return or any false or fraudulent statement in any return.

(d) It shall be unlawful for any person to do business without the license required by this Article or to continue to do business after such license is revoked.

(e) It shall be unlawful for any applicant for a tax refund to make a false statement in connection with such application.

(f) Except as may be otherwise provided for by rule or regulation of the Executive Director of the Department of Revenue for the State, it is unlawful for any person who is a resident of the City to register any motor vehicle owned by such person or to obtain a license or to procure a certificate of title at any address other than:

(1) For a motor vehicle which is owned by a business and operated primarily for business purposes, the address from which such vehicle is principally operated and maintained; or

(2) For any motor vehicle for which the provisions of (1) above do not apply, the address of the owner's residence; except that, if a motor vehicle is permanently operated and maintained at an address other than the address of the owner's residence, such motor vehicle shall be registered at the address from which such motor vehicle is permanently operated and maintained.

For purposes of this Subsection, a person's residence shall be his or her principal or primary home or place of abode, to be determined in the same manner as residency for voter registration purposes as provided in Sections 1-2-102 and 31-10-201, C.R.S., except that "voter registration" shall be substituted for "motor vehicle registration" as a circumstance to be taken into account in determining such principal or primary home or place of abode.

(g) It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Article will be assumed or absorbed by the retailer or that it will not be added to the purchase price of the property sold, or, if added, that it or any part thereof will be refunded.

(h) It shall be unlawful for any person other than the City to become enriched or to gain any benefit from the collection or payment of the taxes levied by this Article.

(i) It shall be unlawful for any officer, agent or employee of the City to divulge or make known in any way any information classified herein as confidential, except in accordance with a court order or as otherwise provided by law.

(j) It shall be unlawful for any person to aid or abet another in any attempt to evade the payment of the tax imposed by this Article.

(k) It shall be unlawful for any person to interfere with the actions of any employee or agent of the City relating to the distraint warrant procedures, such interference to include but not be limited to the removal of signs or tags placed on the premises or items of property which are to be sold by the City pursuant to such procedure.

(1) It shall be unlawful for any person to violate any other provisions of this Article.
(Code 1972, §§ 104-36(F), 104-56; Ord. No. 192, 1987, § 11, 1-5-88; Ord. No. 132, 1991, §§ 2, 3, 11-19-91)

Sec. 25-223. Penalties.

(a) The penalty for violating any provision of this Article shall be a fine or imprisonment or both in the amounts stated in § 1-15.

(b) In addition to the penalties stated in (a) above, and in addition to the penalties and interest which may be payable under the provisions of Subsection 25-186(a), any person who registers a motor vehicle in violation of Subsection 25-222(f) shall be subject to a civil penalty of five hundred dollars ($500.). Such violation shall be determined by the Financial Officer and shall be assessed by and paid to the Financial Officer according to the provisions of §§ 25-186 and 25-222 if such motor vehicle should properly have been registered at an address within the City.
(Code 1972, §§ 104-36(B), 104-57)

Sec. 25-224. Purpose of tax; distribution of proceeds.

The City Council hereby declares that the purpose of the levy of the tax imposed by this Article is for raising of funds for the payment of the expenses of operating the City and for capital improvements; and in accordance with these purposes, all of the proceeds of the tax shall be placed in and become part of the general funds of the City except as otherwise indicated in § 25-75 and except direct costs of coordinated audits, contract audits, hearings and collection agency procedures. These direct costs may be paid from the proceeds of the tax before these proceeds are placed in and become part of the City's general funds.
(Code 1972, § 104-58; Ord. No. 132, 1991, § 33, 11-19-91)

Sec. 25-225. Limitations on actions to collect.

(a) Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Article shall not be assessed, nor shall any notice of lien be filed, distraint warrant be issued, bond be collected upon, suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable. In addition, no lien shall continue after such period, except for taxes assessed before the expiration of such period, when a notice of lien regarding such taxes was filed prior to the expiration of such period, in which case the lien shall continue for only one (1) year after the filing of notice thereof.

(b) For transactions consummated on or after January 1, 1986, the use tax shall not be imposed with respect to the use or consumption of tangible personal property in the City which occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used in the State for the principal purpose for which it was purchased.

(c) In the case of a false or fraudulent return filed with intent to evade the tax and in the case of failure to Subsection file a return, the tax, together with interest and penalties, may be assessed or proceedings for the collection of such taxes may be begun at any time.

(d) The ability to complete an audit will not lapse, once the taxpayer has been notified of the audit period, until thirty (30) days after the date of the notice of determination, assessment and demand for payment issued as a result of such audit.

(e) Nothing in this Section shall be construed to limit any right accrued or to revive any liability barred by any statute in effect on the effective date of the ordinance from which this Article was derived.
(Code 1972, § 104-59; Ord. No. 054, 2010, § 4, 5-18-10)

Sec. 25-226. 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 Financial Officer of the City shall file with the Colorado Municipal League prior to the effective date of this Section a copy of the City sales and use tax ordinance reflecting all provisions in effect on the effective date of this Section.

(b) In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Financial Officer of the City shall file with the Colorado Municipal League prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the City.

(c) Failure of the City to file 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.
(Ord. No. 132, 1991, § 34, 11-19-91)

Sec. 25-227. Participation in meetings.

The Financial Officer or his or her designee shall cooperate with and participate on an as-needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League which is composed of state and municipal sales and use tax and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise.
(Ord. No. 132, 1991, § 35, 11-19-91)

Secs. 25-228—25-240. Reserved.

