

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2020

COUNCIL BILL NO. CB20-_____
COMMITTEE OF REFERENCE:

A BILL

For an ordinance repealing and reenacting Articles I through VIII of Chapter 53 (Taxation and Miscellaneous Revenue) of the Revised Municipal Code, and enacting Article IX of Chapter 53 of the Revised Municipal Code.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Article I, Chapter 53 of the Revised Municipal Code, is repealed in its entirety and is reenacted to read as follows:

ARTICLE I – PROCEDURE AND ADMINISTRATION

DIVISION 1 – GENERALLY

Sec. 53-1. - Scope.

Unless otherwise indicated, the provisions of this article shall apply to articles II through VIII, chapter 53 of the code.

Sec. 53-2. - Definitions.

(a) The following words and phrases shall have the meanings given to them in this section, unless the context clearly requires a different meaning.

- (1) "Charitable organization" means any organization that has been exempted from federal income tax as a nonprofit organization in good standing under section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.
- (2) "City" means the City and County of Denver or the geographical area within its territorial limits, depending upon the context.
- (3) "Code" means the Revised Municipal Code of the City and County of Denver.
- (4) "Director of excise and licenses" means the director of excise and licenses for the City and County of Denver.
- (5) "Manager" means the manager of finance for the City and County of Denver or the manager of finance's designee.
- (6) "Person" means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

1 (7) "Tangible personal property" means personal property that can be one (1) or more of
2 the following: seen, weighed, measured, felt, touched, stored, transported, exchanged,
3 or that is in any other manner perceptible to the senses.

4 (8) "Tax deficiency" or "deficiency" means any amount of tax, penalty, interest, or other
5 fee that is not reported and/or not paid on or before the date that any return or payment
6 of the tax is required under the terms of this article.

7 (9) "Taxpayer" means any person obligated to collect and/or pay tax under the terms of
8 this chapter, including but not limited to a vendor in articles II, III, IV, and VII, of this
9 chapter; an employer in article V of this chapter; a business in article VI of this
10 chapter; and a telecommunications business in article VIII of this chapter.

11 **Sec. 53-3. - Administration; rules and regulations.**

12 (a) Except for those provisions of this chapter concerning licensing specifically referring to
13 the director of excise and licenses, the administration of articles I through VIII of this chapter is vested
14 in and shall be exercised by the manager, who shall prescribe such forms and such rules and
15 regulations as may in the manager's judgment be necessary or appropriate to carry out the purposes
16 of this chapter, including forms or regulations for the making of returns, the ascertainment,
17 assignment and collection of the tax, and for the proper administration and enforcement thereof. The
18 manager may delegate the administration of this chapter or any part thereof to duly authorized
19 deputies or agents.

20 (b) In prescribing rules and regulations, the manager shall, notwithstanding the
21 procedures set forth in section 2-93 of the code, comply with the following:

22 (1) Submit the proposed rules or regulations to the city attorney for review as to legality.
23 No rule or regulation shall take effect without the approval of the city attorney.

24 (2) Notify the city council of the proposed rules or regulations by a letter addressed to the
25 president of the council, which the city clerk shall read or mention, at the discretion of
26 the president of the council, at the next regularly scheduled meeting of the council
27 following receipt of the letter. The manager shall include in the letter the following:

28 a. The purpose of the rules or regulations or the reason for the change in policy, if
29 any, inherent in the rules or regulations.

30 b. The cost of enforcing the rules or regulations and the anticipated benefits or
31 revenue to be derived from the rules or regulations.

32 c. A general description of the industry or enterprises that will be affected, directly

1 or indirectly, by the rules or regulations if different, in the opinion of the manager,
2 from the general tax-paying community.

3 No rules or regulations shall take effect without the notice described herein being given
4 to the president of the council.

5 (3) Publication of the proposed rules or regulations once in an official publication of the
6 city after the aforesaid notification to the president of the council. The rules or
7 regulations shall become effective sixty (60) days after its publication unless otherwise
8 stated in the rules or regulations.

9 (4) After publication, the manager shall file three (3) copies of the rule or regulation with
10 the city clerk and one (1) copy each with the city attorney and the executive director of
11 the department of revenue of the State of Colorado; such filings shall constitute
12 evidence for the presumption that the rules or regulations ~~was~~ were duly adopted and
13 promulgated in compliance with the foregoing procedures and with the requirements
14 of article VI, chapter 2, of the code.

15 **Sec. 53-4. - Information to be confidential.**

16 (a) Except in accordance with judicial order or as otherwise provided by law, the manager,
17 and those working under the manager's supervision, shall not divulge any information gained from
18 any investigation conducted under articles I through VIII of this chapter or disclosed in any document,
19 report or any return filed in connection with the taxes levied under the provisions of this chapter.

20 (b) The officials charged with the custody of such documents, reports or returns shall not
21 be required to produce any of them or evidence of anything contained in them in any action or
22 proceeding in any court, except on behalf of the manager in an action under the provisions of this
23 chapter to which the manager is a party, or on behalf of any party to an action or proceeding under
24 the provisions of this chapter or to punish a violator thereof when the report of facts shown by such
25 report is directly involved in such action or proceeding, in any of which events the court may require
26 the production of, and may admit in evidence, so much of said documents, reports or returns, or of
27 the facts shown thereby, as are pertinent to the action or proceeding and no more.

28 (c) Nothing contained in this chapter shall be construed to prohibit:

29 (1) The delivery to a person or a duly authorized representative of a copy of any document,
30 report or return filed in connection with that person's tax;

31 (2) The publication of statistics so classified as to prevent the identification of particular
32 documents, reports or returns and the items thereof;

1 (3) The inspection by employees of the city under the control of the manager or by the city
2 attorney or any other legal representative of the city of the document, report or return
3 of any person who shall bring action to set aside or review the tax based thereon, or
4 against whom an action or proceeding is contemplated or has been instituted under
5 this chapter;

6 (4) The manager, in the manager's discretion, from supplying and disclosing information
7 gained from any investigation conducted under this chapter or reported, scheduled or
8 disclosed in any document, report or return filed in connection with the taxes levied
9 under the provisions of this chapter for inspection or copying to the executive director
10 of the state department of revenue, to the commissioner of internal revenue of the
11 United States Government, or to the official responsible for collecting similar taxes in
12 any political subdivision of the state; provided, however, that such official or a political
13 subdivision of the state similarly be permitted by law to disclose and supply information
14 relating to the imposition and collection of similar taxes gained from person within or
15 doing business within such political subdivision; and

16 (5) The manager, in the manager's discretion, from supplying and disclosing information
17 gained from any investigation conducted under this chapter or reported, scheduled or
18 disclosed in any document, report or return filed in connection with the taxes levied
19 under the provisions of this chapter for inspection or copying to any department of the
20 city dealing with matters of taxation, revenue, trade, commerce, or licensing, or the
21 auditing of any of the foregoing; provided, however, such disclosure shall be permitted
22 only upon written request by the head of such department, and only to the
23 representatives of such department designated in such written request as the
24 individuals to receive and inspect such information on behalf of such department and
25 such representatives shall not divulge such information except in accordance with
26 judicial order or as otherwise provided by law.

27 (d) Reports and returns filed with the manager shall be preserved in accordance with
28 applicable record retention policies.

29 (e) The manager, those working under the manager's supervision, and those who receive
30 information pursuant to subsection (c)(5), who shall divulge any information classified in this chapter
31 as confidential in any manner, except in accordance with proper judicial order or as otherwise
32 provided by law, shall be guilty of a violation of this chapter.

1 **Sec. 53-5. Third-Party Collectors.**

2 (a) *Legislative intent.* It is hereby declared to be the legislative intent of the city, acting
3 through its duly elected representatives, that, upon obtaining a third-party collector license, a third-
4 party collector shall be authorized to collect or withhold the taxes imposed in articles II through VIII
5 of this chapter and to remit such taxes to the manager as set forth in this chapter.

6 (b) *Duties, responsibilities, and liabilities.* Upon obtaining a third-party collector license
7 from the director of excise and licenses, a third-party collector shall become a collection agent for
8 the city and shall assume all the duties, responsibilities, and liabilities of a vendor as set forth in
9 articles II, III, IV, and VII of this chapter, an employer as set forth in article V of this chapter, a
10 business as set forth in article VI of this chapter, or a telecommunications business as set forth in
11 article VIII of this chapter.

12 (c) *Third-party collector and the vendors, employers, businesses, or telecommunications*
13 *businesses that it collects or withholds taxes for are liable for the taxes imposed by this chapter.*
14 The third-party collector, as well as each vendor, employer, business, or telecommunications
15 business for whom the third-party collector collects or withholds taxes for, shall be liable for the
16 taxes imposed by articles II through VIII of this chapter. The manager may recover any unpaid
17 taxes, penalties, and interest from the third-party collector, as well as each vendor, employer,
18 business or telecommunications business that is responsible for collecting or withholding the taxes
19 imposed by articles II through VIII of this chapter.

20 (d) *License.*

21 (1) *License required.* No person shall engage in third-party collection without first
22 obtaining a third-party collector license from the director of excise and licenses
23 pursuant to chapter 32 of the code. The failure to comply with this requirement is a
24 violation of this chapter.

25 (2) *Application.* The application for a third-party collector license shall be made pursuant
26 to chapter 32 of the code.

27 (3) *Approval by the manager of finance.* No application for a third-party collector license
28 shall be acted upon by the director of excise and licenses unless approved by the
29 manager.

30 (4) *Revocation.* If a third-party collector fails to comply with any of the requirements of
31 the code, ordinances or rules of the city pertaining to third-party collectors, the
32 manager may make a written request to the director of excise and licenses to revoke

1 the license of the third-party collector. A third-party collector license shall be revoked
2 by the director of excise and licenses upon the written request of the manager only
3 after notice and hearing as provided in article I of chapter 32 of the code.

4 (5) *Appeal from revocation.* Any finding or order of the director of excise and licenses
5 made pursuant to article I of chapter 32 of the code revoking the third-party collector
6 license of any person or denying the licensing of any person engaged as a third-party
7 collector shall be subject to review in the district court of the second judicial district
8 of the state upon application of the aggrieved person, and the procedure for review
9 shall be in accordance with that set forth in Rule 106(a)(4) of the Colorado Rules of
10 Civil Procedure, as they may be amended from time to time and as any
11 substitutionary provision may be made for review in the nature of certiorari. The
12 decision of the district court may be reviewed in accordance with the Colorado
13 Appellate Rules.

14 (e) *Bond.*

15 (1) *Requirement.* The manager may, in the manager's sole discretion, require an
16 applicant for a third-party collector license to furnish a bond with a reliable surety
17 company to be approved by the manager, which bond shall be conditioned to comply
18 with all requirements, specifications and instructions of the manager and all of the
19 requirements of the code, ordinances, and rules of the city, pertaining to third-party
20 collectors, including the payment of all applicable tax, penalties, interest, fees, or
21 costs.

22 (2) *Amount of bond.* If the manager requires a bond, the applicant for a third-party
23 collector license shall furnish a bond in an amount sufficient to cover up to three
24 months' tax liability or \$500.00, whichever is more.

25 **Sec. 53-7. – Returns.**

26 (a) Returns of the taxpayer shall contain such information and be made in such a manner
27 and upon such forms as the manager may prescribe.

28 (b) Every taxpayer obligated to collect and/or pay any of the taxes imposed in articles II
29 through VIII of this chapter shall file a completed return and remit the total amount due to the
30 manager as follows:

31 (1) *Article II - Sales tax.* On or before the twentieth day of each month for sales occurring
32 in the preceding calendar month.

- 1 (2) *Article III - Use tax.* On or before the twentieth day of each month for sales occurring
2 in the preceding calendar month.
- 3 (3) *Article IV - Lodger's tax.* On or before the twentieth day of each month for sales
4 occurring in the preceding calendar month.
- 5 (4) *Article V - Employee occupational privilege tax.* On or before the last day of each
6 month for the taxes required to be remitted for the preceding calendar month.
- 7 (5) *Article VI - Business occupational privilege tax.* On or before the last day of each
8 month for taxes required to be withheld for the preceding calendar month.
- 9 (6) *Article VII - Facilities development admission tax.* On or before the fifteenth day of
10 each month for sales occurring in the preceding calendar month.
- 11 (7) *Article VIII - Telecommunications business tax.* On or before the twentieth day of each
12 calendar month for taxes required to be remitted for the preceding calendar month.
- 13 (c) The manager may, by rule or regulation extend the time up to one (1) year for filing
14 returns and remitting the tax due.
- 15 (d) It shall be a violation of this chapter for any taxpayer to:
- 16 (1) fail to file a return with the manager as required by this chapter;
- 17 (2) file a false or fraudulent return with the manager (Any legal entity making a false return
18 or a return containing a false statement shall be guilty of a violation of this chapter,
19 article, and such violation shall be applicable to officers, agents or members thereof
20 who are responsible for the violation.); or
- 21 (3) fail to remit the full amount due to the manager as required by this chapter.

22 **Sec. 53-7.2 – When tax payments are received.**

- 23 (a) Taxes shall be considered received by the city at the time the funds are deposited into
24 an account that is approved by the Manager as provided in section 2.5.3(C) of the Denver Charter.
- 25 (b) If tax payments are dishonored or charged back, the payment shall not be considered
26 received by the city.

27 **Sec. 53-8. - Returns required upon sale of business; purchaser subject to lien.**

- 28 (a) Any taxpayer who shall sell out a business or stock of goods or shall quit business
29 shall be required to make out a return as provided in this chapter within ten (10) days after the date
30 the taxpayer sold out the business or stock of goods or quit business, and a successor in business
31 shall be required to withhold sufficient of the purchase money to cover the amount of the tax due
32 and unpaid until such time as the former owner shall produce a receipt from the manager showing

1 that the taxes have been paid or a certificate that no taxes are due.

2 (b) If the purchaser of a business or stock of goods shall fail to withhold the purchase
3 money as provided in subsection (a), and the tax shall be due and unpaid after the ten (10) day
4 period allowed, the purchaser, as well as the taxpayer, shall be personally liable for the payment of
5 the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business
6 fixtures of or used by any employer under lease, title-retaining contract or other contract
7 arrangement, by purchase, foreclosure sale or otherwise, takes same subject to the lien for any
8 delinquent taxes owed by such employer and shall be liable for the payment of all delinquent taxes
9 of such prior owner, not, however, exceeding the value of the property so taken or acquired.

10 **Sec. 53-9. - Duty to keep books and records.**

11 It shall be the duty of every taxpayer hereunder to keep and preserve suitable records and
12 such other books or accounts as may be necessary to determine the amount of the tax for the
13 collection, withholding, or payment of which the taxpayer is liable under this chapter. It shall be the
14 duty of every taxpayer to keep and preserve for a period of four (4) years following the due date of
15 the return or the payment of the tax all such books, invoices and other records necessary to
16 determine the tax, and the same shall be open for examination by the manager. Upon demand by
17 the manager, the taxpayer shall make the books, invoices, accounts or other records it maintains
18 available at the office of the manager or some other place designated by the manager for
19 examination, inspection and audit by the manager and the taxpayer shall maintain its books,
20 invoices, accounts or other records until the examination, inspection and audit is completed. The
21 manager, in the manager's discretion, may make, permit or cause to be made the examination,
22 inspection or audit of books, invoices, accounts and other records so kept or maintained by the
23 taxpayer. When the taxpayer shall have entered into a binding agreement with the city to reimburse
24 it for all costs and expenses incurred by the city in order to have such examination, inspection or
25 audit at a place other than the place designated by the manager, then such examination, inspection
26 or audit shall be made where such records are kept or maintained by the taxpayer or as otherwise
27 designated in the agreement.

28 **Sec. 53-10. - Status of unpaid tax in bankruptcy.**

29 In the event that any taxpayer subject to the tax imposed by articles II through VIII of this
30 chapter shall be in bankruptcy or debtorship, all taxes, penalties, and interest imposed by this
31 chapter, which accrued prior to the filing of the bankruptcy, shall remain a prior and preferred claim
32 and lien against all real property, goods, furniture and fixtures, tools and equipment used by the

1 taxpayer in conducting the business. Similarly, all taxes, penalties, and interest imposed by articles
2 II through VIII of this chapter which accrue after the filing of the bankruptcy shall remain a prior and
3 preferred claim and lien against all real property, goods, furniture and fixtures, tools and equipment
4 used by the taxpayer in conducting its business, during the course of the bankruptcy, except as
5 otherwise provided by preemptive federal law. To the extent any of the manager's authority to pursue
6 collection of taxes, penalty, or interest imposed by this chapter is stayed or otherwise impacted by
7 preemptive federal law, the manager is authorized to use procedural and substantive federal
8 remedies to facilitate collection of the tax, penalty, or interest.

9 **Sec. 53-11. - Trust status of tax.**

10 All sums of money paid by the purchaser to the vendor as taxes imposed by articles II, III, IV,
11 and VII of this chapter and all sums of money withheld by the employer as taxes imposed by article
12 V of this chapter, shall be and remain public money, the property of the city, in the hands of such
13 vendor or employer, and the vendor or employer shall hold the same in trust for the sole use and
14 benefit of the city until returned and paid over to the manager as herein provided, and the failure so
15 to pay over to the manager shall constitute a violation of this chapter by the vendor or employer.

16 **Sec. 53-12. - Excess collections; failure to remit collections.**

17 If any vendor shall collect as a tax an amount in excess of the amount set forth in articles II,
18 III, IV, or VII of this chapter during the reporting period, or any employer withhold as a tax an amount
19 in excess of the amount set forth in article V of this chapter during the reporting period, or any
20 telecommunication business withhold as a tax an amount in excess of the amount set forth in article
21 VIII of this chapter during the reporting period, the vendor, employer, or telecommunications
22 business shall return and pay over to the manager the full amount of the tax herein levied or withheld
23 and also such excess. The retention by the vendor, employer, or telecommunications business of
24 any excess of tax collections or withholdings over the applicable rate shall be a violation of this
25 chapter.

26 **Sec. 53-13. - Collection and refund of disputed tax.**

27 Should a dispute arise between the purchaser and vendor as to whether or not any sale is
28 exempt from the tax imposed in articles II, III, IV, or VII of this chapter, or any employee who claims
29 that the employee is exempt from the tax imposed in article V of this chapter, the vendor or business
30 shall collect and the purchaser or employee shall pay such tax; provided, however, that the
31 purchaser or employee thereafter may apply to the manager for a refund of such tax, and it shall
32 then be the duty of the manager to determine the question of exemption subject to review by the

1 courts as hereinafter provided. The failure of the vendor or business to comply with these
2 requirements is a violation of this chapter.

3 **Sec. 53-14. - Refund procedure for purchasers and employees.**

4 (a) *Generally.* A refund shall be made for the tax so paid under dispute by any purchaser
5 or employee who has an exemption as provided in this chapter. Interest shall be paid on refunds for
6 overpayments or withholdings made. Interest shall accrue from the time the overpayment or
7 withholding is made. The rate of interest shall be fixed and shall be the average monthly rate earned
8 by the city on the general fund for the calendar year immediately preceding the year in which the
9 refund is made. Such refund shall be made by the manager upon entitlement thereto shown by the
10 applicant and only after compliance with the following conditions.

11 (b) *Applications made for taxes paid before January 1, 2021.* An application for refund by
12 a purchaser shall be made within sixty (60) days after the purchase on which the exemption is
13 claimed. An application for refund by an employee shall be made within sixty (60) days from the
14 date of the deduction of the tax from the wages of the employee by the employer or the payment of
15 the tax to the manager by the employee, whichever is applicable. Each application shall be
16 supported by an affidavit of the purchaser or employee accompanied by the invoice or sale receipt
17 and be made upon such forms and contain such information as shall be prescribed by the manager.

