

CHAPTER 25A

Taxation

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ARTICLE I

Sales Tax

Sec. 25A-1. Purpose.

The purpose of this Article is to impose a sales tax upon the sale of tangible personal property at retail and the furnishing of certain taxable services in the City. (Ord. 522, §1(part))

Sec. 25A-2. Definitions.

For the purposes of this Article, the definitions of words herein contained shall be as defined in Section 102, Article 26, Title 39, Colorado Revised Statutes, 1973, as amended, and such definitions are incorporated herein by this reference. (Ord. 522, §1(part))

Sec. 25A-3. Licenses.

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail or the furnishing of any services taxable pursuant to Article 26, Title 39, C.R.S., 1973 without first having obtained a license therefor. Such license shall be granted and issued by the City Clerk and shall be in force and effect until the thirty-first day of December of the year in which it was issued, unless sooner revoked.

(b) Such licenses shall be granted and renewed only upon application stating the name and address of the person desiring such license, the name of such business and the location and other facts as the City Clerk may require.

(c) It shall be the duty of each licensee on or before January 1 of each year during which this Article remains in effect to obtain a renewal thereof if the licensee remains in the retail business or liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the City Clerk to refuse such renewal except for revocation for cause of the licensee's prior license.

(d) In case business is transacted at one (1) or more separate premises by one (1) person, a separate license for each place of business shall be required.

(e) Any person engaged in the business of selling tangible personal property at retail in the City, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Article.

(f) Each license shall be numbered and shall show the name, residence, place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

(g) No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation pursuant to the provisions of this Article. (Ord. 522, §1(part))

Sec. 25A-4. General provisions, exemption.

(a) For the purpose of this Article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the City or to a common carrier for delivery to a destination outside the limits of the City. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S. 1973, regardless of the place to which delivery is made. If a retailer has no permanent place of business in the City or has more than one (1) place of business, the place at which the retail sales are consummated for the purpose of this City sales tax shall be determined by the provisions of Article 26 of Title 39, C.R.S. 1973, and by the rules and regulations promulgated by the Department of Revenue of Colorado.

(b) The amount subject to tax under the provisions of this Article shall not include the amount of any state sales or use tax imposed by Article 26 of Title 39, C.R.S. 1973.

(c) The tangible personal property and services taxable pursuant to the provisions of this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S. 1973, and subject to the same exemptions as those specified in Section 39-26-104, C.R.S. 1973; except the exemption allowed by Section 39-26-114(11), C.R.S. 1973, for the purchase of machinery or machine tools; the exemption of sales and purchases of electricity, coal, gas, fuel oil or coke as provided in Section 39-26-114(1)(a)(XXI), C.R.S. 1973; and the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S. 1973.

(d) All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the City sales tax herein provided when such sales meet both of the following conditions:

(1) The purchaser is a nonresident of or has his or her principal place of business outside the limits of the City, and

(2) Such personal property is registered or required to be registered outside the limits of the City under the laws of this State.

(e) A vendor's fee equal to three and one-third percent (3 $\frac{1}{3}$ %) of the City sales tax collected is hereby authorized and allowed.

(f) For transactions consummated on or after January 1, 1986, the sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation provided by the City certifying that a local use tax has been paid or is required to be paid. (Ord. 522, §1(part); Ord. 580, §1; Ord. 671, §1)

Sec. 25A-5. Schedule of sales tax.

(a) There is hereby imposed a tax equal to three percent (3%) of the gross receipts on all sales of tangible personal property at retail and the furnishing of services which are taxable pursuant to Article 26, Title 39, C.R.S. 1973. The imposition of the tax on individual taxable sales of commodities and

services shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue of Colorado or by separate ordinance of the City.