ARTICLE IV.
LODGING TAX

Sec. 25-241. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

City Manager shall mean the City Manager of the City of Fort Collins.

Financial Officer shall mean the Financial Officer of the City of Fort Collins.

Lodging accommodation shall mean the leasing, rental or furnishing of any room or other accommodation in any hotel, apartment-hotel, motel, guesthouse, trailer court, guest ranch, mobile home, automobile camp or any such similar place to any person who, for a consideration, uses, possesses or has the right to use or possess such room or other accommodation for a total continuous duration of less than thirty (30) days.

Lodging customer shall mean any person who, through a taxable lodging transaction, acquires lodging accommodation from a lodging provider.

Lodging price shall mean the gross price paid, exclusive of other taxes paid or value given by the customer for the provision of lodging accommodation.

Lodging provider shall mean any person furnishing lodging accommodation or such provider's authorized agent.

Lodging tax shall mean an excise tax payable by the purchaser of lodging accommodation or the aggregate amount of taxes due from a lodging provider during the period for which such person is required to report the collections of lodging tax as herein specified.

Lodging transaction shall mean the furnishing of a lodging accommodation to any person who, for consideration, uses, possesses or has the right to use or possess any room or rooms in any hotel, apartment-hotel, guesthouse, guest ranch, mobile home, automobile camp, trailer court or park under any concession permit, right of access, license to use or other agreement, or otherwise.

Person shall mean any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by the court or otherwise, or any group or combination acting as a unit, and includes the plural as well as the singular number.

Taxpayer shall mean any person obligated to account to the Financial Officer for taxes collected or to be collected under the terms of this Article.
(Code 1972, § 103-1)
Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 25-242. Tax levied.

On and after 11:59 p.m. March 31, 1984, there is levied and shall be paid and collected an excise tax of three (3) percent on the lodging price paid for the leasing, rental or furnishing of any lodging accommodation located in the City. This tax shall be in addition to the sales and use tax as established pursuant to Article III of this Chapter. It shall be a violation of this Code for any lodging customer of a hotel room, motel room or other accommodation located in the City to fail to pay, or for any lodging provider of such accommodation to fail to collect, the tax levied pursuant to this Section.
(Code 1972, § 103-2(A))

Sec. 25-243. Transactions exempt from tax.

The following lodging transactions are exempt from taxation under this Article:

(1) All lodging accommodations provided to the United States Government; to the State, its departments or institutions and political subdivisions in their governmental capacities only, including the City;

(2) All lodging accommodations provided to religious, charitable and eleemosynary corporations in the conduct of their religious, charitable and eleemosynary functions and activities only;

(3) All lodging accommodations provided to persons which the City is prohibited from taxing under the Constitution or laws of the United States or the State;

(4) All lodging accommodations provided to any person for a period of at least thirty (30) consecutive days;

(5) Any lodging transaction, if the price of such lodging accommodation is paid in advance on a weekly basis and does not exceed the total sum of seventy-five dollars ($75.) per week.

(Code 1972, § 103-3; Ord. No. 130, 2002, § 31, 9-17-02)

Sec. 25-244. Use of tax.

(a) The lodging tax shall be used by the City in accordance with the allocation as set forth in Subsection (b) hereof for the purpose of acquiring facilities and promoting tourism, conventions and other activities which utilize public accommodations within the City.

(b) Seventy-five (75) percent of the revenue received by the City from lodging tax shall be utilized for the promotion of convention and visitor activities and twenty-five (25) percent of the revenue from the lodging tax shall be utilized for cultural development and programming activities.
(Code 1972, § 103-2(B); Ord. No. 127, 1989, 9-19-89)

Sec. 25-245. License required for lodging providers.

(a) It shall be unlawful for any person to engage in the business of providing lodging accommodations without first having obtained a license, which license shall be granted and issued without fee by the Financial Officer and shall be in force and effect until revoked.

(b) In case business is transacted at two (2) or more separate places by one (1) person, a separate license for each place of business shall be required.
(Code 1972, § 103-4(A), (C))

Sec. 25-246. Exception to licensing requirement.

No license shall be required for any person engaged exclusively in the business of providing lodging accommodations which are exempt from taxation under this Article.
(Code 1972, § 103-9)

Sec. 25-247. Application.

Such license shall be granted only upon application stating the name and address of the person desiring such license, the name of such business, the location, including the street number of such business and such other facts as may be reasonably required by the Financial Officer.
(Code 1972, § 103-4(B))

Sec. 25-248. Form of license; nontransferability.

Each license shall be numbered and shall show the name, mailing address and place of the business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.
(Code 1972, § 103-5)

Sec. 25-249. Revocation of license.

The Financial Officer, after giving reasonable notice and after full hearing, may revoke the license of any person found by the Financial Officer to have violated any provision of this Article.
(Code 1972, § 103-7)

Sec. 25-250. Appeal of revocation; procedure.

Any finding and order of the Financial Officer revoking the license of any person shall be subject to review by the District Court of the district where the business of the licensee is conducted, upon application of the aggrieved party. The procedure of the review shall be in accordance with the Colorado Rules of Civil Procedure, Rule 106(a)(4).
(Code 1972, § 103-8)

Sec. 25-251. Engaging in business without license to be a violation.

Any person engaged in the business of providing lodging accommodations in the City without having secured a license, except as specifically provided herein, shall be guilty of a violation of this Article and upon conviction shall be punished pursuant to § 1-15.
(Code 1972, § 103-6)

Sec. 25-252. Payment of tax.