18 (b.1) *Applications made for taxes paid after January 1, 2021.* An application for refund by a
19 purchaser shall be made within three (3) years after the purchase on which the exemption is claimed.
20 An application for refund by an employee shall be made within three (3) years from the date of the
21 deduction of the tax from the wages of the employee by the employer or the payment of the tax to
22 the manager by the employee, whichever is applicable. Each application shall be supported by an
23 affidavit of the purchaser or employee accompanied by the invoice or sale receipt and be made upon
24 such forms and contain such information as shall be prescribed by the manager.

25 (c) *Decisions.* Upon receipt of such affidavit, invoice or receipt, and application, the
26 manager shall examine the same and shall give notice to the applicant by an order in writing of its
27 decision thereon.

28 (d) *Petition.* An aggrieved applicant for a refund may, within thirty (30) days from the date
29 of the decision to deny or reduce their claim for refund, petition the manager in writing for review of
30 the decision in the manner provided in section 53-20 of the code.

31 (e) *Refunds not assignable.* The right of any person to a refund under this chapter shall not
32 be assignable, and application for refund must be made by the same person who purchased the

1 goods and paid the tax thereon as shown in the invoice for the sale thereof.

2 (f) *Penalty for violating refund provisions.* Any applicant for refund under the provisions
3 hereinabove, or any other person, who shall make any false statement in connection with an
4 application for a refund of any tax shall be deemed guilty of a violation of this chapter.

5 (g) *Violations of refund provisions to be used as evidence of fraudulent intent.* If any person
6 be convicted under the provisions of this section, the proof of such conviction shall be prima facie
7 evidence of fraud by that person in any appropriate action brought or taken for recovery of other
8 refunds made by the manager to such person within the prior three (3) years to the conviction. A
9 brief summary of the penalties available under this chapter for violations of it shall be printed on each
10 form issued by the manager for application for refund.

11 **Sec. 53-15. - Examination of returns; refunds, credits and deficiencies.**

12 (a) As soon as practicable after a return is filed, as required by this chapter, the manager
13 shall examine it for correctness. If it then appears that the correct amount of tax to be remitted is
14 greater or less than that shown in the return, the tax shall be recomputed.

15 (b) If the amount paid exceeds that which is due, the excess shall be refunded with interest
16 pursuant to section 53-14 of the code, or credited against any subsequent remittance from the same
17 taxpayer, provided, however that refunds or credits to vendors for taxes collected under articles II,
18 III, IV, or VII of this chapter or to employers for taxes collected under article V of this chapter are
19 limited to those who at the time of refund or credit have either credited their customer's or employee's
20 account or refunded to their customer or employee the taxes paid in error, and in such case the
21 vendors or employers may receive from the manager a refund or credit for the amount, limited,
22 however, for any transaction or series of transactions premised upon the error to an aggregate
23 amount of not more than five hundred thousand dollars (\$500,000.00) that is claimed within three
24 (3) years after the return is filed, provided, however, that if the three-year period for assessment of
25 tax has been extended pursuant to section 53-32 of the code, then a claim for refund or credit may
26 be made within such extended period; and provided, further, that if excess payments that the vendor,
27 employer, or business did not collect from the customer or employee are discovered by the manager,
28 those payments, if made within the aforesaid three-year period or extended three-year period, shall
29 be refunded or credited against subsequent remittances up to an aggregate amount of five hundred
30 thousand dollars (\$500,000.00) only to the extent they exceed any deficiencies disclosed by an audit
31 by the manager of the vendor's, employer's, or business' books and records of accounts.

32 (c) If the amount paid is less than the amount due, the difference, together with interest

1 thereon at the rate of one (1) percent each month, or fraction thereof, from the time the return was
2 due until the date paid, together with applicable penalty, if any, shall be paid over by the vendor,
3 employer, business, or telecommunications business within thirty (30) days after written notice and
4 demand for payment from the manager.

5 (d) An application for refund for taxes paid in error by the purchaser or employee and not
6 refunded or credited by the vendor or employer to the purchaser or employee shall be made only in
7 accordance with the procedures found in section 53-14 of the code.

8 **Sec. 53-16. - Interest on late payments, penalty.**

9 (a) In any case in which a taxpayer fails to file a return or pay over the tax within the time
10 required by this chapter, but without the intent to defraud, there shall be added as a penalty fifteen
11 (15) percent of the total amount of the deficiency, but not less than twenty-five dollars (\$25.00), and
12 interest in such cases shall be collected at the rate of one (1) percent each month, or fraction thereof,
13 on the amount due on the deficiency from the time the return was due to the date the tax is paid,
14 which interest and addition shall become due and payable within thirty (30) days after the written
15 notice and demand by the manager, and such interest shall be assessed, collected and paid in the
16 same manner as the tax itself.

17 (b) Payments of part but less than all of a deficiency, including interest, or interest and
18 penalty, shall be first applied to penalty, if any, secondly to accrued interest and, lastly, to the tax
19 itself.

20 **Sec. 53-17. - Penalty for deficiency caused by fraud.**

21 If any part of the deficiency is due to fraud with the intent to evade the tax, there shall be
22 added as a penalty fifty (50) percent of the total amount of the deficiency, and in such case the whole
23 amount of the tax unpaid, including the additions, shall become due and payable thirty (30) days
24 after written notice and demand by the manager, and an additional one (1) percent each month, or
25 fraction thereof, on said amounts shall be added from the date the return was due until paid, and
26 such addition shall be assessed, collected and paid in the same manner as the tax itself.

27 **Sec. 53-18. - Investigation of taxpayers' books.**

28 For the purpose of ascertaining the correctness of a return or for the purpose of determining
29 the amount of tax due from any taxpayer, the manager may hold investigations and hearings
30 concerning any matters covered by articles I through VIII of this chapter and may examine any
31 relevant books, papers, records or memoranda of any such taxpayer and may require the attendance
32 of such taxpayer, or any officer or employee of such taxpayer, or of any person having knowledge

1 of such taxable events, and may take testimony and require proof for their information. The manager
2 shall have power to administer oaths to such persons.

3 **Sec. 53-19. - Audit; estimate of taxes, penalty, and interest; notice; assessment.**

4 (a) The manager is authorized to examine, inspect and audit the books, invoices, accounts
5 and other records kept or maintained by the taxpayer for the collection of the taxes imposed by
6 articles II through VIII of this chapter. If the manager determines that any taxpayer neglects or
7 refuses to make a timely return in payment of the taxes or to pay or to correctly account for any taxes
8 as required by this chapter, the manager shall make an estimate, based upon such information as
9 may be available, with or without employing investigative powers vested in the manager by this
10 chapter, of the amount of the taxes due for the period or periods for which the taxpayer is delinquent;
11 and upon the basis of such estimated amount, compute and assess in addition thereto a penalty
12 equal to fifteen (15) percent thereof, together with the interest on such delinquent taxes at the rate
13 of one (1) percent each month, or a fraction thereof, from the date when due until the date paid.

14 (b) Promptly thereafter the manager shall notify the delinquent taxpayer in writing and
15 demand payment thereof of such estimated taxes, penalty and interest.

16 (c) Such estimated amounts shall thereupon become an assessment, and such
17 assessment shall be final and due and payable from the taxpayer to the city thirty (30) days from the
18 date of the notice and demand; provided, however, that within said thirty-day period the delinquent
19 taxpayer may petition the manager in writing for review of the assessment in the manner provided
20 in section 53-20 of the code. The filing of a petition shall not toll the accrual of interest on the amount
21 of taxes due.

22 **Sec. 53-20. - Review by the manager.**

23 (a) *Petitions.* Petitions submitted to the manager shall be in writing and shall contain a
24 statement of facts and reasons for and the amount of the requested changes in the assessment or
25 decision to deny or reduce a refund claim, and shall otherwise comply with the applicable rules
26 promulgated by the manager relating to petitions and hearings.

27 (b) *Time limit for filing petitions.* Petitions shall be submitted to the manager within thirty
28 (30) days from the date of the assessment or decision to deny or reduce a refund claim. If a petition
29 is not submitted within this time, the assessment or decision is final and no further review is available.

30 (c) *Notice of hearing.* The manager shall notify the taxpayer in writing of the time and place
31 within the city fixed for hearing.

32 (d) *Hearings.*

1 (1) *Hearings for taxes imposed in articles II and III.*

2 (a) A hearing relating to the taxes imposed in articles II and III of this chapter, if any,
3 shall be held and a decision issued within one hundred eighty (180) days from the
4 date a petition is received by the manager, unless the taxpayer and the manager
5 agree in writing: (1) that the hearing shall be held and a decision issued within
6 such further agreed time or (2) that no hearing shall be held before the manager,
7 in which case, the taxpayer may pursue further review in accordance with section
8 53-25 of the code.

9 (b) If none of the events described in subsection (d)(1)(a) of this section have
10 occurred, the manager may notify the taxpayer in writing that the manager does
11 not intend to conduct a hearing, in which case, the taxpayer may pursue further
12 review in accordance with section 53-25 of the code.

13 (c) If none of the events described in subsections (d)(1)(a) or (d)(1)(b) of this section
14 have occurred, the taxpayer may pursue further review in accordance with section
15 53-25 of the code any time after one hundred eighty (180) days or such further
16 agreed time has passed.

17 (2) *Hearings for taxes imposed in articles IV through VIII.*

18 (a) A hearing relating to the taxes imposed in articles IV through VIII of this chapter,
19 if any, shall be conducted in accordance with applicable rules promulgated by
20 the manager relating to petitions and hearings. The taxpayer may pursue
21 further review in accordance with section 53-25 of the code.

22 (e) *Manager may appoint designee.* A hearing, if any, shall be before the manager or its
23 designee, who is authorized to administer oaths, to take testimony, to hear arguments, and to issue
24 all necessary and appropriate orders and decisions.

25 (f) *Burden of proof.* The burden of proof that sales, employment, or telecommunications
26 upon which refunds of taxes are claimed, or for which modifications or cancellations of assessments
27 are sought, are exempt from or not subject to taxation under articles II through VIII of this chapter
28 shall be on the taxpayer and such proof shall be by a preponderance of evidence.

29 (g) *Final order or decision.* The final order or decision of the manager or its designee shall
30 be in writing and notice thereof shall be mailed to the taxpayer forthwith.

31 **Sec. 53-21. - Manager may waive penalty.**

32 The manager is hereby authorized to waive for good cause shown any penalty assessed

1 pursuant to this chapter, and any amount imposed in excess of one (1) percent each month, or
2 fraction thereof, of the tax deficiency, from the date the tax is due to the date paid, shall be for the
3 purpose of this section deemed a penalty.

4 **Sec. 53-22. - Compromise.**

5 The manager may compromise any assessment or claim for refund or credit arising under
6 this chapter prior to referring the matter to the department of law.

7 **Sec. 53-23. - Hearings, subpoenas and witness fees.**

8 All subpoenas issued under the terms of this chapter shall be served by any person so
9 enabled under the Colorado Rules of Civil Procedure and in the same manner. The payment of fees
10 to witnesses for attendance and trial before the manager shall be the same as the payment of fees
11 to witnesses before the district courts.

12 **Sec. 53-24. - Judge compels attendance.**

13 Any judge of the district court of the second judicial district of the state upon the application
14 of the manager may compel the attendance of witnesses, the production of books, papers, records
15 or memoranda and the giving of testimony before the manager by an attachment against such
16 witness for contempt, or otherwise, in the same manner as production of evidence may be compelled
17 before the court.

18 **Sec. 53-25. - Review of manager's final order or decision.**

19 (a) *Review of order or decision involving any of the taxes imposed in articles II through*
20 *VIII of this chapter.* Should the taxpayer be aggrieved by a final order or decision of the manager
21 involving any of the taxes imposed in articles II through VIII of this chapter, the taxpayer may proceed
22 to have the same reviewed under Colorado Rules of Civil Procedure 106(a)(4) by the district court
23 for the second judicial district of the state. The petition or complaint for review must be filed within
24 thirty (30) days from the date of the final order or decision. Any party, including the city, may appeal
25 the final order or decision of the manager and, also, the decision of the district court (or such other
26 tribunal having jurisdiction), using all judicial, appellate, and extraordinary proceedings available.
27 Before filing a petition or complaint for review under Colorado Rules of Civil Procedure 106(a)(4),
28 the taxpayer shall file with the manager a bond in twice the amount of the taxes, interest and other
29 charges audited and stated in the final order or decision of the manager, with surety as is provided
30 in other cases of appeal, or may deposit lawful money of the United States in the same manner as
31 herein provided.

32 (b) *Review of order or decision involving any of the taxes imposed in articles II or III of this*

1 *chapter*. In lieu of the procedure provided for in subsection 53-25(a) of the code, the taxpayer may
2 proceed to have a final order or decision of the manager involving the taxes imposed in articles II or
3 III of this chapter, reviewed under section 29-2-106.1, C.R.S.

4 **Sec. 53-26. - Tax lien.**

5 (a) A tax imposed by this chapter, together with the interest and penalties herein provided
6 and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior
7 lien superior to all other liens upon the tangible personal property, including all goods, merchandise,
8 furniture and fixtures, tools and equipment of the taxpayer, or used by the taxpayer in conducting his
9 business under lease, title retaining contract or other contract arrangement within the city, and shall
10 take precedence on all such tangible personal property over other liens or claims of whatsoever kind
11 or nature and may be foreclosed by seizing under distraint warrant and selling so much of said
12 tangible personal property as may be necessary to discharge said lien.

13 (b) The tangible personal property of an owner who has made a bona fide lease to a
14 taxpayer shall be exempt from the lien created in this section (1) if such property can reasonably be
15 identified from the lease description and (2) if the lessee is given no right to become the owner of
16 the property leased. This exemption shall be effective from the date of the execution of the lease
17 until its termination if the lease is filed or recorded, within ten (10) days after the execution of the
18 lease, with either the executive director of the state department of revenue or the clerk and recorder
19 of the city. Where the lessor and lessee are blood relatives, relatives by law, or have twenty-five (25)
20 percent or more common ownership, a lease between them shall not be considered bona fide for
21 the purpose of this section.

22 (c) Any taxpayer who is in possession of tangible personal property under the terms of a
23 lease, which property is exempt from lien as provided in this section, may be required by the manager
24 to make return of and pay over taxes collected at more frequent intervals than monthly, or may be
25 required to furnish security for the proper payment of taxes whenever the collection of taxes appears
26 to be in jeopardy.

27 (d) A sale at retail from a stock of merchandise in the regular course of business shall
28 release the item or items sold from the lien created by this section, but newly acquired merchandise
29 shall come and remain under such lien until sold at retail or until the tax is paid.

30 **Sec. 53-27. - Jeopardy assessment and demands.**

31 (a) If the manager finds that collection of a tax imposed by this chapter will be jeopardized
32 by delay, in the manager's discretion, the manager may declare the taxable period immediately

1 terminated, determine the tax, and issue notice and demand for payment thereof; and having done
2 so, the tax shall be due and payable forthwith, and the manager may proceed to collect such tax as
3 provided in this chapter.

4 (b) Collection may be stayed if the taxpayer gives such security for payment as shall be
5 satisfactory to the manager.

6 (c) The taxpayer or other person entitled to notice by law may request a hearing in writing
7 before the manager regarding the jeopardy determination and the amount of the assessment. A
8 request for hearing must be made within seven (7) days after the notice and demand for payment or
9 distraint warrant is issued. The hearing shall be held within fifteen (15) days of the request. The
10 hearing shall be informal and need not comply with the requirements of sections 53-19 and 53-20 of
11 the code nor with the applicable rules and regulations promulgated by the manager relating to
12 hearings. The burden of proof shall be on the taxpayer, and such proof shall be by a preponderance
13 of evidence. The manager shall enter his decision within thirty (30) days after the hearing and shall
14 furnish a copy to the taxpayer. If the taxpayer is aggrieved by the decision of the manager, the
15 taxpayer may seek review pursuant to section 53-25 of the code. A request for hearing under this
16 section shall not stay collection proceedings unless such request is accompanied by a bond or other
17 security as shall be satisfactory to the manager.

18 **Sec. 53-28. - Methods of enforcing collection.**

19 (a) *Distraint.*

20 (1) The manager may issue a warrant directed to any employee, agent or representative
21 under the control of the manager, the manager of safety or the sheriff of the city,
22 sometimes in this section referred to collectively as "agent," commanding the agent to
23 distraint, seize and sell the tangible personal property, including all goods,
24 merchandise, furniture and fixtures, tools and equipment of, or used by, the taxpayer,
25 except such tangible personal property as is exempted from execution and sale by any
26 statute of the United States, for the payment of the tax due under this chapter together
27 with penalties and interest accrued thereon and cost of execution, including thirty
28 dollars (\$30.00) for every warrant issued under this section, upon the happening of any
29 one (1) of the following:

30 a. When any deficiency in tax is not paid within thirty (30) days from the manager's
31 final decision thereon and no petition for review from such determination has
32 been filed with the district court for the second judicial district within the period of

1 time allowed by law for such review;

2 b. When any amount of tax, penalty or interest is not paid within thirty (30) days
3 from the mailing or personal service of demand for payment thereof and no
4 protest thereof has been filed with the manager within said period; or

5 c. Immediately upon making of a jeopardy assessment or of the issuance of a
6 demand for payment, as provided in this section 53-20 of the code.

7 (2) *Notices.* The agent charged with the collection shall make or cause to be made an
8 account of the tangible personal property distrained, a copy of which, signed by the
9 agent making such distraint, shall be served, by leaving it with the owner or possessor
10 of the tangible personal property or with some member of such person's family over
11 the age of eighteen (18) years, or at the person's usual place of abode or, if the person
12 is a business entity within the city, with any officer, manager, accountant, bookkeeper,
13 general agent, registered agent, or agent for process, together with a copy of said
14 warrant stating the sum demanded. In lieu of the foregoing provisions of this subsection
15 for serving said account and warrant, if the owner or possessor cannot be readily
16 located, or has no dwelling or place of business within the city, the account and warrant
17 may be served by mailing by certified mail to the last known address of the owner or
18 possessor. Said agent shall cause to be published a notice of the time and place of
19 sale, together with a description of the property to be sold, in some newspaper of
20 general circulation within the city and the agent shall cause such notice to be publicly
21 posted at the location of the property and the place of sale, at the Denver courthouse,
22 and in at least two (2) other places within the city. The taxpayer and those having
23 possession of, or of public record a security interest in, the property shall be notified of
24 the time and place of sale either in person or by certified mail, or, if that is impractical,
25 by first class mail. The time fixed for the sale shall not be less than ten (10) days nor
26 more than sixty (60) days from the date of such notification, and notification by mail
27 shall be presumed upon mailing.

28 (3) *Management of sale.* Said sale may be adjourned from time to time by said agent if he
29 deems it advisable but not for a time to exceed in all ninety (90) days from the date
30 first fixed for the sale. When any tangible personal property is advertised for sale under
31 distraint as aforesaid, the agent making the seizure shall proceed to sell such property
32 at public auction, offering the same at not less than a fair minimum price, including the

1 expenses of making the seizure, storing the property and of advertising the sale, and
2 if the amount bid for the property at the sale is not equal to the fair minimum price so
3 fixed, the agent conducting the sale may declare the same to be purchased by him for
4 the city. The property so purchased may be sold by the agent under such terms as the
5 manager may approve or declared to be surplus property subject to disposition by the
6 manager of general services. In any case of distraint for the payment of taxes, the
7 property so distrained shall be restored to the owner or possessor if, prior to the sale,
8 the amount due is paid together with the fees and other charges, or the property may
9 be so redeemed before sale by any person having a legal or equitable interest in the
10 property.