(b) Except as may be otherwise provided in Subsection (c) hereof, from the revenues to the City derived by means of such sales tax, a sum equivalent to one-third ($\frac{1}{3}$) thereof, shall be appropriated at the time of receipt to pay and establish a fund to pay the capital cost of the purchase, acquisition, erection, construction, replacement and renovation of any new or existing municipal public utilities, facilities, works or ways and public lands and properties and improvements thereon and connected thereto and therewith, of every kind and nature permitted by law and for furnishings, machinery, equipment or facilities connected with and necessary therefor. The sales tax revenues appropriated under the provisions of this Subsection (b) may be combined in a single common fund with the use tax or excise revenues appropriated for identical purposes pursuant to Section 25A-9 of this Chapter. (Ord. 600, §1; Ord. 846, §1)

(c) Commencing January 1, 1998, from the revenues to the City derived by means of such sales tax, a sum equivalent to one-sixth ($\frac{1}{6}$) thereof shall be appropriated on or about December 1, 1998 to pay and establish a fund to pay the capital cost of the purchase, acquisition, erection, construction, replacement and renovation of any new or existing municipal public utilities, facilities, works or ways and public lands and properties and improvements thereon and connected thereto and therewith, of every kind and nature permitted by law and for furnishings, machinery, equipment or facilities connected with and necessary therefor. The sales tax revenues appropriated under the provisions of this Subsection (c) may be combined in a single common fund with the use tax or excise revenues appropriated for identical purposes pursuant to Section 25A-9 of this Chapter. This Subsection (c) is repealed, effective at 11:59 p.m. on December 31, 1998. (Ord. 846; §1)

Sec. 25A-5.1. Credit for sales taxes previously paid.

For transactions consummated on or after January 1, 1986, the City's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of the sales tax imposed by the City. A credit shall be granted against the City's sales tax with respect to such transaction equal in an amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall, however, not exceed the sales tax imposed by the City upon the sale. (Ord. 671, §3)

Sec. 25A-6. Collection, administration and enforcement.

The collection, administration and enforcement of the sales tax adopted hereby shall be performed by the Executive Director of the Department of Revenue of the State in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26 of Title 39, C.R.S. 1973, and all rules and regulations promulgated by the Executive Director of the Department of Revenue shall govern the collection, administration and enforcement of such tax. (Ord. 522, §1(part))

ARTICLE II

Use Tax

Sec. 25A-7. Purpose; nonapplicability.

(a) The purpose of this Article is to impose a use tax on the privilege of storing, using or consuming in the City any construction and building materials and motor and other vehicles on which registration is required, purchased at retail.

(b) For transactions consummated on or after January 1, 1986, the use tax shall not apply to the storage of construction and building materials. (Ord. 671, §2)

Sec. 25A-8. Definitions.

(a) The term *person* as used in this Article means an individual, corporation, partnership, firm, joint venture, association, estate, trust, receiver or any other group acting as a unit and the plural as well as the singular.

(b) *Storage* or *storing* means any keeping or retention of, or exercise of dominion or control over tangible personal property in the City. (Ord. 522, §1(part))

Sec. 25A-9. Schedule of use tax.

(a) There is hereby levied and there shall be collected from every person in this City a tax or excise for the privilege of storing, using or consuming in this City any construction and building materials and motor and other vehicles on which registration is required, purchased at retail, equal to three percent (3%) of the purchase price of such property. Such tax shall be payable to and shall be collected by the City Clerk in accordance with the following schedule:

| <u>Amount of storage or acquisition charges or cost</u> | <u>Tax</u> |
|---|------------|
| \$0.01 to \$0.18 | No tax |
| 0.19 to 0.51 | \$0.01 |
| 0.52 to 0.84 | 0.02 |
| 0.85 to 1.00 | 0.03 |

(b) On storage or acquisition charges or cost in excess of one dollar (\$1.00), the tax shall be three cents (\$0.03) for each full dollar of storage or acquisition charges or cost plus the tax shown in the above schedule for any fractional part of a dollar of such storage or acquisition charge or cost.

(c) Except as may be otherwise provided in Subsection (d) hereof, from the revenues to the City derived by means of such use tax or excise, a sum equivalent to one-third ($\frac{1}{3}$) thereof shall be appropriated at the time of receipt to pay and establish a fund to pay the capital cost of the purchase, acquisition, erection, construction, replacement and renovation of any new or existing municipal public utilities, facilities, works or ways, public lands, properties, improvements and utilities, and additions thereto and facilities and improvements thereon and connected thereto and therewith, of every kind and nature permitted by law, and for furnishings, machinery or equipment or facilities connected with and necessary therefor. The use tax or excise revenues appropriated under the

provisions of this Subsection (c) may be combined in a single common fund with the sales tax revenues appropriated for identical purposes pursuant to Section 25A-5 of this Chapter.