(a) Every lodging provider shall be liable and responsible for the payment of an amount equal to three (3) percent of all proceeds derived from the providing of lodging accommodations as established pursuant to § 25-242 and any such lodging provider shall file a return each month with the Financial Officer on or before the twentieth day of each month for the preceding month and remit any amount equivalent to the lodging tax collected to the Financial Officer.

(b) The returns to be filed by the lodging provider shall contain such information and be made in such manner upon any such forms as the Financial Officer may prescribe. The Financial Officer may extend the time for making returns and paying the taxes due under such reasonable rules and regulations as the Financial Officer may prescribe, but no such extension shall be for a greater period than is provided in § 25-255.

(c) The burden of proving that any lodging provider is exempt from collection of the lodging tax and paying the same to the Financial Officer or from making such returns shall be on the lodging provider under such reasonable requirements of proof as the Financial Officer may prescribe.

(d) Except as provided in (f) below, the lodging provider shall add the tax imposed or the average equivalent to the lodging price, showing such tax as a separate and distinct item and when added such tax shall constitute a part of such price and shall be a debt from the lodging customer to the lodging provider until paid and shall be recoverable at law in the same manner as other debts.

(e) No person other than the City may take enrichment from the collection or payment of such tax or from liability for payment of the full amount of the tax as levied by § 25-242.
(Code 1972, § 103-10; Ord. No. 055, 2010, § 1, 5-18-10)

Sec. 25-253. Formulation and promulgation of rules and regulations.

To provide uniform methods of adding the lodging tax or the average equivalent to the lodging price, it shall be the duty of the Financial Officer, with the approval of the City Manager, to formulate and promulgate appropriate rules and regulations to effectuate the purpose of this Article.
(Code 1972, § 103-11)

Sec. 25-254. Advertisement of assumption or absorption of tax prohibited.

It shall be unlawful for any lodging provider to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Article will be assumed or absorbed by the lodging provider or that it will not be added to the lodging price of the accommodations provided or, if added, that it or any part will be refunded.
(Code 1972, § 103-12)

Sec. 25-255. Remittance of tax on other than monthly basis.

If the accounting method regularly employed by the lodging provider in the transaction of business, or other conditions, is such that reports of sales made on a calendar month basis will impose unnecessary hardship, the Financial Officer may upon written request of the lodging provider accept reports at such intervals as will, in the Financial Officer's opinion, better suit the convenience of the lodging provider and will not jeopardize the collection of the tax. The Financial Officer may by rule permit a taxpayer whose monthly tax collected is less than twenty dollars ($20.) to make returns and pay taxes at intervals greater than one (1) month.
(Code 1972, § 103-13)

Sec. 25-256. Consolidation of returns.

A lodging provider doing business in two (2) or more places or locations taxable hereunder may file one (1) return covering all such business activities.
(Code 1972, § 103-14)

Sec. 25-257. Excess collections; failure to remit collections.

If any lodging provider shall during any reporting period collect as a tax an amount in excess of three (3) percent of the total sales on lodging accommodations as defined in § 25-242, the lodging provider shall remit to the City the full amount of the tax collected less the amount retained as a collection expense under Subsection 25-252(e). The retention by the lodging provider of any excess tax collections over three (3) percent of the total taxable sales of such lodging provider or the intentional failure to remit punctually to the Financial Officer the full amount required to be remitted by the provisions of this Article is hereby declared to be a violation of this Article.
(Code 1972, § 103-15)

Sec. 25-258. Bad debts.

Lodging taxes paid on the amount of lodging price which are represented by accounts which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State may be credited upon a subsequent payment of the tax as provided in this Article, but if any such accounts are thereafter collected by the lodging provider, a tax shall be paid upon the amounts so collected.
(Code 1972, § 103-16)

Sec. 25-259. Disputes over exemption from tax; application for refund.

If a dispute arises between the lodging customer and lodging provider as to whether or not any lodging transaction is exempt from taxation, the lodging provider shall collect and the lodging customer shall pay such tax, and the lodging provider shall issue to the lodging customer a receipt or certificate on forms prescribed by the Financial Officer showing the names of the lodging customer and lodging provider, the lodging accommodation furnished, the date, the price, the amount of tax paid and a brief statement of the claim of exemption. The lodging customer may apply to the Financial Officer for a refund of such taxes. It shall be the duty of the Financial Officer to determine the question of exemption subject to review by the courts as herein provided. It shall be a violation of the Article for any lodging provider to fail to collect, or for any lodging customer to fail to pay, a tax levied by this Article on the provision of lodging accommodation on which exemption is disputed.
(Code 1972, § 103-17)

Sec. 25-260. Procedure for refund of disputed tax.

(a) A refund shall be made or credit allowed for the tax paid under dispute by any person who claims one (1) or more exemptions as provided by this Article. Such refund shall be made by the Financial Officer after compliance with the following conditions precedent in this Section.

(b) Applications for refunds must be made within sixty (60) days after the lodging transaction on which the exemption is claimed and must be supported by the affidavit of the person, accompanied by the original paid invoice or sales receipt and a certificate issued by the lodging provider, and must be made upon such forms as shall be prescribed and furnished by the Financial Officer, which forms contain such information as the Financial Officer shall prescribe.

(c) The burden of proving that any person is exempt from paying the lodging tax shall be upon the person asserting such claim for exemption under such reasonable requirements or proof as the Financial Officer may prescribe.