11 (4) *Certificate of title; return of surplus.* In all cases of sale, the agent making the sale shall
12 issue a certificate of sale to each purchaser, and such certificate shall be prima facie
13 evidence of the right of the agent to make such sale and conclusive evidence of the
14 regularity of the proceedings in making the sale and shall transfer to the purchaser all
15 right, title and interest in and to the tangible personal property sold. Any surplus
16 remaining above the taxes, penalties, costs and expenses of making the seizure and
17 of advertising the sale shall be returned upon demand made within one (1) year from
18 the sale to the owner. Surplus remaining at the end of one (1) year from the sale shall
19 be deposited to the general fund.

20 (5) *Filing of notice of lien.* Any agent to whom warrant has been issued may serve a notice
21 of lien in such form as the manager may prescribe with the person in possession of
22 any tangible personal property or rights to property, without regard to its use in the
23 business of the taxpayer, belonging to the taxpayer or file said notice with the secretary
24 of state and the clerk and recorder, and the service or filing of such notice shall operate
25 to perfect a lien upon such tangible personal property or rights to property from the
26 date of such service or filing. The manager may release said lien as to any part or all
27 of the property or rights to property covered by any such lien upon such terms as he
28 may deem proper.

29 (6) *Recurring distraint.* If any taxpayer liable for the payment of any tax pursuant to this
30 chapter repeatedly fails, neglects, or refuses to pay said tax within the time required
31 by this chapter and the manager has been required to issue distraint warrants to
32 enforce the collection of the tax due from such taxpayer, the manager is authorized to

1 assess and collect the amount of the taxes due, together with all interest and penalties
2 thereon provided by law, and also an additional penalty of one hundred dollars
3 (\$100.00) each for the second and following distraint warrant regarding the taxpayer
4 that is issued by the manager pursuant to this chapter.

5 (b) *Recovery of unpaid tax by action at law.* The manager may also, after having
6 exhausted the remedies provided for collection in this section, treat any such taxes, penalties or
7 interest due and remaining unpaid as a debt due the city from the taxpayer. In case of failure to pay
8 the taxes or any portion thereof or any penalty or interest thereon when due, the manager may
9 recover at law the amount of such taxes, penalties and interest in any county or district court having
10 jurisdiction of the amounts sought to be collected in the county wherein the taxpayer resides or has
11 his principal place of business. The return of the taxpayer or the assessment made as provided in
12 this chapter by the manager shall be prima facie proof of the amount due. Such actions may be
13 actions in attachments, and writs of attachment may be issued to the sheriff, and in any such
14 proceeding no bond shall be required of the manager, nor shall any sheriff require of the manager
15 an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment
16 entered in such proceedings; and the manager may prosecute appeals in such cases without the
17 necessity of providing bond therefor.

18 **Sec. 53-29. Notices to be sent by mail.**

19 Unless otherwise required by law, all notices or other information required to be given to the
20 taxpayer in writing under the provisions of this chapter if mailed postpaid to the last known address
21 of the taxpayer or registered agent, after reasonable inquiry of such address, shall be deemed
22 complete and effective upon and as of the posting of same in the mails of the United States postal
23 service. Filings by the taxpayer shall be deemed complete upon mailing to or personal service on
24 the manager.

25 **Sec. 53-30. - Statute of limitations.**

26 (a) The taxes for any period, together with penalties and interest thereon with respect
27 thereto, imposed by this chapter shall not be assessed, nor shall any notice of lien be filed, or distraint
28 warrant be issued, or suit for collection be instituted, nor any other action to collect the same be
29 commenced, more than three (3) years after the date on which the tax was or is payable; nor shall
30 any lien continue after such period, except for taxes assessed before the expiration of such period,
31 notice of lien with respect to which has been filed prior to the expiration of such period, in which
32 cases such lien shall continue only for one (1) year after the filing of notice thereof.

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

4 (c) In the case of failure to file a return or the filing of a false or fraudulent return with intent
5 to evade tax, the tax together with penalty and interest may be assessed and collected at any time.

6 (d) Before the expiration of such period of limitation, the taxpayer and the manager may
7 agree in writing to an extension thereof, and the period so agreed on may be extended by
8 subsequent agreements in writing.

9 **Sec. 53-31. - Coordinated audit procedure.**

10 (a) Any taxpayer licensed by the city pursuant to either the city retail sales tax article or
11 the city use tax article or both, and holding a similar sales tax license in at least four (4) other
12 Colorado municipalities that administer their own sales tax collection, may request a coordinated
13 audit as provided herein.

14 (b) Within fourteen (14) days of receipt of notice of an intended audit by any municipality
15 that administers its own sales tax collection, the taxpayer shall provide to the manager, by certified
16 mail, return receipt requested, a written request for a coordinated audit indicating the municipality
17 from which the notice of intended audit was received and the name of the official who issued such
18 notice. Such request shall include a list of those Colorado municipalities utilizing local collection of
19 their sales tax in which the taxpayer holds a current sales tax license and a declaration that the
20 taxpayer will sign a waiver of any passage-of-time-based limitation upon the right of the city to
21 recover tax, penalty and interest owed by the taxpayer for the audit period.

22 (c) Except as provided in paragraph (g), any taxpayer that submits a complete request for
23 a coordinated audit and promptly signs a waiver of the period of limitations on all tax assessments
24 provided by this chapter may be audited by the city during the twelve (12) months after such request
25 is submitted only through a coordinated audit involving all municipalities electing to participate in
26 such an audit.

27 (d) If the city desires to participate in the audit of a taxpayer that submits a complete
28 request for a coordinated audit pursuant to paragraph (c), the manager shall so notify the municipality
29 whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the
30 taxpayer's request for coordinated audit. The manager shall then cooperate with other participating
31 municipalities in the development of arrangements for the coordinated audit, including arrangement
32 of the time during which the coordinated audit will be conducted, the period of time to be covered by

1 the audit, and a coordinated notice to the taxpayer of those records most likely to be required for
2 completion of the coordinated audit.

3 (e) If the taxpayer's request for a coordinated audit was in response to a notice of audit
4 issued by the city, the manager shall facilitate arrangements between the city and other
5 municipalities participating in the coordinated audit unless and until an official from some other
6 participating municipality agrees to assume this responsibility. The manager shall cooperate with
7 other participating municipalities to, whenever practicable, minimize the number of auditors that will
8 be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating
9 municipalities.

10 (f) If the taxpayer's request for a coordinated audit was in response to a notice of audit
11 issued by the city, the manager shall, once arrangements for the coordinated audit between the city
12 and other participating municipalities are completed, provide written notice to the taxpayer of which
13 municipalities will be participating, the period to be audited and the records most likely to be required
14 by participating municipalities for completion of the coordinated audit. The manager shall also
15 propose a schedule for the coordinated audit.

16 (g) The coordinated audit procedure set forth in this section shall not apply: (1) When the
17 proposed audit is a jeopardy audit; (2) To audits for which a notice of audit was given prior to the
18 effective date of this section; (3) When a taxpayer refuses to promptly sign a waiver of the period of
19 limitations on all tax assessments provided by this chapter; (4) When a taxpayer fails to provide a
20 timely and complete request for a coordinated audit as provided in paragraph (b).

21 **Sec. 53-32. - Violations.**

22 (a) Any person who shall violate any of the provisions of this chapter so stated to be a
23 violation thereof shall be guilty of a violation of this chapter. The violation of this chapter by any
24 person shall be unlawful and subject to the penalties imposed by section 1-13 of the code. Each and
25 every twenty-four (24) hours continuous of any violation shall constitute a distinct and separate
26 violation for penalty purposes.

27 **Section 2.** Article II, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
28 and is reenacted to read as follows:

29 **ARTICLE II – SALES TAX**

30 **DIVISION 1. - GENERALLY**

31 **Sec. 53-50. - Name of tax.**

32 This article may be known and cited as the city retail sales tax article.

1 **Sec. 53-51. - Legislative intent.**

2 It is hereby declared to be the legislative intent of the city, acting through its duly elected
3 representatives, that, for purposes of this article, the tax imposed hereunder be reduced by the
4 amount of such tax which the city is prohibited from collecting under the state and federal
5 Constitutions and laws of the United States by reason of a tax legally imposed and paid, in respect
6 to a sale of tangible personal property, a product, or a service taxable hereunder, to another state or
7 local, including municipal, government.

8 **Sec. 53-52. - Purpose of tax.**

9 The council declares that the purpose of the levy of the tax imposed by this article is for raising
10 funds for the payment of expenses of operating and improving the city and its facilities and for the
11 payment of the principal of and interest due upon any general obligation or special revenue bonds
12 lawfully authorized and issued by and on behalf of the city; in accordance with this purpose, the
13 proceeds of the tax shall be placed in the unapportioned sales, use and lodger's tax account of the
14 fund plan, section 20-18 of the code, from which shall be allocated, apportioned, and transferred as
15 therein provided such sums to the respective funds and accounts of said fund plan as are therein
16 indicated and for the purposes therein stated.

17 **Sec. 53-53. - Definitions.**

18 (a) The following words and phrases shall have the meanings given to them in this section,
19 unless the context clearly requires a different meaning.

- 20 (1) "Aircraft" means a device that is used or intended to be used for flight in the air and
21 designed to carry at least one (1) person.
- 22 (2) "Aircraft part" means any tangible personal property that is intended to be permanently
23 affixed or attached as a component part of an aircraft.
- 24 (3) "Aircraft simulator" means a Flight Simulator Training Device (FSTD) as defined in Part
25 I of Title 14 of the Code of Federal Regulations that is qualified in accordance with Part
26 60 of Title 14 of the Code of Federal Regulations for use in a Federal Aviation
27 Administration Approved Flight Training Program.
- 28 (4) "Aircraft simulator part" means any tangible personal property that is originally
29 designed and intended to be permanently affixed or attached as a component part of
30 an aircraft, and which will also function when it is permanently affixed or attached as a
31 component part of an aircraft simulator.
- 32 (5) "Airline company" means any operator who engages in the carriage by aircraft of

1 persons or property as a common carrier for compensation or hire, or the carriage of
2 mail, or any aircraft operator who operates regularly between two (2) or more points
3 and publishes a flight schedule. Airline company shall not include operators whose
4 aircraft are all certified for a gross takeoff weight of twelve thousand five hundred
5 (12,500) pounds or less and who do not engage in scheduled service or mail carriage
6 service.

7 (6) "Automotive vehicle" means any vehicle or device in, upon, or by which any person or
8 property is or may be transported or drawn upon a public highway, or any device used
9 or designed for aviation or flight in the air. Automotive vehicle includes, but is not limited
10 to, motor vehicles, trailers, semi-trailers or mobile homes. Automotive vehicle shall not
11 include devices moved by human power or used exclusively upon stationary rails or
12 tracks.

13 (7) "Business" means all activities engaged in or caused to be engaged in with the object
14 of gain, benefit or advantage, direct or indirect.

15 (8) "Construction materials" means tangible personal property which, when combined with
16 other tangible property, loses its identity to become an integral and inseparable part of
17 a structure or project including public and private improvements. Construction
18 materials include, but are not limited to, such things as: asphalt, bricks, builders'
19 hardware, caulking material, cement, concrete, conduit, electric wiring and
20 connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass,
21 gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping,
22 pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road
23 base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco,
24 tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall-paper,
25 weather stripping, wire netting and screen, water mains and meters, and wood
26 preserver. The above materials, when used for forms, or other items which do not
27 remain as an integral or inseparable part of a completed structure or project are not
28 construction materials.

29 (9) "Cover charge" means a charge paid to a club or similar entertainment establishment
30 which may, or may not, entitle the patron paying such charge to receive tangible
31 personal property, such as food and/or beverages.

32 (10) "Digital product" means an electronic product including, but not limited to: (1) "digital

1 images" which means works that include, but are not limited to, the following that are
2 generally recognized in the ordinary and usual sense as "photographs," "logos,"
3 "cartoons," or "drawings," (2) "digital audio-visual works" which means a series of
4 related images which, when shown in succession, impart an impression of motion,
5 together with accompanying sounds, if any, (3) "digital audio works" which means
6 works that result from the fixation of a series of musical, spoken, or other sounds,
7 including ringtones. For purposes of the definition of "digital audio works," "ringtones"
8 means digitized sound files that are downloaded onto a device and that may be used
9 to alert the customer with respect to a communication, and (4) "digital books" which
10 means works that are generally recognized in the ordinary and usual sense as "books."

11 (11) "Farm equipment" means any farm tractor, as defined in section 42-1-102(33), C.R.S.,
12 any implement of husbandry, as defined in section 42-1-102(44), C.R.S., and irrigation
13 equipment having a per unit purchase price of at least one thousand dollars
14 (\$1,000.00). Farm equipment also includes, regardless of purchase price, attachments
15 and baling wire, binders twine and surface wrap used primarily and directly in any farm
16 operation. Farm equipment also includes, regardless of purchase price, parts that are
17 used in the repair or maintenance of the farm equipment described in this paragraph,
18 all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed
19 or adapted to undertake agricultural applications. Farm equipment also includes,
20 regardless of purchase price, dairy equipment. Except for shipping pallets, crates or
21 aids used in the transfer or shipping of agricultural products, Farm equipment does not
22 include: (1) vehicles subject to the registration requirements of section 42-3-103,
23 C.R.S., regardless of the purpose for which such vehicles are used; (2) machinery,
24 equipment, materials, and supplies used in a manner that is incidental to a farm
25 operation; (3) maintenance and janitorial equipment and supplies; and (4) tangible
26 personal property used in any activity other than farming, such as office equipment and
27 supplies and equipment and supplies used in the sale or distribution of farm products,
28 research, or transportation.

29 (12) "Feminine hygiene products" means products that are designed to absorb or contain
30 menstrual flow. Feminine hygiene products include, but are not limited to, tampons,
31 menstrual pads and sanitary napkins, pantliners, menstrual sponges, and menstrual
32 cups.

- 1 (13) "Food" means:
- 2 a. Food for domestic, home or household use as the manager may by regulation
- 3 define which is advertised or marketed for human consumption and is sold in
- 4 the same form, condition, quantities and packaging as is commonly sold by
- 5 grocers.
- 6 b. Food as defined in Section 2012(g) of Title 7 of the United States Code as of,
- 7 and as it may be amended after, October 1, 1987, that is eligible for purchase
- 8 by the medium of exchange commonly known as 'food stamps,' and the sale of
- 9 food as defined in or pursuant to Section 1786 of Title 42 of the United States
- 10 Code as of, and as it may be amended after, October 1, 1987, that is eligible for
- 11 purchase with vouchers, checks or similar certificates of exchange for the
- 12 'special supplemental food program' for women, infants, and children.
- 13 c. Notwithstanding the definition of food referred to in paragraph b of this
- 14 subsection, the term 'food' shall not include food or drink served or furnished as
- 15 described in subsection 53-54(a)(5) of the code; neither shall it include
- 16 carbonated water sold in containers, chewing gum, spirituous, malt or vinous
- 17 liquors, seeds and plants to grow foods, prepared salads, salad bars, cold
- 18 sandwiches, and deli trays unless any of those items, excepting spirituous, malt
- 19 or vinous liquors, is actually purchased with food stamps or vouchers as they
- 20 are described in paragraph b of this subsection; nor shall the term 'food' as used
- 21 in this subsection include food and drink vended by or through machines.
- 22 (14) "Gross sales" means the total amount received in money, credit, property or other
- 23 consideration valued in money for all sales of tangible personal property, products, or
- 24 services.
- 25 (15) "Internet subscription service" means software programs, systems, data and
- 26 applications available online through rental, lease or subscription, that provide
- 27 information and services including, but not limited to, data linking, data research, data
- 28 analysis, data filtering or record compiling.
- 29 (16) "Manufacturing" means the operation or performance of an integrated series of
- 30 operations which places a product, article, substance, commodity, or other tangible
- 31 personal property in a form, composition or character different from that in which it was
- 32 acquired whether for sale or for use by a manufacturer. The change in form,

1 composition or character must result in a different product having a distinctive name,
2 character or use from the raw or prepared materials.

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

18 (18) "Motor fuel" means gasoline, casing head or natural gasoline, benzol, benzene and
19 naphtha, gasohol and any liquid prepared, advertised, offered for sale, sold for use or
20 used or commercially usable in internal combustion engines for the generation of
21 power for the propulsion of motor vehicles upon the public highways. The term does
22 not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad
23 locomotives.

24 (19) "Prepress preparation" material means all materials used by those in the printing
25 industry including, but not limited to, airbrush color photos, color keys, dies,
26 engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar, plates,
27 proofing materials, tape, transparencies, and veloxes, which are used by printers in
28 the preparation of customer specific layouts or in plates used to fill customers' printing
29 orders, which are eventually sold to a customer, either in their original purchase form
30 or in an altered form, and for which a sales or use tax is demonstrably collected from
31 the printer's customer, if applicable, either separately from the printed materials or as
32 part of the inclusive price therefor. Materials sold to a printer which are used by the

1 printer for the printer's own purposes, and are not sold, either directly or in an altered
2 form, to a customer, are not included within this definition.

3 (20) "Prescription drugs for humans" means a drug which, prior to being dispensed or
4 delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect.
5 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is
6 dispensed in accordance with any written or electronic order dated and signed by a
7 licensed practitioner of the healing arts, or given orally by a practitioner and
8 immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy
9 intern, specifying the name and any required information of the patient for whom the
10 medicine, drug or poison is offered and directions, if any, to be placed on the label.

11 (21) "Price" or "purchase price" means the aggregate value measured in currency paid or
12 delivered or promised to be paid or delivered in consummation of a sale, without any
13 discount from the price on account of the cost of materials used, labor or service cost,
14 and exclusive of any direct tax imposed by the federal government or by this article,
15 and, in the case of all retail sales involving the exchange of property, also exclusive of
16 the fair market value of the property exchanged at the same time and place of the
17 exchange, if: (1) such exchanged property is to be sold thereafter in the usual course
18 of the retailer's business, or (2) such exchanged property is a vehicle and is exchanged
19 for another vehicle and both vehicles are subject to licensing, registration, or
20 certification under the laws of this state, including, but not limited to, vehicles operating
21 upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any
22 money or other consideration paid over and above the value of the exchanged property
23 is subject to tax.

24 a. Price or purchase price includes:

- 25 1. The amount of money received or due in cash and credits.
- 26 2. Property at fair market value taken in exchange but not for resale in the
27 usual course of the retailer's business.
- 28 3. Any consideration valued in money, whereby the manufacturer or someone
29 else reimburses the retailer for part of the purchase price and other media
30 of exchange.
- 31 4. The total price charged on credit sales including finance charges which are
32 not separately stated at the time of sale. An amount charged as interest on

1 the unpaid balance of the purchase price is not part of the purchase price
2 unless the amount added to the purchase price is included in the principal
3 amount of a promissory note; except the interest or carrying charge set out
4 separately from the unpaid balance of the purchase price on the face of
5 the note is not part of the purchase price. An amount charged for insurance
6 on the property sold and separately stated at the time of sale is not part of
7 the purchase price.

- 8 5. Installation, applying, remodeling or repairing the property, delivery and
9 wheeling-in charges included in the purchase price and not separately
10 stated.
- 11 6. Transportation and other charges to effect delivery of tangible personal
12 property to the purchaser.
- 13 7. Indirect federal manufacturers' excise taxes, such as taxes on automobiles,
14 tires and floor stock.
- 15 8. The gross purchase price of articles sold after manufacturing or after having
16 been made to order, including the gross value of all the materials used,
17 labor and service performed and the profit thereon.