(d) Commencing January 1, 1998, from the revenues to the City derived by means of such use tax or excise, a sum equivalent to one-sixth ($\frac{1}{6}$) thereof shall be appropriated on or about December 1, 1998 to pay and establish a fund to pay the capital cost of the purchase, acquisition, erection, construction, replacement and renovation of any new or existing municipal public utilities, facilities, works or ways, public lands, properties, improvements and utilities, and addition thereto and facilities and improvements thereon and connected thereto and therewith, of every kind and nature permitted by law and for furnishings, machinery, equipment or facilities connected with and necessary therefor. The use tax or excise revenues appropriated under the provisions of this Subsection (d) may be combined in a single common fund with the sales tax revenues appropriated for identical purposes pursuant to Section 25A-5 of this Chapter. This Subsection (d) is repealed, effective at 11:59 p.m. on December 31, 1998. (Ord. 600, §2; Ord. 846; §2)

Sec. 25A-9.1. Credit for sales and use tax previously paid.

For transactions consummated on or after January 1, 1986, the City's use tax shall not apply to the storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule municipality legally imposed on the purchaser or user equal to or in excess of the use tax imposed by the City. A credit shall be granted against the City's use tax with respect to the person's storage, use or consumption in the City of tangible personal property; the amount of the credit to equal the tax paid by him or her by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his or her purchase or use of the property. The amount of the credit shall, however, not exceed the use tax imposed by the City. (Ord. 671, §4)

Sec. 25A-10. Exemptions.

The tax hereby imposed shall not apply:

- (1) To the storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the City;
- (2) To the storage, use or consumption of any tangible personal property purchased for resale in this City, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;
- (3) To the storage, use or consumption of tangible personal property brought into the City by a nonresident of to City for his or her own storage, use or consumption while temporarily within the City;
- (4) To the storage, use or consumption of any tangible personal property by the United States government, or the State or its institutions or political subdivisions in their governmental capacities only, or by religious or charitable corporations in the conduct of their regular religious or charitable functions;

(5) To the storage, use or consumption of any tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof;

(6) To the storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another county, city or town equal to or in excess of that imposed by this Article. A credit shall be granted against the use tax imposed by this Article with respect to a person's storage, use or consumption in this City of tangible personal property purchased by such person elsewhere. The amount of the credit shall be equal to the tax paid by such person by reason of the imposition of a sales or use tax of another county, city or town on the purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Article;

(7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the City and brought into it by a nonresident acquiring residency;

(8) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the City and such owner purchased the vehicle outside of the City for use outside the City and actually so used it for a substantial and primary purpose for which it was acquired, and he or she registered, titled and licensed such motor vehicle outside of the City;

(9) To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required, if the written contract for the purchase thereof was entered into prior to the effective date of this use tax;

(10) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of this Article;

(11) To purchases by tax exempt entities which would be otherwise taxable under the provisions of this Article. The furnishing to the City Clerk of a certificate of exemption shall be prima facie evidence of such tax exempt status and the use tax otherwise due shall not be collected. (Ord. 522, §1(part))

Sec. 25A-11. Collection, administration and enforcement.

(a) The tax herein imposed on motor or other vehicles on which registration is required shall be collected, administered and enforced as provided by Section 39-26-208, C.R.S. 1973.

(b) The tax herein imposed on the privilege of storing, using or consuming in the City any construction and building materials, purchased at retail, shall be collected as follows:

(1) Such use tax shall be paid to the City Treasurer and shall be collected at the time permits are issued for building and construction by the City Building Inspection Department. The payment of such use tax shall be the responsibility of the person applying for and receiving the building permit. For the purposes of this Section, the value of the construction and building

materials to be stored, used or consumed as a part of any project shall be deemed to be an amount equal to fifty percent (50%) of the total valuation or gross cost of the building or construction project as stated in the building permit issued. If the tax is paid in this way, no further sales or use tax information will be required for final inspection of the project by the Building Department, unless the City Treasurer shall order an audit of the actual costs of the project. Collection of the use tax in this manner shall be the primary method of collection of use tax within the City.