(d) Upon receipt of such application, the Financial Officer shall examine it with all due speed and shall give notice to the applicant by an order in writing of the decision.

(e) An aggrieved applicant, within ten (10) days after such decision is mailed, may petition the Financial Officer for a hearing on the claim in the manner provided in this Article.
(Code 1972, § 103-18)

Sec. 25-261. Right of refund not assignable.

The right of any person to a refund under this Article shall not be assignable, and application for a refund must be made by the person who acquired lodging and paid the tax as shown in the invoice of the sale.
(Code 1972, § 103-19)

Sec. 25-262. False statements to be a violation.

Any applicant for a refund under the provisions of this Article or any other person who shall make any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this Article and punished as provided in this Article.
(Code 1972, § 103-20)

Sec. 25-263. Conviction to be evidence of fraudulent intent.

If any person is convicted under the provisions of § 25-262, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Financial Officer is hereby empowered and directed to bring appropriate action for recovery of such refund. A brief summary of the above mentioned penalties shall be printed on each application form for refund.
(Code 1972, § 103-21)

Sec. 25-264. Information to be confidential.

(a) Except in accordance with judicial order or as otherwise provided in this Article, the Financial Officer shall not divulge any information gained from any return filed under the provisions of this Article.

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

(c) Nothing in this Section shall be construed to prohibit the delivery to a person or his or her duly authorized representative of a copy of any return or report filed in connection with that person's tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the City Attorney, or any other legal representative of the City, of the report or return of any person who shall bring action to set aside or review the tax based thereon or against whom an action or proceeding is contemplated or has been instituted under this Article.

(d) Reports and returns shall be preserved for three (3) years and thereafter until the Financial Officer with the approval of the City Manager orders them destroyed.
(Code 1972, § 103-22)

Sec. 25-265. Keeping of records and accounts.

It shall be the duty of every person engaged or continuing in business in the City, for the transaction of which a license is required hereunder, to keep and preserve suitable records of all lodging transactions made by such person and such other books or accounts as may be necessary to determine the amount of tax for the collection of which such person is liable hereunder. All such books, invoices and other records shall be preserved for a period of three (3) years and shall be open for examination at any time by the Financial Officer.
(Code 1972, § 103-23)

Sec. 25-266. Divulging of confidential information to be a violation.

Any City officer or employee, or any member of the office of, or officer or employee of, the Financial Officer who shall divulge any information classified herein 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 Article.
(Code 1972, § 103-24)

Sec. 25-267. Examination of returns; recomputation; credits; deficiencies.

As soon as practicable after the return is filed, the Financial Officer shall examine it. If it then appears that the correct amount of tax to be remitted is greater or less than that shown in the return, the tax shall be recomputed by the Financial Officer. If the amount paid exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from the same person. If the amount paid is less than the amount due, the difference, together with interest thereon at the rate of one-half of one (.5) percent per month from the time the return was due shall be paid by the taxpayer within ten (10) days after written notice and demand to him or her from the Financial Officer.
(Code 1972, § 103-25)

Sec. 25-268. Penalty for deficiencies due to negligence.

If any part of the deficiency is due to negligence, but without the intent to defraud, there shall be added ten (10) percent of the total amount of the deficiency. Interest in such case shall be collected at the rate of one (1) percent per month on the amount of such deficiency from the time the return was due from the person required to file the return, which interest and addition shall become due and payable within ten (10) days after written notice and demand by the Financial Officer.
(Code 1972, § 103-26)

Sec. 25-269. Penalty for deficiencies with intent to defraud.

If any part of the deficiency is due to the intent by the taxpayer to evade the tax, then there shall be added fifty (50) percent of the total amount of the deficiency, and in such case the whole amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand by the Financial Officer, and an additional one (1) percent per month on such amounts shall be added from the date the return was due until paid.
(Code 1972, § 103-27)

Sec. 25-270. Investigation of tax records.

For the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax due from any person, the Financial Officer may hold investigations and hearings concerning any matters covered by this Article, and may examine any relevant books, papers, records or memoranda of any such person. The Financial Officer may require the attendance of such person or any officer or employee of such person or of any person having knowledge of such transactions and may take testimony and proof for the information. The Financial Officer shall have power to administer oaths to such persons.
(Code 1972, § 103-28)

Sec. 25-271. Subpoenas and witness fees.

All subpoenas issued under the terms of this Article may be served by any person over the age of eighteen (18) years. The fee of witnesses for attendance and trial shall be the same as the fees of witnesses before the District Court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Financial Officer, such fees shall be paid in the same manner as other expenses under the terms of this Article. When a witness is subpoenaed at the instance of any party to any such proceeding, the Financial Officer may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Financial Officer may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.
(Code 1972, § 103-29)

Sec. 25-272. Attendance of witnesses and production of evidence.

Any District Judge of the District Court, upon the application of the Financial Officer, may compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Financial Officer, by an attachment for contempt or otherwise in the same manner as the production of evidence may be completed before the court.
(Code 1972, § 103-30)

Sec. 25-273. Depositions.

The Financial Officer or any party in an investigation or hearing before the Financial Officer may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.
(Code 1972, § 103-31)

Sec. 25-274. Unpaid tax a prior lien; satisfaction of liens.