18 b. Price or purchase price shall not include:

- 19 1. Any sales or use tax imposed by the State of Colorado or by any political
20 subdivision thereof.
- 21 2. The fair market value of property exchanged if such property is to be sold
22 thereafter in the retailers' usual course of business. This is not limited to
23 exchanges in Colorado. Out of state trade-ins are an allowable adjustment
24 to the purchase price.
- 25 3. Discounts from the original price if such discount and the corresponding
26 decrease in sales tax due is actually passed on to the purchaser, and the
27 seller is not reimbursed for the discount by the manufacturer or someone
28 else. An anticipated discount to be allowed for payment on or before a
29 given date is not an allowable adjustment to the price in reporting gross
30 sales.

31 (22) "Prosthetic devices for humans" means any artificial limb, part, device or appliance for
32 human use which replaces a body part or aids or replaces a bodily function; is

1 designed, manufactured, altered or adjusted to fit a particular individual patient; and is
2 prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but
3 are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental or
4 orthopedic devices or appliances, oxygen concentrators and oxygen with related
5 accessories.

6 (23) "Purchase" or "sale" means the acquisition for any consideration by any person of
7 taxable tangible personal property, products, or services.

8 a. These terms include capital leases, installment and credit sales, and property
9 and services acquired by:

- 10 1. Transfer, either conditionally or absolutely, of title or possession or both to
11 taxable tangible personal property, products, or services;
- 12 2. A lease, lease-purchase agreement, rental or grant of a license, including
13 royalty agreements, to use taxable tangible personal property, products, or
14 services;
- 15 3. Performance of taxable services; or
- 16 4. Barter or exchange for other taxable tangible personal property, products,
17 or services.

18 b. The terms purchase and sale do not include:

- 19 1. A division of partnership assets among the partners according to their
20 interests in the partnership;
- 21 2. The transfer of assets of shareholders in the formation or dissolution of
22 professional corporations, if no consideration including, but not limited to,
23 the assumption of a liability is paid for the transfer of assets;
- 24 3. The dissolution and the pro rata distribution of the corporation's assets to
25 its stockholders, if no consideration including, but not limited to, the
26 assumption of a liability is paid for the transfer of assets;
- 27 4. A transfer of a partnership or limited liability company interest;
- 28 5. The transfer of assets to a commencing or existing partnership or limited
29 liability company, if no consideration including, but not limited to, the
30 assumption of a liability is paid for the transfer of assets;
- 31 6. The repossession of personal property by a chattel mortgage holder or
32 foreclosure by a lienholder;

- 1 (24) "Rail carrier" means "rail carrier" as defined in Section 10102 of Title 49 of the United
2 States Code as of October 10, 2013, and as it may be amended hereafter.
- 3 (25) "Rail carrier part" means any tangible personal property that is originally designed and
4 intended to be permanently affixed or attached as a component part of a locomotive or
5 rail car used by a rail carrier.
- 6 (26) "Retail sale" means any sale in the city except a wholesale sale.
- 7 (27) "Retailer" or "vendor" means any person selling, leasing, renting, or granting a license
8 to use tangible personal property, products, or services at retail. Retailer shall include,
9 but is not limited to, any: (1) auctioneer; (2) salesperson, representative, peddler or
10 canvasser, who makes sales as a direct or indirect agent of or obtains such property
11 or services sold from a dealer, distributor, supervisor or employer; and (3) charitable
12 organization or governmental entity which makes sales of tangible personal property
13 to the public, notwithstanding the fact that the merchandise sold may have been
14 acquired by gift or donation or that the proceeds are to be used for charitable or
15 governmental purposes.
- 16 (28) "Software program" means a sequence of instructions that can be measured,
17 interpreted and executed by an electronic device (e.g. a computer, tablets, smart
18 phones) regardless of the means by which it is accessed or the medium of conveyance.
19 Software program includes: (1) custom software program, which is a software program
20 prepared to the special order or specifications of a single customer; (2) pre-written
21 software program, which is a software program prepared for sale or license to multiple
22 users, and not to the special order or specifications of a single customer. Pre-written
23 software is commonly referred to as "canned," "off-the-shelf ("COTS")," "mass
24 produced" or "standardized;" (3) modified software, which means pre-written software
25 that is altered or enhanced by someone other than the purchaser to create a program
26 for a particular user; and (4) the generic term "software," "software application," as well
27 as "updates," "upgrades," "patches," "user exits," and any items which add or extend
28 functionality to existing software programs.
- 29 (29) "Software as a service" means software that is rented, leased or subscribed to from a
30 provider and used at the consumer's location, including but not limited to applications,
31 systems or programs.
- 32 (30) "Software license fee" means a fee charged for the right to use, access, or maintain

1 software programs.

2 (31) "Software maintenance agreement" means an agreement, typically with a software
3 provider, that may include (1) provisions to maintain the right to use the software; (2)
4 provisions for software upgrades including code updates, version updates, code fix
5 modifications, enhancements, and added or new functional capabilities loaded into
6 existing software; or (3) technical support.

7 (32) "Sound system services" means the provision of broadcast or pre-recorded audio
8 programming to a building or portion thereof. Such term does not include installation
9 of sound systems where the entire system becomes the property of the building owner
10 or the sound system service is for presentation of live performances.

11 (33) "Special fuel" means kerosene oil, kerosene distillate, diesel fuel, all liquefied
12 petroleum gases, and all combustible gases and liquids for use in the generation of
13 power for propulsion of motor vehicles upon the public highways. The term does not
14 include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad
15 locomotives.

16 (34) "Taxable sales" means gross sales less any exemptions and deductions specified in
17 this chapter.

18 (35) "Taxable service" means any service subject to tax pursuant to this article.

19 (36) "Telecommunications service" means the service of which the object is the
20 transmission of any two-way interactive electronic or electromagnetic communications
21 including but not limited to voice, image, data and any other information, by the use of
22 any means but not limited to wire, cable, fiber optical cable, microwave, radio wave,
23 Voice over Internet Protocol (VoIP), or any combinations of such media, including any
24 form of mobile two-way communication.

25 (37) "Television and entertainment services" means audio or visual content, that can be
26 transmitted electronically by any means, for which a charge is imposed.

27 (38) "Wholesale sale" means a sale by a wholesaler to a retailer, jobber, dealer, or other
28 wholesaler for resale and does not include a sale by a wholesaler to a user or consumer
29 not for resale; latter types of sales shall be deemed to be retail sales and shall be
30 subject to the provisions of this article.

31 (39) "Wholesaler" means any person doing an organized wholesale or jobbing business
32 and selling to a retailer, jobber, dealer, or other wholesaler, for the purpose of resale,

1 and not for storage, use, consumption, or distribution.

2 **Sec. 53-54. - Imposition of tax.**

3 (a) There is levied and there shall be collected and paid a tax on all retail sales in the
4 amount stated in this article, as follows:

- 5 (1) On the purchase price for all sales and purchases of tangible personal property.
- 6 (2) In the case of retail sales involving the exchange of property, on the purchase price,
7 including the fair market value of the property exchanged at the time and place of the
8 exchange, excluding however, from the consideration or purchase price the fair market
9 value of the exchanged property if such exchanged property is to be sold thereafter in
10 the usual course of the retailer's business.
- 11 (3) Upon the purchase price for telephone and telecommunications services, including in
12 addition to audio and video transmission and reception, other two-way electronic or
13 electromagnetic wave transmissions, receptions or communications of any sort, by or
14 through any medium, whether such services are furnished by public or private
15 corporations or associations, that, except as otherwise provided by this article for
16 mobile telecommunication services, both originate in and are charged to a telephone
17 number or an account located within the city, excepting, however, monthly or other
18 periodic usage charges that represent varying amounts billed to accounts for a
19 subscriber's actual use of interstate services provided by a long-distance
20 telecommunications company and charged to the subscriber by or on behalf of a long-
21 distance telecommunications company.
- 22 (4) Upon the purchase price for coal, petroleum, liquid petroleum, electric, steam and
23 natural gas services, and any other products used for energy-producing purposes,
24 whether furnished by municipal, public or private corporations or associations,
25 furnished and sold for domestic, commercial or industrial consumption.
- 26 (5) Upon the purchase price for food or drink served or furnished in or by restaurants,
27 cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets,
28 resorts, snack bars, caterers, boardinghouses, carryout shops and other places at
29 which prepared food or drink is regularly sold, including sales from pushcarts, motor
30 vehicles and other mobile facilities. Cover charges, admission or entrance fees, and
31 mandatory service or service-related charges, whether described as tips, gratuities or
32 otherwise, shall be included as part of the purchase price for such food or drink.

- 1 (6) Upon the purchase price for the furnishing or sale to customers within the city of
2 informational or entertainment service wherein the relay or transmission of
3 electromagnetic waves through any medium, tangible or intangible, including cable,
4 glass fiber and ambient air, is necessary for the service to be received, including, but
5 not limited to, digital products, internet subscription services, sound system services,
6 and television and entertainment services, excepting however, telephone and
7 telecommunications services described in subsection 53-54(a)(3) of the code and
8 television, cinema or similar programming provided at a theater or similar place open
9 to the public.
- 10 (7) Upon the purchase price for digital products, software programs, software as a service,
11 software license fees, and software maintenance agreements.

12 **Sec. 53-55. - Exemptions.**

- 13 (a) There shall be exempt from taxation under the provisions of this article the following:
- 14 (1) All sales to the United States government, to the state, its departments and institutions,
15 and the political subdivisions thereof that are:
- 16 a. Billed directly to such governmental entities;
- 17 b. Paid directly from funds of such governmental entities: and
- 18 c. Used exclusively by such governmental entities in their governmental capacities.
- 19 (2) All sales to charitable organizations that are:
- 20 a. Billed directly to the charitable organization;
- 21 b. Paid directly from funds of the charitable organization; and
- 22 c. Used exclusively for the charitable organization's organizational or operational
23 purposes.
- 24 (3) All sales of cigarettes.
- 25 (4) All sales of motor fuel and special fuel.
- 26 (5) All sales of cattle, sheep, lambs, swine and goats; all sales of mares and stallions for
27 breeding purposes.
- 28 (6) All sales of feed for livestock or poultry and all sales of seeds to farmers, ranchers,
29 truck farmers, florists and horticulturists who sell the crops resulting from the
30 propagation of such seeds or use such crops as feed for livestock or poultry.
- 31 (7) All sales of medical supplies.
- 32 (8) All sales of food.

- 1 (9) All sales of tangible personal property to a purchaser residing or doing business
2 outside the city, where delivery is made to the purchaser's residence or business
3 address outside the city by the vendor; on the vendor's vehicle; by common, contract,
4 or commercial carrier that is hired by the vendor, or by mail.
- 5 (10) All sales which the city is prohibited from taxing under the Constitution or laws of the
6 United States or the Constitution of the state.
- 7 (11) All sales of automotive vehicles as defined in this article that are registered and
8 required by state law to be registered outside the city. This exemption does not apply
9 to sales of automotive vehicles that are hired for use, rented, leased, or transferred
10 under a grant of a license to use.
- 11 (12) All sales of farm equipment used directly for plowing, planting, cultivating or harvesting
12 of crops.
- 13 (13) All sales of tangible personal property for use in improving real property outside the
14 city only in the amount and to the extent that a use tax has been or will be paid in
15 respect to the proposed use of such property to a municipal corporation organized and
16 existing under the authority of the laws or the constitution of any state, if the purchaser
17 presents to the retailer a building permit or other documentation acceptable to the
18 manager showing that a use tax has been or will be paid to the municipality in which
19 the real property is located.
- 20 (14) All sales of tangible personal property to a natural gas and electric utility or a telephone
21 utility for use in its business operations outside the city, even though the property is
22 delivered and temporarily stored within the city.
- 23 (15) All sales of prepress preparation materials.
- 24 (16) All sales of aircraft to an airline company that is used in interstate commerce by the
25 airline company.
- 26 (17) All sales of aircraft parts, aircraft simulator parts, and rail carrier parts. This exemption
27 shall be repealed, effective December 31, 2040.
- 28 (18) All sales of water.
- 29 (19) All sales of feminine hygiene products.

30 **Sec. 53-56. - Retailers to collect tax.**

31 (a) *Tax rates.* A tax of three and one half (3.5) percent is imposed and levied upon all
32 taxable sales of tangible personal property, products, and services except those tangible personal

1 property, products, or services specified in subsection (b) of this section. In order to avoid amounts
2 that are fractions of pennies, taxpayers shall use a rounding procedure approved by the manager
3 when computing the tax. On those taxable sales of tangible personal property, products, or services
4 specified in subsection (b) of this section, there is levied and imposed upon all taxable sales a tax in
5 accordance with the rates set forth in subsection (b).

6 (b) *Special rates.*

7 (1) *Special note for aviation and railway fuel.* Any fuel in the form of liquid or gas that is
8 prepared, advertised, offered for sale, sold for use and used or commercially usable
9 for the generation of power for the propulsion or drawing of aircraft, railroad cars or
10 railroad locomotives shall be taxed at the rate of four cents (\$0.04) for each gallon
11 purchased. In order to avoid amounts that are fractions of pennies, taxpayers shall use
12 a rounding procedure approved by the manager when computing the tax.

13 (2) *Special note for short-term rentals of automotive vehicles.* Automotive vehicles as
14 defined in this article, when they are for any term of thirty (30) days or less, hired for
15 use, rented, leased or transferred under a grant of a license to use, shall be taxed at
16 the rate of seven and one-quarter (7.25) percent of the rentals paid or purchase price.
17 In order to avoid amounts that are fractions of pennies, taxpayers shall use a rounding
18 procedure approved by the manager when computing the tax. One and three-quarters
19 (1.75) percent of such tax shall be used to pay debt related to and costs of operating,
20 maintaining and improving the National Western Center Campus and the Colorado
21 Convention Center and other tourism related projects.

22 (3) *Special note for prepared food and beverages.* Food and beverages not exempted
23 from taxation under section 53-55(a)(8) of the code shall be taxed at the rate of four
24 (4) percent of the purchase price. In order to avoid amounts that are fractions of
25 pennies, taxpayers shall use a rounding procedure approved by the manager when
26 computing the tax.

27 (c) *Tax to be shown as separate item.* Except as provided in this section, retailers shall
28 add the tax imposed, or the average equivalent thereof, to the purchase price, showing such tax as
29 a separate and distinctive item, and when added, such tax shall constitute a part of such price and
30 shall be a debt from the purchaser to the retailer until paid, recoverable at law in the same manner
31 as other debts.

32 (d) *Vending machines; liquor by the drink.* Notwithstanding provisions hereinafter

1 regarding the unlawful assumption or absorption of the tax, any retailer selling malt, vinous or
2 spirituous liquors by the drink or vending items through coin-operated vending machines may include
3 in the purchase price for the drink or the purchase price for the vended item the tax levied by this
4 article; but no such retailer shall advertise or hold out to the public in any manner, directly or
5 indirectly, that such tax is not included as a part of the sales price to the consumer.

6 (e) *Retailer as collecting agent.* The retailer shall be entitled as collecting agent of the city
7 to apply and credit the amount of his collections of the tax levied by this article against the amount
8 required to be paid over by him under the provisions of section 53-57 of the code, remitting any
9 excess of collections over the amount required by section 53-12 of the code and rounding to the
10 nearest whole dollar as provided in section 53-57 of the code, to the manager in the retailer's next
11 periodic sales tax return.

12 (f) *Retailer not to benefit.* No retailer shall gain any benefit from the collection or payment
13 of the tax, except as permitted by this article, and the use of the rounding procedure approved by
14 the manager shall not relieve the retailer from liability for payment of the amount required by section
15 53-57 of the code.

16 (g) *Sales tax increment to fund the Denver preschool program.* In addition to the sales tax
17 otherwise imposed by this section, a tax of fifteen one-hundredths of one (.15) percent shall be paid
18 on all taxable sales of tangible personal property, products, or services, except on tangible personal
19 property, products, or services specified in subsection (b) of this section, beginning January 1, 2015
20 and expiring December 31, 2026. The revenue from such additional tax shall be used for the sole
21 purpose of funding the Denver preschool program pursuant to article III of chapter 11.

22 (h) *Sales tax increment to fund the Parks, Trails, and Open Space Program.* In addition to
23 the sales tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one (0.25)
24 percent must be paid on all taxable sales of commodities or services, except on commodities or
25 services specified in subsection (b) of this section, beginning January 1, 2019. The revenue from
26 such additional tax must be used for the sole purpose of funding the Parks, Trails, and Open Space
27 Program created in article XII of chapter 39 of the code.

28 (i) *Sales tax increment to fund the Caring for Denver Fund.* In addition to the sales tax
29 otherwise imposed by this section, a tax of twenty-five one-hundredths of one (0.25) percent shall
30 be paid on all taxable sales of commodities or services, except on commodities or services specified
31 in subsection (b) of this section, beginning January 1, 2019. The revenue from such additional tax
32 shall be used for the sole purpose of funding the Caring for Denver Fund pursuant to article XIV of

1 chapter 24 of the code.

2 (j) *Sales tax increment to the fund the Healthy Food for Denver's Kids Initiative.* In addition
3 to the sales tax otherwise imposed by this section, a tax of eight one-hundredths of one (0.08)
4 percent shall be paid on all taxable sales of commodities or services, except on commodities and
5 services specified in subsection (b) of this section, beginning January 1, 2019 and expiring
6 December 31, 2028. The revenue from such additional tax shall be used for the sole purpose of
7 funding Healthy Food for Denver's Kids Initiative pursuant to Division 6 of the Article VIII of Chapter
8 2. Providing that the tax expires in ten (10) years, the revenues from these increased taxes shall be
9 collected and spent before December 31, 2029 by Denver. Notwithstanding any limitations on
10 revenue, spending, or appropriations contained in Section 20 of Article X of the Colorado Constitution
11 or any other provision of law, any revenues generated by this sales tax increment, as approved by
12 the voters at the municipal election on November 6, 2018, may be collected and spent as a voter-
13 approved revenue changes and shall not require further voter approval to modify the tax rate as
14 provided in section 53-85 or to collect and spend any revenue derived from a modified tax rate.

15 (k) *Sales tax increment to fund the Denver College Affordability Fund.* In addition to the
16 sales tax otherwise imposed by this section, a tax of eight one-hundredths of one (0.08) percent
17 shall be paid on all taxable sales of commodities or services, except on commodities or services
18 specified in subsection (b) of this section, beginning January 1, 2019, and expiring December 31,
19 2030. The revenue from such additional tax shall be used for the sole purpose of funding the Denver
20 College Affordability Fund pursuant to article IV of chapter 11 of the code.

21 (l) *Sales tax increment to fund the Climate Protection Fund.* In addition to the sales tax
22 otherwise imposed in this section, a tax of twenty-five one-hundredths of one (.25) percent must be
23 paid on all sales of taxable sales of tangible personal property, products, or services, except on
24 tangible personal property, products, or services specified in subsection (b) of this section, beginning
25 on January 1, 2021. The revenue from such additional tax shall be used for the sole purpose of
26 funding the Climate Action Program created in division 2, article XIX of chapter 2.

27 (m) *Sales tax increment to fund the Homelessness Resolution Program.* In addition to the
28 sales tax otherwise imposed in this section, a tax of twenty-five one-hundredths of one (.25) percent
29 must be paid on all sales of taxable sales of commodities or services, except on commodities or
30 services specified in subsection (b) of this section, beginning on January 1, 2021. The revenue from
31 such additional tax shall be used for the sole purpose of funding the Homelessness Resolution
32 Program created in article VII of chapter 27.