(2) As an alternative to the estimation procedure for payment of the use tax described in Subparagraph (1) above, the taxpayer, at the time of securing the building or construction permit, may, with approval of the City Treasurer, register with the City Treasurer to file use tax returns and reports and to report and pay the tax monthly or quarterly. If the taxpayer obtains approval of the City Treasurer to report and pay the tax in this way, a final return must be filed and approved and all use tax paid before final building inspection is made and a certificate of occupancy issued. This procedure for collection of the use tax shall only be approved by the City Treasurer in exceptional circumstances for projects of extended duration.

(3) If the procedure for payment of the use described in Subparagraph (2) above is approved by the City Treasurer, the use tax is due and payable at the time of the filing of the return, and if the tax is not paid when due, a penalty equal to ten percent (10%) of the amount due plus interest at the rate of eight percent (8%) per annum will be added to the principal amount of the tax. All such use tax returns and reports shall be subscribed by the taxpayer or his or her agent and shall contain a written declaration that it is made under penalties of perjury in the second degree. Failure to file the tax returns and reports required by the provisions of this Subsection or the willful filing of a false or fraudulent return or report and willful failure to pay the tax imposed by this Article are unlawful acts, a violation of this Article and punishable as provided by law and by the provisions of this Article.

(4) The City Treasurer is hereby authorized and directed to devise and publish and make available use tax returns and reports in and upon such form or forms as may be necessary and appropriate for the complete reporting and collection of the City use tax under the provisions of this Article. The City Treasurer is further authorized to make and enforce such additional rules and regulations as may be necessary for the proper administration of this Article, including an audit of the actual costs of the project if the total valuation or gross cost of the building or construction project as stated in the building permit issued appears to be inaccurate. Further, the City Treasurer is authorized hereby to institute such legal actions, suits or proceedings in any court of competent jurisdiction against any person from whom a use tax is due and payable, to establish the amount due and to collect such delinquent tax and any applicable penalties and interest.

(c) For transactions consummated on or after January 1, 1986, the City's use tax shall not be imposed with respect to the use or consumption of tangible personal property within the City which occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used within the State for the principal purpose for which it was purchased. (Ord. 522, §1(part); Ord. 671, §5; Ord. 888)

Sec. 25A-11.1. Limitation of actions for collection.

For transactions consummated on or after January 1, 1986:

(1) No use tax or interest thereon or penalties with respect thereto shall be assessed, nor shall any notice of lien be filed or distraint warrant issued or suit for collection be instituted, nor 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; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which cases such lien shall continue only for one (1) year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed or proceedings for the collection of such taxes may be begun at any time. Before the expiration of such period of limitation, the taxpayer and the City Treasurer may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(2) In the case of failure to file a return, the use tax may be assessed and collected at any time. (Ord. 671, §6(part))

Sec. 25A-11.2. Limitation of actions for refunds.

For transactions consummated on or after January 1, 1986:

(1) An application for refund of use tax paid under dispute by a purchaser or user who claims an exemption pursuant to Section 25A-10 shall be made within sixty (60) days after the storage, use or consumption of the goods or services whereon an exemption is claimed.

(2) An application for refund of tax moneys paid in error or by mistake shall be made within three (3) years after the date of storage, use or consumption of the goods for which the refund is claimed. (Ord. 671, §6(part))

Sec. 25A-11.3. Interest, extensions of time.

(a) If any amount of use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under Section 25A-11.7 shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises, and in no event shall it be later than the date notice and demand for the tax is made by the City Treasurer.

(b) Interest prescribed under Sections 25A-11.3 through 25A-11.6 shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the tax to which it is applicable.

(c) If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.

(d) Interest prescribed under Sections 25A-11.3 through 25A-11.6 on any use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected. (Ord. 671, §6(part))

Sec. 25A-11.4. Deficiency due to negligence.