(a) The tax imposed by this Article, together with the interest and penalties herein provided and the cost of collection which may be incurred by the City shall be and until paid remain a first and prior lien superior to any other liens on all the tangible personal property of the taxpayer, lodging customer or lodging provider which is located within the City and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge said lien. Such distraint warrant may be issued by the Financial Officer whenever the taxpayer, lodging customer or lodging provider is in default in the payment of the tax, interest and penalty. Such warrant may be served and the goods subject to such lien seized by the Financial Officer and may be sold by the Financial Officer at a public auction to be held ten (10) days after notice thereof has been published in a newspaper published in the City.

(b) The Financial Officer shall forthwith levy upon sufficient tangible personal property of the taxpayer, lodging customer or lodging provider as is necessary to satisfy the lien. The 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, and the remedies of garnishment shall apply.
(Code 1972, § 103-32)

Sec. 25-275. Settlement of taxes after sale of business.

Any lodging provider who shall sell out the business shall be required to make out a return as provided in this Article within ten (10) days after the date the provider sold out the business or quit the business, and the successor in business shall be required to withhold sufficient of the purchase money to cover the amount of the lodging tax due and unpaid until such time as the former owner shall produce a receipt from the Financial Officer showing that the taxes have been paid or a certificate that no taxes are due.
(Code 1972, § 103-33)

Sec. 25-276. Purchase of business subject to tax lien.

If the purchaser of a business shall fail to withhold the amount of purchase money, as provided in § 25-275, and the tax shall be due and unpaid after the ten-day period allowed, the purchaser, as well as the seller, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any tangible business assets of or used by any lodging provider under lease, title retaining contract or otherwise takes the same subject to the lien for any delinquent lodging taxes owed by such provider, and shall be liable for the payment of all delinquent lodging taxes of such prior owner, not, however, to exceed the value of the property so taken or acquired.
(Code 1972, § 103-34)

Sec. 25-277. Unpaid taxes in cases of bankruptcy or receivership.

Whenever the business or property of any taxpayer subject to the provisions of this Article shall be placed in a receivership, bankruptcy or assignment for the benefit of creditors, or is seized under distraint for property taxes, all taxes, penalties and interest imposed by this Article, for which any lodging provider is in any way liable under the terms of this Article, shall constitute a prior and preferred lien against all the property of the taxpayer except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as hereinafter provided on the property of the taxpayer, other than the tangible business assets of such taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Article under process or order of any court without first ascertaining from the Financial Officer the amount of any lodging taxes due and payable. If there are any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting claims or liens as above provided.
(Code 1972, § 103-35)

Sec. 25-278. Tax money to be held in trust.

All sums of money paid by the lodging customer to the lodging provider as taxes imposed by this Article shall be and remain public money and the property of the City in the hands of such lodging provider. The lodging provider shall hold the same in trust for the sole use and benefit of the City until paid to the Financial Officer as herein provided. If the money is not paid to the Financial Officer, such lodging provider shall be punished for a violation of this Article.
(Code 1972, § 103-36)

Sec. 25-279. Failure to make return; estimate of taxes; penalty; notice; appeal.

(a) If any person neglects or refuses to make a return in payment of the taxes as required by this Article, the Financial Officer shall make an estimate, based upon such information as may be available, of the amounts of the taxes due for the period or periods for which the taxpayer is delinquent and, upon the basis of such estimated amount, shall compute and assess in addition thereto a penalty equal to ten (10) percent thereof, together with interest on such delinquent taxes at the rate of one (1) percent per month from the date when due.

(b) Promptly thereafter the Financial Officer shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice must be served either personally or by registered or certified mail.

(c) Such estimate shall become an assessment and such assessment shall be final and due and payable from the taxpayer to the Financial Officer ten (10) days from the date of service of the notice or the date of mailing by registered or certified mail. Within the ten-day period, such delinquent taxpayer may petition the Financial Officer for a revision or modification of such assessment and shall within such ten-day period furnish the Financial Officer the facts and correct figures showing the correct amount of such taxes.

(d) Such petition shall be in writing, and the facts and figures submitted shall be submitted either in writing or orally and shall be given under oath of the taxpayer. The Financial Officer may modify such assessment in accordance with the facts submitted. Such assessment shall be considered the final order of the Financial Officer and may

be reviewed under the Colorado Rules of Civil Procedure, Rule 106(a)(4), as provided in this Article, provided that the taxpayer gives written notice to the Financial Officer of the intent to seek review within five (5) days after receipt of the final order of assessment.
(Code 1972, § 103-37)

Sec. 25-280. Notice of tax lien.

(a) If any taxes, penalty or interest imposed by this Article and shown by returns filed by a taxpayer or shown by assessments duly made as provided herein are not paid within five (5) days after the same are due, the Financial Officer shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual and that the City claims a first and prior lien on the real and tangible personal property of the taxpayer, except as to preexisting claims or liens of a bona fide mortgagee, pledgee or judgment creditor prior to the filing of the notice as hereinafter provided on property of the taxpayer.

(b) Such notice shall be on forms prepared by the Financial Officer and shall be verified by the Financial Officer and may be filed in the office of the Clerk and Recorder of any county in this State in which the taxpayer owns real or tangible personal property. The filing of such notice shall create such lien on such property in that county and constitute a notice thereof.
(Code 1972, § 103-38)

Sec. 25-281. Release of lien.

Any lien for taxes as shown on the records of all county Clerks and Recorders as herein provided shall, upon the payment of all taxes, penalties and interest covered thereby, be released by the Financial Officer in the same manner as mortgages or judgments are released.
(Code 1972, § 103-39)

Sec. 25-282. Recovery of unpaid taxes by action at law.