1 **Sec. 53-57. - Retailer responsible for payment of tax.**

2 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article and article I
3 of this chapter, be liable and responsible for the payment of an amount equivalent to four and eighty-
4 one one-hundredths (4.81) percent of the retailer's taxable sales of tangible personal property,
5 products, or services specified in this article, except:

- 6 (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon
7 purchased shall apply;
- 8 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for use,
9 rented, leased or transferred under a grant of a license to use, as to which a rate of
10 taxation as set forth in subsection 53-56(b)(2) of the code shall apply;
- 11 (3) Food and beverages not exempted from taxation under subsection 53-55(a)(8) of the
12 code, as to which the rate of four (4) percent shall apply;
- 13 (4) For each of which respective rates aforesaid the retailer shall be liable for an equivalent
14 amount;
- 15 (5) Every retailer shall, on its return, round each calculation, as directed on such form as
16 the manager may require, to the nearest whole dollar and remit the rounded amount.
17 In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be
18 rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

19 (b) *Returns.* Every taxpayer obligated to collect and/or pay any of the tax imposed in this
20 article shall file a return and remit the total amount due to the manager in accordance with section
21 53-7 of the code.

22 (c) *Exemption; burden of proof.* The burden of proving that any retailer is exempt from
23 collecting and remitting the tax upon any sales of tangible personal property, products or services
24 subject to the provisions of this article, and from paying over the same to the manager, shall be on
25 the retailer, and such proof shall be by a preponderance of evidence.

26 **Sec. 53-58. - Remittance of tax; electronic database; retailer held harmless.**

27 (a) Any retailer that collects and remits sales tax to the manager as provided in this article
28 may use an electronic database of state addresses and rates that is certified by the state department
29 of revenue pursuant to sections 39-26-105.2 or 39-26-105.3, C.R.S., to determine the jurisdictions
30 to which tax is owed.

31 (b) Any retailer that uses the data contained in an electronic database certified by the state
32 department of revenue pursuant to sections 39-26-105.2 or 39-26-105.3, C.R.S., to determine the

1 jurisdictions to which tax is owed and to determine the rates shall be held harmless for any tax,
2 penalty, or interest owed the city that otherwise would be due solely as a result of an error in the
3 electronic database, provided that the retailer demonstrate that it used the most current information
4 available in such electronic database on the date that the sale occurred. Each retailer shall keep and
5 preserve such records as prescribed by the manager to demonstrate that it used the most current
6 information available in the electronic database on the date that the sale occurred. Notwithstanding
7 the above, if the error in collecting and remitting is a result of a deceptive representation, a false
8 representation, or fraud, the provisions of this section shall not apply.

9 **Sec. 53-59. - Unlawful to assume or absorb tax.**

10 It shall be a violation of this article for any retailer to advertise or hold out or state to any
11 person, directly or indirectly, that the tax or any part thereof levied by this article will be assumed or
12 absorbed by the retailer, or that the tax will not be added to the selling price of the property sold or,
13 if added, that the tax or any part thereof will be refunded.

14 **Sec. 53-60. - Consolidation of returns.**

15 A vendor doing business in two (2) or more places or locations, whether in or without the city,
16 and collecting taxes under this article, may file one (1) return covering all such places or locations,
17 when accompanied by a supplemental report showing the gross and net taxable sales and taxes
18 collected thereon for each such place or location.

19 **Sec. 53-61. - Tax on rentals.**

20 When the right to possession or use of any tangible personal property, product or service
21 taxable under the terms of this article is granted under a lease, hire, rental contract or grant of a
22 license to use (including royalty agreements), the tax imposed by this article shall be computed,
23 collected and returned by the vendor based upon the rentals, fees or royalties paid, unless the
24 manager directs payment of the tax on another basis.

25 **Sec. 53-62. - Tax on credit sales, etc.**

26 Whenever any tangible personal property, product or service taxable under the terms of this
27 article is sold to a person who thereby is obligated to the vendor on an account, chattel paper,
28 contract right, general intangible, or a writing which supports a right to the payment of a purchase
29 price, or any part thereof, the tax shall be based on the total purchase price and shall become
30 immediately due and payable. No refund or credit shall be allowed to either party to a transaction in
31 case of repossession by the vendor of collateral securing the purchase price or any part of the
32 purchase price.

1 **Sec. 53-63. - Automotive vehicle—Registration license.**

2 (a) No registration certificate or license shall be issued by the manager for the operation of
3 any automotive vehicle unless and until the tax levied by this article upon the purchase or sale of
4 such vehicle has been paid.

5 (b) No certificate of title evidencing ownership of any automotive vehicle shall be issued by
6 the manager unless and until said tax upon the purchase or sale of such automotive vehicle has
7 been paid.

8 (c) If the applicant for the registration of or the issuance of a certificate of title for an
9 automotive vehicle has not paid the tax levied by this article upon the sale and purchase of such
10 automotive vehicle to the retailer as provided in this article, such tax shall be paid by the applicant
11 directly to the manager; and until paid, no certificate of title or registration certificate or license plates
12 shall be issued by the manager for such automotive vehicle.

13 **Sec. 53-64. - Application to manufacturers of tangible personal property.**

14 (a) In order to assist in the avoidance of unfair competition in the marketplace as a result
15 of some competitors obtaining an advantage because of not otherwise being subject to the tax on a
16 similar basis to other competitors, the following shall apply:

17 (1) The use or consumption of tangible personal property, including the installation into or
18 the affixing to real property of another of tangible personal property, by a manufacturer
19 of the tangible personal property for which there exists also a retail market and of a
20 type that the manufacturer sells or could sell to others shall be taxable under this
21 article, but the tax due hereunder in such case shall be levied only upon the gross
22 value of all the materials, labor and services used and employed in the manufacture of
23 said property, and not upon any profit that would have been derived from the ordinary
24 retail sale thereof by the manufacturer as, for example, to another consumer for
25 installation in or affixing to the property of another.

26 (2) The tax is levied upon the full purchase price of articles sold after their manufacture or
27 after having been made to order and includes the purchase price of materials used and
28 service performed in connection with the manufacturing or making to order, excluding
29 however, such articles as are otherwise exempted in this article. The purchase price is
30 the gross value of all the materials, labor, service, and the profit thereon, included in
31 the price charged for the tangible personal property to the user or consumer.

32 **Sec. 53-65. - Application to mobile telecommunication services.**

1 (a) As used in this section, unless the context otherwise requires:

2 (1) "Act" means the federal Mobile Telecommunications Sourcing Act, 4 U.S.C.
3 secs. 116 to 126, as amended.

4 (2) "Customer" means customer as defined in section 124(2) of the Act.

5 (3) "Home service provider" means home service provider as defined in section
6 124(5) of the Act.

7 (4) "Mobile telecommunications service" means mobile telecommunications
8 service as defined in section 124(7) of the Act.

9 (5) "Place of primary use" means the place of primary use as defined in section 124(8) of
10 the Act.

11 (b) Mobile telecommunications service shall be subject to the tax imposed by this article
12 only if the service is provided by a home service provider to a customer whose place of primary use
13 is within the city and the service originates within the city; further, the tax shall be collected in
14 accordance with the provisions of the Act.

15 (c) The manager may require payment of the tax on any other basis permitted by this
16 article when a customer fails to provide its place of primary use or the Act is determined to be
17 inapplicable to the tax imposed by this article on mobile telecommunication services.

18 **DIVISION 2 – RETAIL LICENSE**

19 **Sec. 53-70. - Required.**

20 (a) No person shall engage in the business of selling within the city at retail without first
21 obtaining a city retail sales license or a special event retail sales license from the director of excise
22 and licenses in accordance with the provisions of chapter 32 of the code.

23 (b) Applications for a city retail sales license and renewals of the same or special event
24 retail sales license shall be made in accordance with the provisions of chapter 32 of the code. In
25 instances in which the business of selling at retail is conducted or transacted at two (2) or more
26 separate locations by one (1) person, separate licenses for each location of such business shall be
27 required.

28 **Sec. 53-71. - Exemption.**

29 No license shall be required for any person engaged in business in the city of exclusively
30 selling tangible personal property, products, or services which are exempt from taxation under this
31 article or under article III of this chapter.

32 **Sec. 53-72. - Approval by manager of finance.**

1 No application shall be acted upon by the director of excise and licenses unless the
2 application is approved by the manager of finance.

3 **Sec. 53-73. - Fee.**

4 The license fees to be paid under this article and article III of this chapter are prescribed in
5 section 32-107 of the code.

6 **Sec. 53-74. - Revocation.**

7 Licenses shall be revoked by the director of excise and licenses upon the written request of
8 the manager only after notice and hearing as provided in article I of chapter 32 of the code.

9 **Sec. 53-75. - Appeal from order of revocation.**

10 Any finding or order of the director of excise and licenses made pursuant to article I of chapter
11 32 of the code revoking the city retail sales license or the special event retail sales license of any
12 person or denying the licensing of any person engaged in the business of selling at retail shall be
13 subject to review in the district court of the second judicial district of the state upon application of the
14 aggrieved person, and the procedure for review shall be in accordance with that set forth in Rule
15 106(a)(4) of the Colorado Rules of Civil Procedure, as they may be amended from time to time and
16 as any substitutionary provision may be made for review in the nature of certiorari. The decision of
17 the district court may be reviewed in accordance with the Colorado Appellate Rules.

18 **Sec. 53-76. - License and tax in addition to all others.**

19 The license required and the tax levied by this article shall be in addition to all other licenses
20 required and taxes levied by law except as herein otherwise provided.

21 **DIVISION 3 – INTERCITY CLAIMS FOR RECOVERY**

22 **Sec. 53-80. - Claims for recovery.**

23 (a) The intent of this section is to streamline and standardize procedures related to
24 situations where tax has been remitted to the incorrect municipality. This section is not intended to
25 reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect and remit
26 sales taxes to the city.

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

29 (2) When it is determined by the manager that sales taxes owed to the city have been
30 reported and paid to another municipality, the city shall promptly notify the taxpayer
31 that taxes are being improperly collected and remitted, and that as of the date of the
32 notice the taxpayer must cease improper tax collections and remittances.

- 1 (3) The city may make a written claim for recovery directly to the municipality that received
2 the tax, penalty or interest owed to the city or, in the alternative, may institute
3 procedures for collection of the tax from the taxpayer or vendor. The decision to make
4 a claim for a recovery lies in the sole discretion of the manager. Any claim for recovery
5 shall include a properly executed release of claim from the taxpayer or vendor or both
6 releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate
7 the claim, and a request that the municipality approve or deny, in whole or in part, the
8 claim within ninety (90) days of its receipt. The municipality to which the city submits a
9 claim for recovery may, for good cause, request an extension of time to investigate the
10 claim, and approval of such extension by the city shall not be unreasonably withheld.
- 11 (4) Within ninety (90) days after receipt of a claim for recovery, the city shall verify to its
12 satisfaction whether or not all or a portion of the tax claimed was improperly received
13 and shall notify the municipality submitting the claim in writing that the claim is either
14 approved or denied in whole or in part, including the reasons for the decision. If the
15 claim is approved in whole or in part, the city shall remit the undisputed amount, plus
16 interest as provided in section 53-14 of the code, to the municipality submitting the
17 claim within thirty (30) days of approval. Denial of claim for recovery may only be made
18 for good cause.
- 19 (5) The city may deny a claim on the grounds that it has previously paid a claim for
20 recovery arising out of an audit of the same taxpayer.
- 21 (6) The period subject to a claim for recovery shall be limited to the thirty-six-month filing
22 period prior to the date the municipality that was wrongly paid the tax.

23 **DIVISION 4 – SPECIAL RETAIL MARIJUANA SALES TAX**

24 **Sec. 53-90. - Administration and enforcement.**

25 The special retail marijuana sales tax imposed pursuant to this division 4 shall be
26 administered and enforced in accordance with the provisions articles I and II of this chapter, and in
27 a manner consistent with the administration and enforcement of other city sales taxes, including,
28 without limitation, any penalties for failure to make any return or to collect or pay any tax.

29 **Sec. 53-91. - Definitions.**

30 (a) The following words and phrases when used in this division 4, unless the context
31 otherwise requires, shall have the meanings given to them in this section:

- 32 (1) “Consumer” means a person twenty-one (21) years of age or older who purchases

1 retail marijuana or retail marijuana products for personal use be person twenty-one
2 (21) years of age or older but not for resale to others.

3 (2) "Retail marijuana" means all or parts of the plant of the genus cannabis whether
4 growing or not, the seeds thereof, the resin extracted from any part of the plant and
5 every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its
6 seeds, or its resin, including marijuana concentrate. "Retail marijuana" does not include
7 industrial hemp, nor does it include fiber produced from the stalks, oil, cake made from
8 the seeds of the plant, sterilized seed of the plant that is incapable of germination, or
9 the weight of any other ingredient combined with marijuana to prepare topical or oral
10 administrations, food, drink, or other product.

11 (3) "Retail marijuana products" means concentrated retail marijuana products and retail
12 marijuana products that are comprised of retail marijuana and other ingredients and
13 are intended for use or consumption, such as but not limited to, edible products,
14 ointments, and tinctures.

15 (4) "Retail marijuana sales tax" means the tax imposed on the sale of retail marijuana and
16 retail marijuana products pursuant to this division 4.

17 (5) "Retail marijuana store" means an entity licensed by the Colorado Department of
18 Revenue to sell retail marijuana and retail marijuana products to consumers pursuant
19 to section 16 of article XVIII of the Colorado Constitution and the "Colorado Retail
20 Marijuana Code," Article 43.4 of Title 12, C.R.S., and licensed by the department of
21 excise and license pursuant to article V of chapter 6 of the code.

22 **Sec. 53-92. - Imposition of tax.**

23 (a) In addition to the sale tax imposed by division 1 of this Article II, there is imposed upon
24 all sales of retail marijuana and retail marijuana products to a consumer by a retail marijuana store
25 a tax at the rate of three and one-half (3.5) percent of the amount of the sale.

26 (b) The maximum tax rate that may be imposed pursuant to this section is fifteen (15)
27 percent. At any time on or after January 1, 2014, the city may, by ordinance:

28 (1) Establish another tax rate to be imposed pursuant to this division 4 that is equal to or
29 less than the maximum fifteen (15) percent tax rate provided in this subsection; or

30 (2) After establishing a tax rate that is lower than fifteen (15) percent, increase the tax rate
31 to be imposed pursuant to this section; except that, in no event shall the city increase
32 the tax rate above fifteen (15) percent of the sale of retail marijuana or retail marijuana

1 products.

2 (c) Nothing in this section shall be construed to impose a tax on the sale of marijuana or
3 marijuana products to any person by a medical marijuana center licensed by the Colorado
4 Department of Revenue to sell medical marijuana and medical marijuana-infused products pursuant
5 to the Colorado Medical Marijuana Code, article 43.3 of Title 12, C.R.S., and licensed by the city
6 pursuant to article XII of chapter 24, of the code. To the extent any retail marijuana store exists at
7 the same location and under common ownership with a licensed medical marijuana center, the
8 retailer shall strictly segregate and account for sales of retail marijuana distinct from medical
9 marijuana in accordance with all applicable state and city laws and regulations governing collocation
10 of retail marijuana stores and medical marijuana centers.

11 **Sec. 53-93. - Purpose of tax.**

12 The council declares that the purpose of the levy of the tax imposed by this division 4 is for
13 raising funds for the payment of direct and indirect expenses related to the licensing and regulation
14 of the retail marijuana industry, enforcement of marijuana laws in general, educational and public
15 health programs to mitigate any negative consequences associated with the consumption of
16 marijuana and marijuana products, programs to prevent the illegal diversion of retail marijuana and
17 retail marijuana products to persons under the age of twenty-one (21); and to otherwise pay the
18 expenses of operating and improving the city and its facilities. In accordance with these purposes,
19 the proceeds of the tax shall be placed in the unapportioned sales, use and lodger's tax account of
20 the fund plan, section 20-18 of the code, from which shall be allocated, apportioned and transferred
21 as therein provided such sums to the respective funds and accounts of said fund plan as are therein
22 indicated and for the purposes therein stated.

23 **Sec. 53-94. - Revenue and spending limitations.**

24 Notwithstanding any limitations on revenue, spending, or appropriations contained in Section
25 20 of Article X of the Colorado Constitution or any other provision of law, any revenues generated
26 by the retail marijuana sales tax imposed pursuant to this division 4, as approved by the voters at
27 the special municipal election on November 5, 2013, may be collected and spent as a voter-approved
28 revenue change and shall not require further voter approval to modify the tax rate as provided in
29 section 53-92 of the code or to collect and spend any revenue derived from a modified tax rate.

30 **Section 3.** Article III, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
31 and is reenacted to read as follows:

32 **ARTICLE III – USE TAX**

1 **DIVISION 1. - GENERALLY**

2 **Sec. 53-100. - Name of tax.**

3 This article may be known and cited as the city use tax article.

4 **Sec. 53-101. - Legislative intent.**

5 (a) It is hereby declared to be the legislative intent of the city, acting through its duly elected
6 representatives, that, for the purposes of this article, every person who stores, uses, distributes or
7 consumes in the city any article of tangible personal property, product, or any service subject to the
8 provisions of this article, purchased at retail, is exercising a taxable privilege.

9 (b) It is hereby declared to be the legislative intent of the city, acting through its duly elected
10 representatives, that, for the purposes of this article, every vendor who is engaged in business in the
11 city and who shall deliver or cause to be delivered to the purchaser in the city any tangible personal
12 property, product, or service taxable herein shall collect the tax imposed by this article upon the basis
13 of an addition of the tax imposed by this article to the purchase price of such property or service that
14 is purchased at any one (1) time by every such purchaser in the manner hereinafter set forth.

15 (c) It is hereby declared to be the legislative intent of the city, acting through its duly elected
16 representatives, that the provisions of this article shall apply to any person who has already paid a
17 retail sales tax or a use tax in respect to the sale of tangible personal property, a product, or a service
18 taxable hereunder, to a municipal corporation organized and existing under the authority of the laws
19 or the Constitution of any state in an amount less than the tax imposed by this article, and who
20 thereafter causes tangible personal property, a product, or a service taxable hereunder, to be used,
21 stored, distributed or consumed in the city, but the tax imposed by this article shall, in such event,
22 be measured by the difference between the amount imposed by this article and the amount
23 previously imposed by the other municipality on said sale. If the retail sales tax imposed and paid to
24 such municipal corporation aforesaid is equal to or more than the tax imposed by this article, no tax
25 shall be due hereunder for the exercise of the privilege of using, storing, distributing or consuming
26 such service or personal property in the city.

27 (d) It is hereby declared to be the legislative intent of the city, acting through its duly elected
28 representatives, that, for purposes of this article, the tax imposed hereunder be reduced by the
29 amount of such tax which the city is prohibited from collecting under the state and federal
30 Constitutions and laws of the United States by reason of a tax legally imposed and paid, in respect
31 to a sale of tangible personal property, a product, or service taxable hereunder, to another state or
32 local, including municipal, government.

1 **Sec. 53-102. - Purpose of tax.**

2 The council declares that the purpose of the levy of the tax imposed by this article is for raising
3 funds for the payment of expenses of operating and improving the city and its facilities and for the
4 payment of the principal of and interest due upon any general obligation or special revenue bonds
5 lawfully authorized and issued by and on behalf of the city; in accordance with this purpose, the
6 proceeds of the tax shall be placed in the unapportioned sales, use and lodger's tax account of the
7 fund plan, section 20-18 of the code, from which shall be allocated, apportioned and transferred as
8 therein provided such sums to the respective funds and accounts of said fund plan as are therein
9 indicated and for the purposes therein stated.

10 **Sec. 53-103. - Definitions.**

11 (a) The following words and phrases shall have the meanings given to them in this section,
12 unless the context clearly requires a different meaning.

13 (1) "Aircraft" means a device that is used or intended to be used for flight in the air and
14 designed to carry at least one (1) person.

15 (2) "Aircraft part" means any tangible personal property that is intended to be permanently
16 affixed or attached as a component part of an aircraft.