If any part of the deficiency in payment of the use tax is due to negligence or intentional disregard of the Code or ordinances or of authorized rules and regulations of the City with knowledge thereof, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under Section 25A-11.7, in addition to the interest provided by Section 25A-11.3, 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 ten (10) days after written notice and demand to him or her by the City Treasurer. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent (100%) 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 City Treasurer, and an additional three percent (3%) per month on said amount shall be added from the date the return was due until paid. (Ord. 671, §6(part))

Sec. 25A-11.5. Neglect or refusal to make return or pay tax.

If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the City Treasurer shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent (10%) thereof and interest on such delinquent taxes at the rate imposed under Section 25A-11.7, plus one-half of one percent (.5%) per month from the date when due. (Ord. 671, §6(part))

Sec. 25A-11.6. Penalty interest.

Any use tax due and unpaid shall be a debt to the City and shall draw interest at the rate imposed under Section 25A-11.7, in addition to the interest provided by Section 25A-11.3, from the time when due until paid. (Ord. 671, §6(part))

Sec. 25A-11.7. Rate of interest.

When interest is required or permitted to be charged under any of the provisions of this Chapter, the annual rate of interest shall be that established by the State Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S. (Ord. 671, §6(part))

Sec. 25A-11.8. Other remedies.

Nothing in this Chapter shall preclude the City from utilizing any other applicable penalties or remedies for the collection or enforcement of use taxes. (Ord. 671, §6(part))

Sec. 25A-11.9. Map of municipal boundaries.

The City Clerk or City Treasurer shall make available to any requesting vendor a map showing the boundaries of the City. For transactions consummated on or after January 1, 1986, the requesting vendor may rely on such map and any update thereof available to such vendor in determining whether to collect a use tax. No penalty shall be imposed or action for deficiency maintained against such a vendor who in good faith complies with the most recent map available to the vendor. (Ord. 671, §6(part))

Sec. 25A-11.10. Resolution of disputes, procedure.

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

(1) As used in this section, *state hearing* means a hearing before the Executive Director of the Department of Revenue or delegate thereof as provided in Section 29-2-106.1(3), C.R.S.

(2) When the City asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the City shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to Section 29-2-106.1(3), C.R.S. The taxpayer shall also have the right to elect a state hearing on the City's denial of such taxpayer's claim for a refund of use tax paid.

(3) The taxpayer shall request the state hearing within thirty (30) days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he or she has not exhausted the local remedies or if he or she fails to request such hearing within the time period provided for in this subdivision. For purposes of this subdivision, *exhaustion of local remedies* means:

a. The taxpayer has timely requested in writing a hearing before the City Council and the City Council has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the City may submit a brief. The City Council shall hold such hearing and issue the final decision thereon within ninety (90) days after the receipt of the taxpayer's written request therefor, except the City Council may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the City Council shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or

b. The taxpayer has timely requested in writing a hearing before the City Council and the City Council has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in Subdivision (3)a of this Subsection.

(4) If a taxpayer has exhausted his or her local remedies as provided in Subsection (3) above, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such

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

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

(6) If the City reasonably finds that the collection of use tax will be jeopardized by delay, the City may utilize the procedures set forth in Section 39-21-111, C.R.S. (Ord. 671, §6(part))

Sec. 25A-12. Lien upon property.

The City use tax payable by virtue of the storage, use or consumption in this City of any construction and building material and any penalties and interest thereon shall be a first and prior lien upon the real and personal property of the person from whom such tax is due, subject only to preexisting liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose right was attached prior to the filing of the notice of such lien by the City. The notice of lien to claim the lien for any such delinquent use tax, when filed in the office of the clerk and recorder of any county in which the delinquent taxpayer owns real or personal property or both, shall constitute notice to all persons of such delinquent taxpayer. (Ord. 522, §1)

Sec. 25A-13. Penalty.

Any person convicted of violating any of the provisions of this Chapter shall be punished by a fine of not to exceed three hundred dollars (\$300.00) or by imprisonment for not to exceed ninety (90) days or by both such fine and imprisonment. (Ord. 522, §1)

ARTICLE III

Occupational Tax for Telephone Utilities

Sec. 25A-14. Levy of tax.