(a) The Financial Officer may also treat any such taxes, penalties or interest due and unpaid as a debt due the City from the lodging provider.

(b) In case of failure to pay the taxes, or any portion thereof, or any penalty or interest thereon, when due, the Financial Officer may recover at law the amount of such taxes, penalties and interest in any county or District Court of the county wherein the taxpayer resides or has his or her place of business.

(c) The return of the taxpayer or the assessment made by the Financial Officer as herein provided shall be prima facie proof of the amount due.

(d) The City Attorney is hereby authorized upon request by the Financial Officer to commence any legal action or suit for the recovery of the tax due pursuant to this Article.
(Code 1972, § 103-40)

Sec. 25-283. City may be party in title actions.

In any action affecting the title to real estate or the ownership or right to possession of personal property, the City may be made a party for the purpose of obtaining a judgment or determination of its lien upon the property involved therein.
(Code 1972, § 103-41)

Sec. 25-284. Waiver of penalties by Financial Officer.

The Financial Officer is hereby authorized to waive, for good cause shown, according to such policies as may from time to time be established by the City Council, any penalty assessed as provided in this Article. For this purpose, any interest imposed in excess of six (6) percent per annum shall be deemed a penalty.
(Code 1972, § 103-42)

Sec. 25-285. Petition and hearing of aggrieved taxpayer.

If any taxpayer, having made a return and paid the tax provided for in this Article, deems himself or herself aggrieved by the assessment made upon him or her by the Financial Officer, the taxpayer may apply to the Financial Officer by petition, in writing, within ten (10) days after the notice is mailed to him or her for a hearing and a correction of the amount of the tax so assessed. The taxpayer shall set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The Financial Officer shall notify the petitioner, in writing, of the time and place fixed for such hearing. After such hearing, the Financial Officer shall make such order in the matter as is just and proper and shall furnish a copy of such order to the petitioner.
(Code 1972, § 103-43)

Sec. 25-286. Decision of Financial Officer.

Every decision of the Financial Officer shall be in writing, and notice shall be mailed to the taxpayer within ten (10) days. All such decisions shall become final upon the expiration of thirty (30) days. However, for purposes of review, the decision shall be final immediately.
(Code 1972, § 103-44)

Sec. 25-287. Review of decisions.

The taxpayer may apply for a review of the decision by the Financial Officer in the District Court in and for the County and in accordance with the Colorado Rules of Civil Procedure, Rule 106(a)(4).
(Code 1972, § 103-45)

Sec. 25-288. Review bond required.

Before making application to the District Court, the party making such application shall file with the Financial Officer a bond in twice the amount of the taxes, interest and other charges audited and stated in the determination and decision of the Financial Officer with good and sufficient surety or at the Financial Officer's option may deposit lawful money of the United States in the same manner as provided in this Article.
(Code 1972, § 103-46)

Sec. 25-289. Review procedures in District Court.

(a) The District Court shall determine de novo or review all questions of law and fact determined by the Financial Officer in administering the provisions of this Article by writ under the Colorado Rules of Civil Procedure, Rule 106(a)(4).

(b) Every writ for a determination de novo or for review shall be issued by the clerk of the District Court upon a verified petition of the taxpayer, filed within twenty (20) days after mailing of notice of the decision of the Financial Officer and upon proof of compliance with this Section.

(c) The writ shall be served within five (5) days after its issuance and shall be returnable at such time as the District Court may determine, not less than ten (10) days nor more than twenty (20) days after the date when the writ was issued. The Financial Officer shall forthwith certify the record of the proceedings to the court.

(d) The procedure shall be in conformity with the Rules of Civil Procedure of the State.
(Code 1972, § 103-47)

Sec. 25-290. Review of District Court decisions by Supreme Court.

The decision of the District Court may be reviewed in the State Supreme Court upon writ of error by any party.
(Code 1972, § 103-48)

Sec. 25-291. Notices to be sent by registered or certified mail.

All notices required to be given to any taxpayer under the provisions of this Article shall be in writing and, if mailed, prepaid by certified or registered mail, return receipt requested, to the last-known address, and such notice shall be sufficient for the purposes of this Article.
(Code 1972, § 103-49)

Sec. 25-292. Tax in addition to other taxes.

The tax imposed by this Article shall be in addition to all other taxes imposed by law except as herein otherwise provided.
(Code 1972, § 103-50)

Sec. 25-293. Hearings to be held in City.

Every hearing before the Financial Officer shall be held in the City.
(Code 1972, § 103-51)

Sec. 25-294. Administrative officer designated.

The administration of all provisions of this Article is hereby vested in and shall be exercised by the Financial Officer who shall prescribe forms and reasonable rules and regulations in conformity with this Article for the making of returns, for the ascertainment, assessment and collection of taxes imposed and for proper administration and enforcement.
(Code 1972, § 103-52)

Sec. 25-295. Statute of limitations.

(a) The taxes for any period, together with interest and penalties imposed by this Article shall not be assessed nor shall any notice of lien be filed, or distraint warrant be issued or suit for collection be instituted or any other action to collect the same be commenced more than three (3) years after the date on which the tax was or is payable. No lien shall continue after such period, except for taxes assessed before the expiration of such period, a notice of lien with respect to which has been filed prior to the expiration of such period, and in such cases, such lien shall continue only for one (1) year after the filing of notice thereof.