17 (3) "Aircraft simulator" means a Flight Simulator Training Device (FSTD) as defined in Part
18 I of Title 14 of the Code of Federal Regulations that is qualified in accordance with Part
19 60 of Title 14 of the Code of Federal Regulations for use in a Federal Aviation
20 Administration Approved Flight Training Program.

21 (4) "Aircraft simulator part" means any tangible personal property that is originally
22 designed and intended to be permanently affixed or attached as a component part of
23 an aircraft, and which will also function when it is permanently affixed or attached as a
24 component part of an aircraft simulator.

25 (5) "Airline company" means any operator who engages in the carriage by aircraft of
26 persons or property as a common carrier for compensation or hire, or the carriage of
27 mail, or any aircraft operator who operates regularly between two (2) or more points
28 and publishes a flight schedule. Airline company shall not include operators whose
29 aircraft are all certified for a gross takeoff weight of twelve thousand five hundred
30 (12,500) pounds or less and who do not engage in scheduled service or mail carriage
31 service.

32 (6) "Automotive vehicle" means any vehicle or device in, upon or by which any person or

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

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

8 (8) "Construction equipment" means any equipment, including mobile machinery and self-
9 propelled construction equipment and mobile equipment, which is used to erect, install,
10 alter, demolish, repair, remodel, or otherwise make improvements to any real property,
11 building, structure or infrastructure.

12 (9) "Construction materials" means tangible personal property which, when combined with
13 other tangible property, loses its identity to become an integral and inseparable part of
14 a structure or project including public and private improvements. Construction
15 materials include, but are not limited to, such things as: asphalt, bricks, builders'
16 hardware, caulking material, cement, concrete, conduit, electric wiring and
17 connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass,
18 gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping,
19 pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road
20 base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco,
21 tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall-paper,
22 weather stripping, wire netting and screen, water mains and meters, and wood
23 preserver. The above materials, when used for forms, or other items which do not
24 remain as an integral or inseparable part of a completed structure or project are not
25 construction materials.

26 (10) "Consumer" means any person in the city who purchases, uses, stores, distributes or
27 otherwise consumes tangible personal property, products, or taxable services,
28 purchased from sources inside or outside the city.

29 (11) "Digital product" means an electronic product including, but not limited to: (1) "digital
30 images" which means works that include, but are not limited to, the following that are
31 generally recognized in the ordinary and usual sense as "photographs," "logos,"
32 "cartoons," or "drawings," (2) "digital audio-visual works" which means a series of

1 related images which, when shown in succession, impart an impression of motion,
2 together with accompanying sounds, if any, (3) "digital audio works" which means
3 works that result from the fixation of a series of musical, spoken, or other sounds,
4 including ringtones. For purposes of the definition of "digital audio works," "ringtones"
5 means digitized sound files that are downloaded onto a device and that may be used
6 to alert the customer with respect to a communication, and (4) "digital books" which
7 means works that are generally recognized in the ordinary and usual sense as "books."

8 (12) "Engaged in business in the city" means performing or providing services or selling,
9 leasing, renting, delivering or installing tangible personal property, products or
10 services, for storage, use or consumption, within the city. Engaged in business in the
11 city includes, but is not limited to, any one of the following activities by a person: (1)
12 directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom,
13 warehouse, or other place of business within the taxing jurisdiction; (2) sends one or
14 more employees, agents or commissioned sales persons into the taxing jurisdiction to
15 solicit business or to install, assemble, repair, service, or assist in the use of its
16 products, or for demonstration or other reasons; (3) maintains one or more employees,
17 agents or commissioned sales persons on duty at a location within the taxing
18 jurisdiction; or (4) owns, leases, rents or otherwise exercises control over real or
19 personal property within the taxing jurisdiction.

20 (13) "Farm equipment" means any farm tractor, as defined in section 42-1-102(33), C.R.S.,
21 any implement of husbandry, as defined in section 42-1-102(44), C.R.S., and irrigation
22 equipment having a per unit purchase price of at least one thousand dollars
23 (\$1,000.00). Farm equipment also includes, regardless of purchase price, attachments
24 and bailing wire, binders twine and surface wrap used primarily and directly in any farm
25 operation. Farm equipment also includes, regardless of purchase price, parts that are
26 used in the repair or maintenance of the farm equipment described in this paragraph,
27 all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed
28 or adapted to undertake agricultural applications. Farm equipment also includes,
29 regardless of purchase price, dairy equipment. Except for shipping pallets, crates or
30 aids used in the transfer or shipping of agricultural products, farm equipment does not
31 include: (1) vehicles subject to the registration requirements of section 42-3-103,
32 C.R.S., regardless of the purpose for which such vehicles are used; (2) machinery,

1 equipment, materials, and supplies used in a manner that is incidental to a farm
2 operation; (3) maintenance and janitorial equipment and supplies; and (4) tangible
3 personal property used in any activity other than farming, such as office equipment and
4 supplies and equipment and supplies used in the sale or distribution of farm products,
5 research, or transportation.

6 (14) "Feminine hygiene products" means products that are designed to absorb or contain
7 menstrual flow. Feminine hygiene products include, but are not limited to, tampons,
8 menstrual pads and sanitary napkins, pantliners, menstrual sponges, and menstrual
9 cups.

10 (14) "Food" means:

- 11 a. Food for domestic, home or household use as the manager may by regulation
12 define which is advertised or marketed for human consumption and is sold in the
13 same form, condition, quantities and packaging as is commonly sold by grocers.
- 14 b. Food as defined in Section 2012(g) of Title 7 of the United States Code as of, and
15 as it may be amended after, October 1, 1987, that is eligible for purchase by the
16 medium of exchange commonly known as "food stamps," and the sale of food as
17 defined in or pursuant to Section 1786 of Title 42 of the United States Code as of,
18 and as it may be amended after, October 1, 1987, that is eligible for purchase
19 with vouchers, checks or similar certificates of exchange for the "special
20 supplemental food program" for women, infants and children.
- 21 c. Notwithstanding the definition of food referred to in paragraph b of this subsection,
22 the term "food" shall not include food or drink served or furnished as described in
23 subsection 53-54(a)(5) of the code; neither shall it include carbonated water sold
24 in containers, chewing gum, spirituous, malt or vinous liquors, seeds and plants
25 to grow foods, prepared salads, salad bars, cold sandwiches and deli trays unless
26 any of those items, excepting spirituous, malt or vinous liquors, is actually
27 purchased with food stamps or vouchers as they are described in paragraph b of
28 this subsection; nor shall the term "food" as used in this subsection include food
29 and drink vended by or through machines.

30 (15) "Gross sales" means the total amount received in money, credit, property or other
31 consideration valued in money for all purchases or sales of tangible personal property,
32 products, or services.

- 1 (16) "Internet subscription service" means software programs, systems, data and
2 applications available online through rental, lease or subscription, that provide
3 information and services including, but not limited to, data linking, data research, data
4 analysis, data filtering or record compiling.
- 5 (17) "Manufacturing" means the operation or performance of an integrated series of
6 operations which places a product, article, substance, commodity, or other tangible
7 personal property in a form, composition or character different from that in which it was
8 acquired whether for sale or for use by a manufacturer. The change in form,
9 composition or character must result in a different product having a distinctive name,
10 character or use from the raw or prepared materials.
- 11 (18) "Medical supplies" means prescription drugs for humans, prosthetic devices for
12 humans, and special beds for patients with neuromuscular or similar debilitating
13 ailments, when sold for the direct, personal use of a specific individual in accordance
14 with a prescription or other written directive issued by a licensed practitioner of
15 medicine, dentistry or podiatry; corrective eyeglass lenses (including eyeglass frames),
16 and corrective contact lenses, when sold for the direct, personal use of a specific
17 individual in accordance with a prescription or other written directive issued by a
18 licensed practitioner of medicine or optometry; wheelchairs, and crutches, when sold
19 for the direct, personal use of a specific individual; oxygen and hemodialysis products
20 for use by a medical patient, hearing aids, hearing aid batteries, insulin, insulin
21 measuring and injecting devices, glucose to be used for treatment of insulin reactions,
22 and human whole blood, plasma, blood products and derivatives. This exemption
23 excludes items purchased for use by medical and dental practitioners or medical
24 facilities in providing their services, even though certain of those items may be
25 packaged for single use by individual patients after which the item would be discarded.
- 26 (19) "Mobile machinery and self-propelled construction equipment" means those vehicles,
27 self-propelled or otherwise, which are not designed primarily for the transportation of
28 persons or cargo over the public highways, and those motor vehicles which may have
29 originally been designed for the transportation of persons or cargo over the public
30 highways, and those motor vehicles which may have originally been designed for the
31 transportation of persons or cargo but which have been redesigned or modified by the
32 mounting thereon of special equipment or machinery, and which may be only

1 incidentally operated or moved over the public highways. This definition includes but
2 is not limited to wheeled vehicles commonly used in the construction, maintenance,
3 and repair of roadways, the drilling of wells, and the digging of ditches.

4 (20) "Motor fuel" means gasoline, casing head or natural gasoline, benzol, benzene and
5 naphtha, gasohol and any liquid prepared, advertised, offered for sale, sold for use or
6 used or commercially usable in internal combustion engines for the generation of
7 power for the propulsion of motor vehicles upon the public highways. The term does
8 not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad
9 locomotives.

10 (21) "Prepress preparation material" means all materials used by those in the printing
11 industry including, but not limited to, airbrush color photos, color keys, dies,
12 engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar, plates,
13 proofing materials, tape, transparencies, and veloxes, which are used by printers in
14 the preparation of customer specific layouts or in plates used to fill customers' printing
15 orders, which are eventually sold to a customer, either in their original purchase form
16 or in an altered form, and for which a sales or use tax is demonstrably collected from
17 the printer's customer, if applicable, either separately from the printed materials or as
18 part of the inclusive price therefor. Materials sold to a printer which are used by the
19 printer for the printer's own purposes, and are not sold, either directly or in an altered
20 form, to a customer, are not included within this definition.

21 (22) "Prescription drugs for humans" means a drug which, prior to being dispensed or
22 delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect.
23 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is
24 dispensed in accordance with any written or electronic order dated and signed by a
25 licensed practitioner of the healing arts, or given orally by a practitioner and
26 immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy
27 intern, specifying the name and any required information of the patient for whom the
28 medicine, drug or poison is offered and directions, if any, to be placed on the label.

29 (23) "Price" or "purchase price" means the aggregate value measured in currency paid or
30 delivered or promised to be paid or delivered in consummation of a sale, without any
31 discount from the price on account of the cost of materials used, labor or service cost,
32 and exclusive of any direct tax imposed by the federal government or by this article,

1 and, in the case of all retail sales involving the exchange of property, also exclusive of
2 the fair market value of the property exchanged at the same time and place of the
3 exchange, if: (1) such exchanged property is to be sold thereafter in the usual course
4 of the retailer's business, or (2) such exchanged property is a vehicle and is exchanged
5 for another vehicle and both vehicles are subject to licensing, registration, or
6 certification under the laws of this state, including, but not limited to, vehicles operating
7 upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any
8 money or other consideration paid over and above the value of the exchanged property
9 is subject to tax.

10 a. Price or purchase price includes:

- 11 1. The amount of money received or due in cash and credits.
- 12 2. Property at fair market value taken in exchange but not for resale in the usual
13 course of the retailer's business.
- 14 3. Any consideration valued in money, whereby the manufacturer or someone else
15 reimburses the retailer for part of the purchase price and other media of
16 exchange.
- 17 4. The total price charged on credit sales including finance charges which are not
18 separately stated at the time of sale. An amount charged as interest on the unpaid
19 balance of the purchase price is not part of the purchase price unless the amount
20 added to the purchase price is included in the principal amount of a promissory
21 note; except the interest or carrying charge set out separately from the unpaid
22 balance of the purchase price on the face of the note is not part of the purchase
23 price. An amount charged for insurance on the property sold and separately
24 stated at the time of sale is not part of the purchase price.
- 25 5. Installation, applying, remodeling or repairing the property, delivery and wheeling-
26 in charges included in the purchase price and not separately stated.
- 27 6. Transportation and other charges to effect delivery of tangible personal property
28 to the purchaser.
- 29 7. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires
30 and floor stock.
- 31 8. The gross purchase price of articles sold after manufacturing or after having been
32 made to order, including the gross value of all the materials used, labor and

1 service performed and the profit thereon.

2 b. Price or purchase price shall not include:

3 1. Any sales or use tax imposed by the State of Colorado or by any political
4 subdivision thereof.

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

9 3. Discounts from the original price if such discount and the corresponding decrease
10 in sales tax due is actually passed on to the purchaser, and the seller is not
11 reimbursed for the discount by the manufacturer or someone else. An anticipated
12 discount to be allowed for payment on or before a given date is not an allowable
13 adjustment to the price in reporting gross sales.

14 (24) "Prosthetic devices for humans" means any artificial limb, part, device or appliance for
15 human use which aids or replaces a body part or aids or replaces a bodily function; is
16 designed, manufactured, altered or adjusted to fit a particular individual patient; and is
17 prescribed by a licensed practitioner of the healing arts. Prosthetic devices for humans
18 include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental
19 or orthopedic devices or appliances, oxygen concentrators and oxygen with related
20 accessories.

21 (25) "Purchase" or "sale" means the acquisition for any consideration by any person of
22 taxable tangible personal property, products, services.

23 a. These terms include capital leases, installment and credit sales, and property and
24 services acquired by:

25 1. Transfer, either conditionally or absolutely, of title or possession or both to taxable
26 tangible personal property, products, or services;

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

29 3. Performance of taxable services; or

30 4. Barter or exchange for other taxable tangible personal property, products, or
31 services.

32 b. The terms purchase and sale do not include:

- 1 1. A division of partnership assets among the partners according to their interests in
2 the partnership;
- 3 2. The transfer of assets of shareholders in the formation or dissolution of
4 professional corporations, if no consideration including, but not limited to, the
5 assumption of a liability is paid for the transfer of assets;
- 6 3. The dissolution and the pro rata distribution of the corporation's assets to its
7 stockholders, if no consideration including, but not limited to, the assumption of a
8 liability is paid for the transfer of assets;
- 9 4. A transfer of a partnership or limited liability company interest;
- 10 5. The transfer of assets to a commencing or existing partnership or limited liability
11 company, if no consideration including, but not limited to, the assumption of a
12 liability is paid for the transfer of assets;
- 13 6. The repossession of personal property by a chattel mortgage holder or
14 foreclosure by a lienholder;

15 (26) "Purchaser" shall mean any person to whom a taxable service has been rendered or
16 who shall have purchased or hired at retail tangible personal property.

17 (27) "Rail carrier" means "rail carrier" as defined in Section 10102 of Title 49 of the United
18 States Code as of October 10, 2013, and as it may be amended hereafter.

19 (28) "Rail carrier part" means any tangible personal property that is originally designed and
20 intended to be permanently affixed or attached as a component part of a locomotive or
21 rail car used by a rail carrier.

22 (29) "Retail sale" means any sale except a wholesale sale.

23 (30) "Retailer" or "vendor" means any person selling, leasing, renting, or granting a license
24 to use tangible personal property, products, or services at retail. Retailer shall include,
25 but is not limited to, any: (1) auctioneer; (2) salesperson, representative, peddler or
26 canvasser, who makes sales as a direct or indirect agent of or obtains such property
27 or services sold from a dealer, distributor, supervisor or employer; and (3) charitable
28 organization or governmental entity which makes sales of tangible personal property
29 to the public, notwithstanding the fact that the merchandise sold may have been
30 acquired by gift or donation or that the proceeds are to be used for charitable or
31 governmental purposes.

32 (31) "Software as a service" means software that is rented, leased or subscribed to from a

1 provider and used at the consumer's location, including but not limited to applications,
2 systems or programs.

3 (32) "Software license fee" means a fee charged for the right to use, access, or maintain
4 software programs.

5 (33) "Software maintenance agreement" means an agreement, typically with a software
6 provider, that may include (1) provisions to maintain the right to use the software; (2)
7 provisions for software upgrades including code updates, version updates, code fix
8 modifications, enhancements, and added or new functional capabilities loaded into
9 existing software; or (3) technical support.

10 (34) "Software program" means a sequence of instructions that can be measured,
11 interpreted and executed by an electronic device (e.g. a computer, tablets, smart
12 phones) regardless of the means by which it is accessed or the medium of conveyance.
13 Software program includes: (1) custom software program, which is a software program
14 prepared to the special order or specifications of a single customer; (2) pre-written
15 software program, which is a software program prepared for sale or license to multiple
16 users, and not to the special order or specifications of a single customer. Pre-written
17 software is commonly referred to as "canned," "off-the-shelf ("COTS")," "mass
18 produced" or "standardized;" (3) modified software, which means pre-written software
19 that is altered or enhanced by someone other than the purchaser to create a program
20 for a particular user; and (4) the generic term "software," "software application," as well
21 as "updates," "upgrades," "patches," "user exits," and any items which add or extend
22 functionality to existing software programs.

23 (35) "Sound system services" means the provision of broadcast or pre-recorded audio
24 programming to a building or portion thereof. Such term does not include installation
25 of sound systems where the entire system becomes the property of the building owner
26 or the sound system service is for presentation of live performances.

27 (36) "Special fuel" means kerosene oil, kerosene distillate, diesel fuel, all liquefied
28 petroleum gases, and all combustible gases and liquids for use in the generation of
29 power for propulsion of motor vehicles upon the public highways. The term does not
30 include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad
31 locomotives.

32 (37) "Storage" means any keeping or retention of, or exercise dominion or control over, or

1 possession for any length of time tangible personal property not while in transit but on
2 a stand still basis for future use when leased, rented or purchased at retail from sources
3 either within or without the City from any person or vendor.

4 (38) "Taxable sales" means gross sales less any exemptions and deductions specified in
5 this chapter.

6 (39) "Taxable service" means any service subject to tax pursuant to this article.

7 (40) "Telecommunications service" means the service of which the object is the
8 transmission of any two-way interactive electronic or electromagnetic communications
9 including but not limited to voice, image, data and any other information, by the use of
10 any means but not limited to wire, cable, fiber optical cable, microwave, radio wave,
11 Voice over Internet Protocol (VoIP), or any combinations of such media, including any
12 form of mobile two-way communication.

13 (41) "Television and entertainment services" means audio or visual content, that can be
14 transmitted electronically by any means, for which a charge is imposed.

15 (42) "Use" means the exercise, for any length of time by any person within the city of any
16 right, power or dominion over tangible personal property, products, or services when
17 rented, leased or purchased at retail from sources either within or without the city from
18 any person or vendor or used in the performance of a contract in the city whether such
19 tangible personal property is owned or not owned by the taxpayer. Use also includes
20 the withdrawal of items from inventory for consumption.

21 (43) "Wholesale sale" means a sale by a wholesaler to a retailer, jobber, dealer, or other
22 wholesaler for resale and does not include a sale by a wholesaler to a user or consumer
23 not for resale; latter types of sales shall be deemed to be retail sales and shall be
24 subject to the provisions of this article.

25 (44) "Wholesaler" means any person doing an organized wholesale or jobbing business
26 and selling to a retailer, jobber, dealer, or other wholesaler, for the purpose of resale,
27 and not for storage, use, consumption, or distribution.