There is hereby levied on and against each telephone utility company operating within the City a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the City and of supplying local exchange telephone service to the inhabitants of the City. The annual amount of tax levied hereby shall be a sum equal to five dollars (\$5.00) for each telephone account for which local exchange service is provided within the corporate limits of the City on the effective date as provided in Section 25A-15, and upon each anniversary of the effective date until amended or repealed by ordinance enacted for such purpose. (Ord. 571, (part))

Sec. 25A-15. Effective date.

The tax levied and imposed by this Article shall commence on March 1, 1979, and shall be due and payable in twelve (12) equal monthly installments with the first such installment due thirty (30) days after the effective date. (Ord. 571, (part))

Sec. 25A-16. Filing statement.

Within thirty (30) days after the effective date as provided in Section 25A-15, each telephone utility company subject to this Article shall file with the City Clerk, in such form as the City Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the City on the effective date. Such statement shall be filed within thirty (30) days after each anniversary of the effective date showing such accounts on the anniversary date. (Ord. 571, (part))

Sec. 25A-17. Failure to pay.

If any telephone utility company subject to the provisions of this Article shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, and the same together with an addition of ten percent (10%) 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 City Attorney upon direction of the City Council shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the debt in the name of the people of the City. (Ord. 571, (part))

Sec. 25A-18. Penalty clause.

If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Article shall fail, neglect or refuse to make or file the annual statement of accounts provided in Section 25A-16, the officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00); provided that each day after said statement shall become delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense. (Ord. 571, (part))

Sec. 25A-19. Inspection of records.

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 telephone utility company which are subject to the provisions of this Article and to make copies of the entries or contents thereof. (Ord. 571, (part))

Sec. 25A-20. Local purpose.

The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Article be construed to mean that any telephone utility company is issued a franchise by the City. (Ord. 571, (part))

Sec. 25A-21. Tax in lieu of other taxes or fees.

As of the effective date of the tax herein specified in Section 25A-15, and except for all other lawfully authorized taxes including sales and use taxes and ad valorem taxes, the tax herein provided shall be in lieu of all other license payments or franchise fees heretofore payable by any telephone utility subject to the provisions of this Article. (Ord. 571, (part))

ARTICLE IV

Emergency Telephone Charge

Sec. 25A-22. Charge imposed.

There is hereby imposed an emergency telephone charge upon all exchange access facilities and wireless communication access within the City in an amount not to exceed seventy cents (\$.70) per month per exchange access facility or per wireless communications access. Regardless of the level at which the emergency telephone charge is set, the amount of the charge imposed per exchange access facility and the amount of the charge imposed per wireless communications access shall be equal. The emergency telephone charge shall be imposed only upon service users whose address is within the City; however, such emergency telephone charge shall not be imposed upon any state or local governmental entity. At least once each calendar year, the Council shall establish a rate of charge, not to exceed the amount hereby authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund expenditures for emergency telephone services. Beginning in 1998, the Council shall make its determination by Resolution of such rate no later than September 1 and shall fix the new rate to take effect commencing with the first billing period of each customer on or following the next January 1. Immediately upon making its determination and fixing such rate, the Council shall publish in its minutes the new rate, and it shall notify by certified mail every service supplier at least ninety (90) days before such new rate will become effective. (Ord. 682, §1; Ord. 841, §2)

Sec. 25A-23. Charge established.

An emergency telephone charge of fifty cents (\$.50) per month upon all service users of all exchange access facilities and wireless communications access whose address is within the City is hereby imposed. (Ord. 682, §2; Ord. 841, §3)

Sec. 25A-24. Authority to collect charges.

Service suppliers are hereby authorized to collect the emergency telephone charge from all service users within the City and to remit the charges so collected to the County Treasurer in accordance with the Intergovernmental Agreement between the County and City, to be budgeted, appropriated and disbursed in accordance therewith. (Ord. 682, §3; Ord. 841, §4)

Sec. 25A-25. Designation of answering point.

The Morgan County Communications Center is hereby designated as the public safety answering point ("PSAP") for the City. (Ord. 841, §5)