(b) In case of a false or fraudulent return with intent to evade the tax, the tax together with interest and penalties 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 Financial Officer may agree in writing to an extension, and the period agreed on may be extended by subsequent agreement in writing.
(Code 1972, § 103-53)

Sec. 25-296. Violations.

It shall be a violation of this Article for any lodging provider or any other person subject to the tax levied herein to refuse to make any return required in this Article or to make any false or fraudulent return or any false statements in any return; or to fail or refuse to make payment to the Financial Officer of any taxes collected or due the City, or in any manner to evade the collection and payment of the tax, or any part imposed by this Article. It shall be unlawful for any person or lodging customer to fail or refuse to pay such tax or evade the payment or to aid or abet another in any attempt to evade the payment of the tax imposed by this Article. Any person making a false return or a return containing a false statement shall be guilty of a violation of this Article.
(Code 1972, § 103-54; Ord. No. 154, 1987, § 3, 10-20-87)

Secs. 25-297—25-310. Reserved.

ARTICLE V.
UTILITY TAX*

DIVISION 1. GENERALLY

Secs. 25-311—25-325. Reserved.

DIVISION 2. TELEPHONE

Sec. 25-326. Levy of tax.

There is hereby levied against every telephone utility company engaged in the business of furnishing local exchange telephone service within the City a tax on the privilege of engaging in such business. The amount of such tax shall be seventy cents ($0.70) per account per month. For the purposes of this Division, *account* shall be defined as a billing of a telephone utility company for service to a customer.
(Code 1972, § 105-1)

Sec. 25-327. Local purpose.

The tax levied in this Division is upon the affected occupation and business in their performance of local functions and is not a tax upon those functions relating to interstate commerce.
(Code 1972, § 105-3)

Sec. 25-328. Payment of tax.

The tax levied by this Division shall be due to the City by the tenth day of each month.
(Code 1972, § 105-2)

Sec. 25-329. Failure to pay.

If any telephone utility company subject to this Division fails to pay any of the taxes due under this Division on the date that the tax is due, the amount in default shall bear interest at the rate of ten (10) percent per annum from the date of default of payment. The full amount of the tax together with all interest accruing shall be and is hereby declared to be a debt due and owing from such utility to the City, which shall be due and collectible from such company by civil action in any court of competent jurisdiction.
(Code 1972, § 105-4)

Sec. 25-330. Prior occupation tax.

In enacting this Division, the City Council recognizes that an occupation tax on the business of furnishing local exchange telephone service within the City was previously imposed on Mountain States Telephone and Telegraph Company by virtue of an agreement for the payment of an occupation tax equal to two (2) percent of the gross exchange revenues within the City, such agreement being evidenced by a resolution adopted by the City Council on April 3, 1942. Any tax owing by virtue of such agreement which accrued prior to the effective date of the ordinance from which this Division was derived shall remain unconditionally due and payable and shall constitute a debt owing to the City, payable in conformity with the terms and provisions of the agreement as evidenced by the resolution referred to above. All of the terms and provisions of such agreement and of the resolution evidencing the agreement shall remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this Division. The previous agreement for the payment of an occupation tax and the resolution evidencing the agreement, dated April 3, 1942, shall be canceled and of no other force and effect, and the tax herein provided shall be in lieu of all other occupation taxes on the privileges of doing business within the City on any telephone utility company, subject to the provisions of this Division.
(Code 1972, § 105-5)

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* **Cross-reference**—Utilities, Ch. 26.

Sec. 25-331. Effective date.

This Division shall take effect on January 1, 1979.
(Code 1972, § 105-6)

Secs. 25-332—25-341. Reserved.

ARTICLE VI.
GAS COMPANY OCCUPATION TAX

Sec. 25-342. Short title.

This Article shall be known and may be cited as the "Fort Collins Gas Company Occupation Tax."
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-343. Legislative intent.

The City Council does hereby find, determine and declare:

(1) That transportation, distribution and sale of gas within a City through pipelines, mains and other fixed facilities, using easements and rights-of-way granted by the City involves the use, availability and potential use of City personnel and facilities and creates the potential for hazards dissimilar to other utility services and may require standby and active service by fire, police and other local safety agencies, as well as the Engineering Department, and are matters of local and municipal concern.

(2) That the nature of companies transporting, distributing and selling gas, and otherwise operating within the City, including, without limitation, their demands on City agencies, the use of public and private easements, streets and rights-of-way, and the potential and actual hazards from the operations of such companies, has a substantial effect upon the health, safety and welfare of the citizens of the City, and upon the expenditures to be budgeted by the City.

(3) That, upon review of all matters proper to be considered relating to the operations and hazards of gas companies, the classification of such gas companies as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of the tax burdens of the City.

(4) That the potential for explosions of gas pipelines, as well as explosions related to escaping gas within buildings, indicates that there are dangers to the property and lives of the citizens of the City from the operation of gas companies within the City.

(5) That the use by a gas company of the streets, alleys and public rights-of-way located within the City is a valuable special privilege not provided to the public generally and for which the City is entitled to consideration in the form of occupation tax revenues.

(6) That the occupation tax herein created and defined is imposed on the right of gas companies to do business within the City as are other occupation taxes so created and imposed in the City.

(Ord. No. 133, 1987, 9-15-87; Ord. No. 130, 2002, § 32, 9-17-02)

Sec. 25-344. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

City refers to and is the municipal corporation designated as the City of Fort Collins located in Larimer County and includes the territory which currently is or may in the future be included within the boundaries of the City.

City or *natural gas* refers to such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured, or any mixture thereof.