28 **Sec. 53-104. - Imposition of tax.**

29 (a) There is levied and there shall be collected and paid a tax in the amount stated in this
30 article, by every person exercising the taxable privilege of storing, using, distributing or consuming
31 in the city tangible personal property, or a product or service subject to the provisions of this article,
32 purchased at retail, for said exercise of said privilege, as follows:

- 1 (1) On the purchase price upon all purchases and sales of tangible personal property.
- 2 (2) In the case of retail sales involving the exchange of property, on the purchase price,
3 including the fair market value of the property exchanged at the time and place of the
4 exchange, excluding, however, from the consideration or purchase price the fair
5 market value of the exchanged property if such exchanged property is to be sold
6 thereafter in the usual course of the retailer's business.
- 7 (3) Upon the purchase price for telephone and telecommunications services, including in
8 addition to audio and video transmission and reception, other two-way electronic or
9 electromagnetic wave transmissions, receptions or communications of any sort, by or
10 through any medium, whether such services are furnished by public or private
11 corporations or associations, that, except as otherwise provided by this article for
12 mobile telecommunication services, both originate in and are charged to a telephone
13 number or an account located within the city, excepting, however, monthly or other
14 periodic usage charges that represent varying amounts billed to accounts for a
15 subscriber's actual use of interstate services provided by a long-distance
16 telecommunications company and charged to the subscriber by or on behalf of a long-
17 distance telecommunications company.
- 18 (4) Upon the purchase price for coal, petroleum, liquid petroleum, electric, steam and
19 natural gas services, and any other products used for energy-producing purposes,
20 whether furnished by municipal, public or private corporations or associations,
21 furnished and sold for domestic, commercial or industrial consumption and not for
22 resale.
- 23 (5) Upon the purchase price for food or drink served or furnished in or by restaurants,
24 cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets,
25 resorts, snack bars, caterers, boardinghouses, carryout shops and other places at
26 which prepared food or drink is regularly sold, including sales from pushcarts, motor
27 vehicles and other mobile facilities. Cover charges, admission or entrance fees, and
28 mandatory service or service-related charges, whether described as tips, gratuities or
29 otherwise, shall be included as part of the purchase price for such food or drink.
- 30 (6) Upon the purchase price for the furnishing or sale to customers within the city of
31 informational or entertainment service wherein the relay or transmission of
32 electromagnetic waves through any medium, tangible or intangible, including cable,

1 glass fiber and ambient air, is necessary for the service to be received, including, but
2 not limited to, digital products, internet subscription services, sound system services,
3 and television and entertainment services, excepting however, telephone and
4 telecommunications services described in section 53-54(a)(3) of the code and
5 television, cinema or similar programming provided at a theater or similar place open
6 to the public.

- 7 (7) Upon the purchase price for digital products, software programs, software as a service,
8 software license fees, and software maintenance agreements.

9 **Sec. 53-105. - Exemptions.**

- 10 (a) There shall be exempt from taxation under the provisions of this article the following:
- 11 (1) All purchases by or sales to the United States government, to the state, its departments
12 and institutions, and the political subdivisions thereof that are:
- 13 a. Billed directly to such governmental entities;
14 b. Paid directly from funds of such governmental entities: and
15 c. Used exclusively by such governmental entities in their governmental capacities.
- 16 (2) All purchases or sales to charitable organizations that are:
- 17 a. Billed directly to the charitable organization;
18 b. Paid directly from funds of the charitable organization; and
19 c. Used exclusively for the charitable organization's organizational or operational
20 purposes.
- 21 (3) All purchases or sales of cigarettes.
- 22 (4) All purchases or sales of motor fuel and special fuel.
- 23 (5) All purchases or sales of cattle, sheep, lambs, swine and goats; all sales of mares and
24 stallions for breeding purposes.
- 25 (6) All purchases or sales of feed for livestock or poultry and all sales of seeds to farmers,
26 ranchers, truck farmers, florists and horticulturists who sell the crops resulting from the
27 propagation of such seeds or use such crops as feed for livestock or poultry.
- 28 (7) All purchases or sales of medical supplies.
- 29 (8) All purchase or sales of food.
- 30 (9) All purchases or sales of tangible personal property purchased outside the city for use,
31 storage, distribution or consumption outside the city by a nonresident of the city while
32 the property is temporarily within the city for the purchaser's own personal use, storage

1 or consumption.

- 2 (10) All purchases or sales of tangible personal property to a natural gas and electric utility
3 or a telephone utility that is not used, consumed or distributed in the city but is for use,
4 consumption or distribution in its business operations outside the city even though the
5 property is delivered and temporarily stored within the city.
- 6 (11) All purchases or sales which the city is prohibited from taxing under the Constitution
7 or laws of the United States or the Constitution of the state.
- 8 (12) All purchases or sales of automotive vehicles as defined in this article that are
9 registered and required by state law to be registered outside the city. This exemption
10 does not apply to sales of automotive vehicles that are hired for use, rented, leased,
11 or transferred under a grant of a license to use.
- 12 (13) All purchases or sales of farm equipment used directly for plowing, planting, cultivating
13 or harvesting of crops.
- 14 (14) All purchases or sales of tangible personal property, products, and services taxable
15 under the city retail sales tax article, article II of this chapter, upon which a sales tax
16 has been paid to the city.
- 17 (15) All purchases or sales of construction materials for their storage in the city; but any
18 use, consumption or distribution beyond storage of the construction and building
19 materials in the city shall be taxable.
- 20 (16) All sales of prepress preparation materials.
- 21 (17) All purchases or sales of tangible personal property (excepting (a) construction
22 equipment, tools and machinery; (b) construction materials; and (c) vehicles that are
23 capable of moving themselves, or of being moved from place to place upon wheels or
24 endless tracks, excluding bicycles and other devices moved by human power and
25 excluding "farm equipment" used directly for plowing, planting, cultivating or harvesting
26 of crops) that are first used, stored, consumed or distributed within the city more than
27 one (1) year after the most recent sale of the property if, within the year following such
28 sale, the property has been used in a significant way outside the city for the principal
29 purpose for which it was most recently purchased.
- 30 (18) All purchases or sales of aircraft to an airline company that is used in interstate
31 commerce by the airline company.
- 32 (19) All purchases or sales of aircraft parts, aircraft simulator parts, and rail carrier parts.

1 This exemption shall be repealed, effective December 31, 2040.

2 (20) The use of tangible personal property which was originally purchased at wholesale and
3 which is subsequently removed from inventory or taken out of a manufacturing or
4 compounding process and donated without consideration to any of the following:

- 5 a. The United States government, to the state, its departments and institutions and
6 the political subdivisions thereof; or
7 b. Any organization which has been certified as a not-for-profit organization under
8 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which
9 is also operated as a Colorado nonprofit corporation.

10 (21) All purchases or sales of water.

11 (22) All purchases or sales of feminine hygiene products.

12 **Sec. 53-106. - Retailers to collect tax.**

13 (a) *Tax rates.* A tax of three and one-half (3.5) percent is imposed and levied and there
14 shall be collected and paid a tax upon the exercise of the privilege of storing, using, distributing or
15 consuming in the city tangible personal property, or a product or a service subject to the provisions
16 of this article, purchased at retail, or deemed to be purchased at retail, except tangible personal
17 property, or a product or a service specified in subsection (b) of this section. In order to avoid
18 amounts that are fractions of pennies, taxpayers shall use a rounding procedure approved by the
19 manager when computing the tax. On those taxable uses, consumptions, distributions and storages
20 of tangible personal property, products, or services specified in subsection (b) of this section, there
21 is levied and imposed upon the privilege of storing, using, distributing or consuming in the city a tax
22 in accordance with the rates set forth therein.

23 (b) *Special rates.*

24 (1) *Special note for aviation and railway fuel.* Any fuel in the form of liquid or gas that is
25 prepared, advertised, offered for sale, sold for use and used or commercially usable
26 for the generation of power for the propulsion or drawing of aircraft, railroad cars or
27 railroad locomotives shall be taxed at the rate of four cents (\$0.04) for each gallon
28 used, consumed, stored or distributed. In order to avoid amounts that are fractions of
29 pennies, taxpayers shall use a rounding procedure approved by the manager when
30 computing the tax.

31 (2) *Special note for short-term rentals of automotive vehicles.* Automotive vehicles as
32 defined in this article, when they are for any term of thirty (30) days or less hired for

1 use, rented, leased or transferred under a grant of a license to use, shall be taxed at
2 the rate of seven and one quarter (7.25) percent of the rentals paid or purchase price.
3 In order to avoid amounts that are fractions of pennies, taxpayers shall use a rounding
4 procedure approved by the manager when computing the tax. One and three-quarters
5 (1.75) percent of such tax shall be used to pay debt relating to and costs operating,
6 maintaining and improving the National Western Center Campus and the Colorado
7 Convention Center and other tourism related projects.

8 (3) *Special note for prepared food and beverages.* Food and beverages not exempted
9 from taxation under section 53-55(a)(8) of this code shall be taxed under this article at
10 the rate of four (4) percent of the purchase price. In order to avoid amounts that are
11 fractions of pennies, taxpayers shall use a rounding procedure approved by the
12 manager when computing the tax.

13 (c) *Tax to be shown as separate item.* Except as provided in this section, retailers shall
14 add the tax imposed, or the average equivalent thereof, to the purchase price, showing such tax as
15 a separate and distinctive item, and when added, such tax shall constitute a part of such price and
16 shall be a debt from the consumer or user to the retailer until paid, recoverable at law in the same
17 manner as other debts.

18 (d) *Vending machine sales.* Notwithstanding provisions herein regarding the unlawful
19 assumption or absorption of the tax, any retailer vending items through coin-operated vending
20 machines may include in the purchase price for the vended item the tax levied by this article; but no
21 such retailer shall advertise or hold out to the public in any manner, directly or indirectly, that such
22 tax is not included as a part of the sales price to the consumer.

23 (e) *Affixing of tangible personal property on realty.* Every person who attaches and affixes
24 to realty or the improvements and structures located thereon, situated within the city, any article of
25 tangible personal property taxable hereunder, and who has not paid the tax imposed by this article
26 thereon, to a vendor required or authorized to collect the same, shall monthly make a return and pay
27 the tax due to the manager in accordance with section 53-7 of the code. The full amount of such
28 unpaid taxes, arising as aforesaid, together with interest and penalties as hereinafter provided shall
29 constitute a first and paramount lien upon such realty and the improvements located thereon, so
30 benefited by the attaching and affixing of such articles of tangible personal property thereto, which
31 lien shall have precedence over all other liens of whatsoever kind or nature, except as to liens for
32 general taxes created by state law, and except as to preexisting claims or liens of a bona fide

1 mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the
2 filing of the notice of lien by the manager as hereinafter provided; and the manager is hereby
3 authorized to file a notice of lien therefor against said benefited realty and the improvements and
4 structures thereon with the clerk and recorder of the city; and upon full payment of the amount of
5 taxes, interest and penalties on account thereof, the manager may release and discharge said lien.
6 Unless so released and discharged, said lien shall continue for six (6) years from the date said notice
7 of lien is filed, notwithstanding the general limitation-of-action clause contained in this article.

8 (f) *Outside-city contracts, deliveries, etc.* Every vendor required or permitted to collect the
9 tax shall collect the tax imposed by the provisions of this article, notwithstanding the following:

10 (1) That the purchaser's order or contract of sale is delivered, mailed or otherwise
11 transmitted by the purchaser to the vendor at a point outside Denver as a result of
12 solicitation by the vendor through the medium of a catalog or other written
13 advertisement; or

14 (2) That the purchaser's order or contract of sale is made or closed by acceptance or
15 approval outside of the city or before said tangible personal property enters the city; or

16 (3) That the purchaser's order or contract of sale provides that said property shall be, or it
17 is in fact, procured or manufactured at a point outside the city and shipped directly to
18 the purchaser from the point of origin; or

19 (4) That said property is mailed to the purchaser in the city from a point outside the city or
20 delivered to a carrier at a point outside the city F.O.B., or otherwise, and directed to
21 the vendor in the city, regardless of whether the cost of transportation is paid by the
22 vendor or by the purchaser; or

23 (5) That said property is delivered directly to the purchaser at a point outside the city, if it
24 is intended to be brought to the city for use, storage or consumption in the city.

25 (g) *Collection mandatory.* Every vendor engaging in business in the city and selling
26 tangible personal property, or a product or a service taxable hereunder shall collect, and is required
27 to collect, the tax imposed and levied by this article from the purchaser.

28 (h) *Retailer as collecting agent.* The retailer shall be entitled as collecting agent of the city
29 to apply and credit the amount of his collections of the tax levied by this article against the amount
30 required to be paid over by him under the provisions of section 53-107 of the code, remitting any
31 excess of collections over the amount required by section 53-107 of the code, and rounding to the
32 nearest whole dollar as provided in section 53-107 of the code, to the manager in the retailer's next

1 periodic tax return.

2 (i) *Consumer returns due, generally.* Every person who is engaged in business in the city
3 and who purchases tangible personal property, a product or service taxable hereunder for use,
4 storage or consumption in the city in connection with the business, who has not paid the tax imposed
5 by this article thereon to a vendor required or authorized to collect the same, shall, monthly, make a
6 return of and pay over the tax due to the manager, on or before the twentieth day of each calendar
7 month thereafter. The amount of the consumer use tax may be subject to reduction as provided by
8 section 53-101 of the code for previously paid sales or use taxes.

9 (j) *Retailer not to benefit.* No retailer shall gain any benefit from the collection or payment
10 of the tax, except as permitted by this article, and the use of the rounding procedure approved by
11 the manager shall not relieve the retailer from liability for payment of the amount required by section
12 53-107 of the code.

13 (k) *Use tax increment to fund the Denver preschool program.* In addition to the use tax
14 otherwise imposed by this section, a tax of fifteen one-hundredths of one (.15) percent shall be paid
15 on all taxable uses, consumptions, distributions, and storages of tangible personal property,
16 products, and services, except on tangible personal property, products, and services specified in
17 subsection (b) of this section, beginning January 1, 2015 and expiring December 31, 2026. The
18 revenue from such additional tax shall be used for the sole purpose of funding the Denver preschool
19 program pursuant to article III of chapter 11 of the code.

20 (l) *Use tax increment to fund the Parks, Trails, and Open Space Program.* In addition to
21 the use tax otherwise imposed by this section, a tax of twenty-five one-hundredths of one (0.25)
22 percent must be paid on all taxable uses, consumptions, distributions, and storages of commodities
23 and services, except on commodities and services specified in subsection (b) of this section,
24 beginning January 1, 2019. The revenue from such additional tax must be used for the sole purpose
25 of funding the Parks, Trails, and Open Space Program created in article XII of chapter 39 of the
26 code.

27 (m) *Use tax increment to fund the Caring for Denver Fund.* In addition to the use tax
28 otherwise imposed by this section, a tax of twenty-five one-hundredths of one (0.25) percent shall
29 be paid on all taxable uses, consumptions, distributions, and storages of commodities and services,
30 except on commodities and services specified in subsection (b) of this section, beginning January
31 1, 2019. The revenue from such additional tax shall be used for the sole purpose of funding the
32 Caring for Denver Fund pursuant to article XIV of chapter 24 of the code.

1 (n) *Use tax increment to fund Healthy Food for Denver's Kids Initiative.* In addition to the
2 use tax otherwise imposed by this section, a tax of eight one-hundredths of one (0.08) percent shall
3 be paid on all taxable uses, consumptions, distributions, and storages of commodities and services,
4 except on commodities and services specified in subsection (b) of this section, beginning January
5 1, 2019, and expiring December 31, 2028. The revenue from such additional tax shall be used for
6 the sole purpose of funding Healthy Food for Denver's Kids Initiative pursuant to article IV of chapter
7 23 of the code.

8 (o) *Use tax increment to fund the Denver College Affordability Fund.* In addition to the use
9 tax otherwise imposed by this section, a tax of eight one-hundredths of one (0.08) percent shall be
10 paid on all taxable uses, consumptions, distributions, and storages of commodities and services,
11 except on commodities and services specified in subsection (b) of this section, beginning January
12 1, 2019, and expiring December 31, 2030. The revenue from such additional tax shall be used for
13 the sole purpose of funding the Denver College Affordability Fund pursuant to article IV of chapter
14 11 of the code.

15 (p) *Use tax increment to fund the Climate Protection Fund.* In addition to the use tax
16 otherwise imposed in this section, a tax of twenty-five one-hundredths of one (.25) percent must be
17 paid on all taxable uses, consumptions, distributions, and storages of tangible personal property,
18 products, or services, except on tangible personal property, products, or services specified in
19 subsection (b) of this section, beginning on January 1, 2021. The revenue from such additional tax
20 shall be used for the sole purpose of funding the Climate Action Program created in division 2, article
21 XIX of chapter 2.

22 (q) *Use tax increment to fund the Homelessness Resolution Program.* In addition to the
23 use tax otherwise imposed in this section, a tax of twenty-five one-hundredths of one (.25) percent
24 must be paid on all taxable uses, consumptions, distributions, and storages of commodities or
25 services, except on commodities or services specified in subsection (b) of this section, beginning on
26 January 1, 2021. The revenue from such additional tax shall be used for the sole purpose of funding
27 the Homelessness Resolution Program created in article VII of chapter 27.

28 **Sec. 53-107. - Retailer responsible for payment of tax.**

29 (a) *Amount.* Every retailer shall, irrespective of other provisions of this article and article II
30 of this chapter, be liable and responsible for the payment of an amount equivalent to four and eighty-
31 one one-hundredths (4.81) percent of taxable sales made by him of tangible personal property,
32 products, and services, except:

1 (1) Aviation and railway fuel, as to which the rate of four cents (\$0.04) for each gallon
2 purchased shall apply;

3 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired for use,
4 rented, leased or transferred under a grant of a license to use, as to which a rate of
5 taxation as set forth in subsection 53-106(b)(2) of the code shall apply;

6 (3) Food and beverages not exempted from taxation under subsection 53-55(a)(8) and
7 53-105(a)(8) of the code, as to which the rate of four (4) percent shall apply;

8 (4) For each of which respective rates aforesaid the retailer shall be liable for an equivalent
9 amount; and

10 (5) Every retailer shall, on its return, round each calculation, as directed on such form as
11 the manager may require, to the nearest whole dollar and remit the rounded amount.
12 In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be
13 rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

14 (b) *Returns.* Every taxpayer obligated to collect and/or pay any of the tax imposed in this
15 article shall file a return and remit the total amount due to the manager in accordance with section
16 53-7 of the code.

17 (c) *Exemption; burden of proof.* The burden of proving that any retailer is exempt from
18 collecting and remitting the tax upon any sale of tangible personal property, product or service
19 subject to the provisions of this article, and from paying over the same to the manager, shall be on
20 the retailer, and such proof shall be by a preponderance of evidence.

21 **Sec. 53-108. - Unlawful to assume or absorb tax.**

22 It shall be a violation of this article for any retailer to advertise or hold out or state to any
23 person, directly or indirectly, that the tax or any part thereof levied by this article will be assumed or
24 absorbed by the retailer, or that the tax will not be added to the selling price of the property sold or,
25 if added, that the tax or any part thereof will be refunded.

26 **Sec. 53-109. - Consolidation of returns.**

27 A vendor doing business in two (2) or more places or locations, whether in or without the city,
28 and collecting taxes under this article may file one (1) return covering all such places or locations,
29 when accompanied by a supplemental report showing the gross and net taxable sales and taxes
30 collected thereon for each such place or location.

31 **Sec. 53-110. - Tax on rentals.**

32 When the right to possession or use of any tangible personal property, or product or service

1 taxable under the terms of this article is granted under a lease, hire, rental contract or grant of a
2 license to use (including royalty agreements), the tax imposed by this article shall be computed,
3 collected and returned by the vendor based upon the rentals, fees or royalties paid, unless the
4 manager directs payment of the tax on another basis.