Gas company shall mean any person as defined in § 25-71 of this Code that sells, provides, delivers or distributes gas to end users within the corporate limits of the City through pipelines, mains and other related facilities and appurtenances located in whole or in part on easements and rights-of-way granted by the City.

Taxable amount refers to the annual amount of the occupation tax levied upon a gas company by this Article.

Taxable year shall be the twelve-month period beginning on January 1 of any year, and ending on December 31 of that year.
(Ord. No. 133, 1987, 9-15-87; Ord. No. 42, 1988, § 2, 4-19-88; Ord. No. 76, 1992, § 1, 7-21-92)
Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 25-345. Levy of the tax.

(a) There is hereby levied upon every gas company that operates within the City an occupation tax.

(b) The taxable amount shall be four hundred forty-five thousand dollars ($445,000.) each taxable year.
(Ord. No. 133, 1987, 9-15-87; Ord. No. 42, 1988, § 3, 4-19-88)

Sec. 25-346. Time of payment of tax.

The occupation tax levied by this Article shall accrue against each and every gas company and shall be payable in quarterly installments. Such installments shall be paid no later than the tenth day after the end of each quarter. Any quarterly installment not paid on or before said date shall be considered delinquent. The quarterly installments need not be equal and such company may make payments consistent with applicable tariffs on file with the Colorado Public Utilities Commission; provided, however, that the first quarterly installment for the months of January, February and March shall be not less than one hundred fifty thousand dollars ($150,000.); that the sum of the first quarter and the second quarter payments shall be not less than two hundred seventy-five thousand dollars ($275,000.); that the sum of the first two (2) quarterly payments and the third quarter payment shall be not less than three hundred twenty-five thousand dollars ($325,000.); and that the payment due in the final quarter plus payments due for the first three (3) quarters shall equal four hundred forty-five thousand dollars ($445,000.).
(Ord. No. 133, 1987, 9-15-87; Ord. No. 42, 1988, § 4, 4-19-88; Ord. No. 76, 1992, § 2, 7-21-92)

Sec. 25-347. Interest on deficiency.

Interest on any deficiency in payment of this tax shall be enforced as prescribed in §§ 25-186, 25-188, 25-222 and 25-223 of this Code.
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-348. Failure to pay.

If any gas company subject to the provisions of this Article shall fail to pay the taxes as herein provided, the full amount thereof plus costs of collection, including reasonable attorney fees, shall be due and collected from such company; and the same, together with an additional ten (10) percent of the amount of taxes due, shall be and hereby is declared to be a debt due and owing from such company to the City. The computation of said ten (10) percent shall be in addition to interest on the deficiency as set forth in this m. 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 said debt.
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-349. Inspection of records; report.

(a) The City, its officers, agents or representatives, shall have the right at all reasonable hours and times to examine the books and records of the gas companies which are subject to the provisions of this Article and to make copies of the entries or contents thereof.

(b) Each gas company which is subject to the provisions of this Article shall provide to the City on or before March 1 and September 1 of each year a report showing the following information for the preceding twelve (12) months ended December 31 and June 30, respectively:

(1) The total gas volumes delivered to all customers located within the City.

(2) A statement of the total dollar amount, if any, surcharged by a gas company pursuant to this tax.
(Ord. No. 133, 1987, 9-15-87; Ord. No. 42, 1988, § 5, 4-19-88)

Sec. 25-350. Administrative hearings.

Any gas company subject to the provisions of this Article may request a hearing on the levy of the occupation tax after receiving a notice of final determination, assessment, demand for payment, or denial of claim for refund. Such hearing shall be conducted in the manner prescribed hereinafter:

(1) If a gas company disputes the reasonableness or applicability of the tax, it may seek review of the assessment by filing a protest with the Financial Officer within thirty (30) days of the mailing of the accounting statement. If such a protest is filed, the gas company shall appear before the Financial Officer at a date specified. The gas company shall be notified of this hearing date by certified mail, return receipt requested. At this hearing the gas company may present evidence regarding the reasonableness or applicability of the tax. The gas company shall bear the burden of proof.

(2) Said hearing shall be solely for the purpose of hearing protests as to the reasonableness and applicability of the tax.

(3) At said hearing the Financial Officer shall have all powers necessary to ensure the fair and efficient conduct of the hearing, but shall not be bound by the Colorado Rules of Evidence. The hearing shall be open to the public.

(4) Within sixty (60) days of such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the protestant, and the City Manager.
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-351. Administration of the occupation tax.

The Financial Officer shall administer the provisions of this Article. The City Manager may promulgate rules or regulations to aid in the enforcement and administration of this Article, pursuant to the provisions of § 25-221 of this Code.
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-352. Local purpose.

The tax provided in this Article is upon occupations and businesses in the performance of local functions and is not a tax upon functions relating to interstate commerce. It is expressly understood that none of the terms of this Article shall be construed to mean that any gas company subject to this tax is granted a franchise by the City.
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-353. Reimbursement of costs.

Any entity challenging the validity, legality, applicability or constitutionality of this Article, or the tax levied, if unsuccessful, will reimburse the City for all costs incurred, including attorneys' fees, in such litigation.
(Ord. No. 133, 1987, 9-15-87)

Sec. 25-354. Severability.

If any provision of this Article or application thereof to any company or circumstance is adjudged invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Article that can be effective without the invalid provision; and to said end this Article is declared to be severable.
(Ord. No. 133, 1987, 9-15-87)