5 **Sec. 53-111. - Tax on credit sales, etc.**

6 Whenever any tangible personal property, product or service taxable under the terms of this
7 article is sold to a person who thereby is obligated to the vendor on an account, chattel paper,
8 contract right, general intangible, or a writing which supports a right to the payment of a purchase
9 price, or any part thereof, the tax shall be based on the total purchase price and shall become
10 immediately due and payable. No refund or credit shall be allowed to either party to a transaction in
11 case of repossession by the vendor of collateral securing the purchase price or any part of the
12 purchase price.

13 **Sec. 53-112. - Application to automotive vehicles.**

14 (a) No registration certificate or license shall be issued by the manager for the operation of
15 any automotive vehicle, unless and until the tax levied by this article upon the privilege of storing,
16 using, distributing or consuming such vehicle in the city has been paid.

17 (b) No certificate of title evidencing ownership of any automotive vehicle shall be issued or
18 transferred by the manager unless and until said tax upon the privilege of storing, using, distributing
19 or consuming such automotive vehicle in the city has been paid.

20 (c) If the applicant for the registration of, or the issuance of a certificate of title for, an
21 automotive vehicle has not paid the tax levied by this article, such tax shall be paid by the applicant
22 directly to the manager, and until paid no certificate of title or registration certificate or license plates
23 shall be issued by the manager for such automotive vehicle.

24 **Sec. 53-113. - Application to manufacturers of tangible personal property.**

25 (a) In order to assist in the avoidance of unfair competition in the marketplace as a result
26 of some competitors obtaining an advantage because of not otherwise being subject to the use tax
27 on a similar basis to other competitors, the following shall apply:

28 (1) The use or consumption of tangible personal property, including the installation into or
29 the affixing to real property of another of the tangible personal property, by a manufacturer of the
30 tangible personal property for which there exists also a retail market and of a type that the
31 manufacturer sells or could sell to others shall be taxable under this article, but the tax due hereunder
32 in such case shall be levied only upon the gross value of all the materials, labor and services used

1 and employed in the manufacture of said property, and not upon any profit that would have been
2 derived from the ordinary retail sale thereof by the manufacturer as, for example, to another
3 consumer for installation in or affixing to the property of another.

4 (2) The tax is levied upon the full purchase price of articles sold after their manufacture or
5 after having been made to order and includes the purchase price of materials used and service
6 performed in connection with the manufacturing or making to order, excluding however, such articles
7 as are otherwise exempted in this article. The purchase price is the gross value of all the materials,
8 labor, service and the profit thereon included in the price charged for the tangible personal property
9 to the user or consumer.

10 **Sec. 53-114. - Application to certain construction equipment.**

11 (a) Construction equipment located within the city for a period of more than thirty (30)
12 consecutive days shall be subject to the tax.

13 (b) Construction equipment located within the city for a period of thirty (30) consecutive
14 days or less shall be taxed in an amount calculated as follows: The purchase price of the equipment
15 shall be multiplied by a factor of one-twelfth (1/12) before being multiplied by the applicable rate set
16 forth in section 53-107 of the code.

17 (c) In instances in which subsection (b) of this section is applicable, the credit of
18 subsection 53-101(c) of the code shall become applicable only at the time that the aggregate of the
19 sales and use taxes legally imposed by and paid to other municipal corporations organized and
20 existing under the authority of the laws or the constitution of any state on such construction
21 equipment equals the applicable amount set forth in section 53-107 of the code.

22 (d) In order to be eligible for the tax reduction factor available under subsection (b) of this
23 section, the taxpayer must comply with each of the following procedures:

24 (1) Prior to or on the date that the equipment comes within the city, the taxpayer files with
25 the manager a declaration of construction equipment on a form provided by the
26 manager. The taxpayer shall declare on the form the dates on which the taxpayer
27 anticipates that the equipment will come within the city and leave the city, a description
28 of each piece of construction equipment, the actual or estimated purchase price, and
29 the current market value of the equipment, and such other information as reasonably
30 deemed necessary by the manager.

31 (2) If applicable, the taxpayer files with the manager not less than once every ninety (90)
32 consecutive days after the construction equipment comes within the city or, for

1 construction equipment which is in the city for less than ninety (90) days, not later than
2 ten (10) days following substantial completion of the work for which the construction
3 equipment was brought into the city, an amended declaration of construction
4 equipment stating any changes in the information contained in any previously filed
5 declaration.

6 (3) If the taxpayer files a construction equipment declaration as required in subsection (d)
7 of this section, then any piece of construction equipment for which the purchase price
8 was less than two thousand five hundred dollars (\$2,500.00) need not be reported,
9 provided that the construction equipment is temporarily within the city for a period of
10 thirty (30) consecutive days or less.

11 (e) If the taxpayer fails to comply with each requirement of subsection (d) of this section,
12 the taxpayer is ineligible for the tax reduction factor of subsection (b) of this section and shall be
13 required to pay the tax in full. The manager in the manager's sole discretion shall determine whether
14 the requirements of subsection (d) of this section have been met by substantial compliance
15 therewith.

16 **Sec. 53-115. - Application to mobile telecommunication services.**

17 (a) As used in this section, unless the context otherwise requires:

18 (1) "Act" means the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. secs. 116
19 to 126, as amended.

20 (2) "Customer" means customer as defined in section 124(2) of the Act.

21 (3) "Home service provider" means home service provider as defined in section 124(5) of
22 the Act.

23 (4) "Mobile telecommunications service" means mobile telecommunications service as
24 defined in section 124(7) of the Act.

25 (5) "Place of primary use" means the place of primary use as defined in section 124(8) of
26 the Act.

27 (b) Mobile telecommunications service shall be subject to the tax imposed by this article
28 only if the service is provided by a home service provider to a customer whose place of primary use
29 is within the city and the service originates within the city; further, the tax shall be collected in
30 accordance with the provisions of the Act.

31 (c) The manager may require payment of the tax on any other basis permitted by this
32 article when a customer fails to provide its place of primary use or the Act is determined to be

1 inapplicable to the tax imposed by this article on mobile telecommunication services.

2 **DIVISION 2 – RETAIL LICENSE**

3 **Sec. 53-120. - Required.**

4 No person shall engage in business in the city as defined in section 53-103 of the code without
5 obtaining the retail sales license or special event retail sales license required by division 2, article II,
6 chapter 53, of the code and paying the fees and meeting the requirements of section 32-107 of the
7 code.

8 **Sec. 53-121. - License and tax in addition to all others.**

9 The license required and the tax levied by this article shall be in addition to all other licenses
10 required and taxes levied by law except as herein otherwise provided.

11 **DIVISION 3 – INTERCITY CLAIM FOR RECOVERY**

12 **Sec. 53-140. - Claims for recovery.**

13 (a) The intent of this section is to streamline and standardize procedures related to
14 situations where tax has been remitted to the incorrect municipality. This section is not intended to
15 reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect and remit
16 use taxes to the city.

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

19 (2) When it is determined by the manager that use taxes owed to the city have been
20 reported and paid to another municipality, the city shall promptly notify the taxpayer that taxes are
21 being improperly collected and remitted and that as of the date of the notice the taxpayer must cease
22 improper tax collections and remittances.

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

32 (4) Within ninety (90) days after receipt of a claim for recovery, the city shall verify to its

1 satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify
2 the municipality submitting the claim in writing that the claim is either approved or denied in whole
3 or in part, including the reasons for the decision. If the claim is approved in whole or in part, the city
4 shall remit the undisputed amount, plus interest as provided in section 53-14 of the code, to the
5 municipality submitting the claim within thirty (30) days of approval. Denial of a claim for recovery
6 may only be made for good cause.

7 (5) The city may deny a claim on the grounds that it has previously paid a claim for recovery
8 arising out of an audit of the same taxpayer.

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

11 **Section 4.** Article IV, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
12 and is reenacted to read as follows:

13 **ARTICLE IV – LODGER’S TAX**

14 **DIVISION 1. - GENERALLY**

15 **Sec. 53-150. - Name of tax.**

16 This article shall be known and cited as the city lodger's tax article.

17 **Sec. 53-151. - Legislative intent.**

18 (a) It is hereby declared to be the legislative intent of the city council that, for the purposes
19 of this article, every person who purchases in the city any lodging is exercising a taxable privilege.

20 (b) It is hereby declared to be the legislative intent of the city council that, for the purposes
21 of this article, every vendor who shall make a sale of lodging to a purchaser in the city shall collect
22 the tax imposed by this article to the total purchase price charged for such lodging furnished at any
23 one (1) time by or to every customer or buyer, in the manner set forth in this article.

24 **Sec. 53-152. - Purpose of tax.**

25 The council declares that the purpose of the levy of the tax imposed by this article is for the
26 raising of funds for the payment of the expenses of operating and improving the city and its facilities
27 and for the payment of the principal of and interest due upon any special revenue bonds lawfully
28 authorized and issued by and on behalf of the city; in accordance with this purpose, the proceeds
29 of the tax shall be placed in the unapportioned sales, use, and lodger's ,tax account of the fund plan,
30 section 20-18 of the code, from which shall be allocated, apportioned and transferred as therein
31 provided such sums to the respective funds and accounts as are indicated and for the purposes that
32 may be therein stated.

1 **Sec. 53-153. - Definitions.**

2 (a) The following words and phrases shall have the meanings given to them in this section,
3 unless the context clearly requires a different meaning.

4 (1) “Gross taxable sales” means the total amount received in money, credits, property or
5 other consideration valued in money from sales and purchases of lodging that is
6 subject to the tax imposed in this article.

7 (2) “Lodging” shall mean rooms or accommodations for overnight use furnished by any
8 person or the representative of any person to any person who for consideration uses,
9 possesses, occupies or has the right to use, possess or occupy any such room or
10 accommodation in a hotel, apartment hotel, lodging house, motel, motor hotel, guest
11 house, guest ranch, resort, mobile home, mobile home park, auto court, inn, trailer
12 court, trailer park or hotel, under any concession, permit, lease, contract, license to use
13 or other similar arrangement.

14 (3) “Purchase or sale” means the acquisition or furnishing for consideration by any person
15 of lodging within the city.

16 (4) “Purchaser” means any person exercising the taxable privilege of purchasing lodging.

17 (5) “Tax” means either the tax payable by the purchaser or the aggregate amount of taxes
18 due from a vendor during the period for which the vendor is required to report
19 collections under this article.

20 (6) “Vendor” means a person making sales of or furnishing lodging to a purchaser in the
21 city.

22 **Sec. 53-154. - Imposition of the tax.**

23 There is hereby levied and shall be collected and paid a tax by every person exercising the
24 taxable privilege of purchasing lodging as defined in this article. The purchase price paid or charged
25 for lodging shall exclude the price paid by the purchaser for any goods, services or commodities
26 other than those directly connected with, and included in the price of, the furnishing of rooms or
27 accommodations

28 **Sec. 53-155. - Exemptions.**

29 (a) There shall be exempt from this article the following:

30 (1) All sales to any natural person who resides continuously for a period of thirty (30)
31 consecutive days or more in a room or accommodation or has the right to so reside pursuant to any
32 written concession, permit, contract, license to use or other written arrangement;

1 (2) All sales to the United States government; to the State of Colorado, its departments or
2 institutions, and the political subdivisions thereof that are:

- 3 a. Billed directly to such governmental entities;
- 4 b. Paid directly from funds of such governmental entities: and
- 5 c. Used exclusively by such governmental entities in their governmental capacities.

6 (3) All sales to charitable organizations that are:

- 7 a. Billed directly to the charitable organization;
- 8 b. Paid directly from funds of the charitable organization; and
- 9 c. Used exclusively for the charitable organization's organizational or operational
10 purposes.

11 **Sec. 53-156. – Vendors to collect tax.**

12 (a) *Tax rate.* The amount of tax levied hereby is ten and three-quarters (10.75) percent of
13 the purchase price paid or charged for purchasing such lodging. One and three-quarters (1.75)
14 percent of such tax shall be used to pay debt related to and costs of operating, maintaining and
15 improving the National Western Center Campus and the Colorado Convention Center and other
16 tourism related projects.

17 (b) Every vendor making sales to a purchaser, which are taxable under the provisions of
18 this article, at the time of making such sales is required to collect the tax imposed by section 53-154
19 of the code from the purchaser.

20 (c) The tax to be collected as provided by subsection (b) shall be stated and charged
21 separately from the sale price and shown separately from the sale price on any record thereof at the
22 time when the sale is made or at the time when evidence of the sale is made or at the time when
23 evidence of the sale is issued or employed by the vendor; provided, that when added such tax shall
24 constitute a part of such purchase price or charge and shall be a debt from the purchaser to the
25 vendor until paid and shall be recoverable at law in the same manner as other debts. The tax shall
26 be paid by the purchaser to the vendor, as trustee for and on account of the city, and the vendor
27 shall be liable for the collection thereof and on account of the city.

28 (c) Taxes paid on the amount of gross sales which are represented by accounts which are
29 found to be worthless and are actually and properly charged off as bad debts for the purpose of the
30 income tax imposed by the laws of the state may be credited upon a subsequent payment of the tax
31 herein provided; but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid
32 upon the amount so collected.

1 **Sec. 53-157. - Vendor responsible for payment of tax.**

2 (a) *Amount.* Every vendor shall add the tax imposed by section 53-154 of the code to the
3 purchase price or charge for lodging, and the vendor shall be liable and responsible to the city for
4 the payment on a monthly basis of an amount equivalent to such tax on all gross taxable sales, and
5 also liable and responsible to the city for any collection in excess of that equivalent amount. Every
6 vendor shall on its return round each calculation, as directed on such form as the manager may
7 require, to the nearest whole dollar and remit the rounded amount. In rounding under this section,
8 any amount of forty-nine cents (\$0.49) or less shall be rounded down, and any amount of fifty cents
9 (\$0.50) or higher shall be rounded up.

10 (b) *Returns.* Every taxpayer obligated to collect and/or pay any of the tax imposed in article
11 shall file a return and remit the total amount due to the manager in accordance with section 53-7 of
12 the code

13 **Sec. 53-158. - Unlawful to assume or absorb tax.**

14 It shall be a violation of this article for any retailer to advertise or hold out or state to any
15 person, directly or indirectly, that the tax or any part thereof levied by this article will be assumed or
16 absorbed by the retailer, or that the tax will not be added to the selling price of the property sold or,
17 if added, that the tax or any part thereof will be refunded.

18 **DIVISION 2 – LODGER’S LICENSE**

19 **Sec. 53-170. - Required.**

20 No person shall engage in the business of furnishing lodging without first obtaining a city
21 lodger's license from the director of excise and licenses. In instances in which the business of
22 furnishing lodging is conducted or transacted at two (2) or more separate locations by one (1) person,
23 separate licenses for each location of business shall be required.

24 **Sec. 53-171. - Fee.**

25 The license fee under this division is prescribed in section 32-107 of the code.

26 **Sec. 53-172. - Approval by manager of finance.**

27 No application under this division shall be acted upon by the director of excise and licenses
28 unless approved by the manager or the duly authorized representative thereof.

29 **Sec. 53-173. - Revocation.**

30 A city lodger's license shall be revoked by the director of excise and licenses upon the written
31 request of the manager or the duly authorized representative, only after notice and hearing.

32 **Sec. 53-174. - Appeal from order of revocation.**

1 Any finding or order of the director of excise and licenses revoking the city lodger's license of
2 any person or denying the licensing of any person engaged in the business of furnishing lodging
3 shall be subject to review in the district court of the second judicial district of the state upon
4 application of the aggrieved person, and the procedure for review shall be in accordance with that
5 set forth in Rule 106(a)(4) of the Colorado Rules of Civil Procedure, as they may be amended from
6 time to time and as any substitutionary provision may be made for review in the nature of certiorari.

7 **Section 5.** Article V, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
8 and is reenacted to read as follows:

9 **ARTICLE V – EMPLOYEE OCCUPATIONAL PRIVILEGE TAX**

10 **DIVISION 1. - GENERALLY**

11 **Sec. 53-200. - Legislative intent.**

12 (a) The city council determines and declares that the performance of services within the
13 city by an employee for an employer, for any period of time in a calendar month for wages, is the
14 exercise of a taxable privilege, whether or not all or only part of the services of such natural person
15 are performed within the city.

16 (b) The city council further determines and declares that considering the relationship
17 existing between the exercise by employees of the taxable privilege set forth in subsection (a) and
18 the expenditures required by the city for street maintenance, police and fire protection and other
19 municipal services and to provide for the general welfare, and the relationship of the exercise of the
20 taxable privilege by employees to a proper, just and equitable distribution of the tax burdens within
21 the city, and all matters considered in relation thereto, that the tax herein imposed on employees is
22 reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of
23 the tax burdens within the city.

24 **Sec. 53-201. - Purpose of tax.**

25 The council declares hereby that the purpose of the levy of the tax imposed by this article is
26 for the raising of funds (a) for the servicing and retirement of revenue bonds and revenue refunding
27 bonds, except airport revenue bonds, issued for the financing of, in whole or in part, or related to,
28 repair or improvement of city facilities and equipment or to make required deposits to any reserve or
29 other similar account established by the manager pursuant to the ordinance authorizing the issuance
30 of such bonds; and (b) for the general welfare and operation of the city; and in accordance with this
31 purpose, all of the proceeds of the tax shall be placed in the unapportioned occupational (head) tax
32 account of the fund plan, section 20-18 of the code, to be allocated, transferred and disbursed by

1 the manager in accordance with the provisions therein made.

2 **Sec. 53-202. - Definitions.**

3 (a) The following words and phrases shall have the meanings given to them in this section,
4 unless the context clearly requires a different meaning.

5 (1) "Employee" shall mean any natural person who performs within the city sufficient
6 services to receive as compensation therefor from an employer no less than five hundred dollars
7 (\$500.00) for any period of time in a calendar month, upon a salary, wage, commission or other basis
8 of compensation, whether or not all of the services of such person are performed within the city.

9 (2) "Employer" shall mean an individual, association, corporation (including a corporation
10 not for profit), governmental administration, agency, arm, authority, board, body, branch, bureau,
11 department, division, subdivision, section or unit, or any other entity, who or that employs one (1) or
12 more persons on a salary, wage, commission or other compensation basis.

13 (3) "Wages" shall mean any remuneration for services performed by an employee for any
14 employer, including the cash value of all such remuneration paid in any medium or form other than
15 cash.

16 **Sec. 53-203. – Imposition of the tax.**

17 There is hereby levied by the city upon and there shall be collected monthly from and paid to
18 the manager by each employee who performs services within the city for any period of time in a
19 calendar month for an employer, an employee's occupational privilege tax, at the rate of five dollars
20 and seventy-five cents (\$5.75) per month for each and every month in which such employee is, for
21 any period of time, so employed.

22 **Sec. 53-204. - Exemptions.**

23 (a) An employee, otherwise subject to taxation under the provisions of this article, who
24 performs services within the city and one (1) or more other municipalities for a single employer may
25 be exempt from payment of the city employee occupational privilege tax if both of the following
26 conditions are met in each calendar month for which an exemption is claimed:

27 (1) The number of hours of services such employee performs in another municipality
28 exceeds the number of hours of services performed in the city; and

29 (2) Such employee has actually paid to the municipality in which the majority of hours of
30 services were performed an employee occupational privilege tax substantially the
31 same as the one that would have been imposed under this article.

32 (b) Nothing contained in this article shall be construed to empower the city to levy and

1 collect the tax hereby imposed upon any taxpayer not within the taxing power of the city under the
2 Constitution of the United States and the Constitution of the State of Colorado.

3 **Sec. 53-205. – Employers responsible for withholding the tax.**

4 (a) Every employer within the city, as well as every employer situated outside of the city
5 who engages in business within the city, and who employs one (1) or more natural persons
6 exercising within the city the taxable privilege set forth in section 53-200 of the code, is hereby
7 charged with the duty of collecting monthly from each of the employer's employees exercising the
8 taxable privilege the sum of five dollars and seventy-five cents (\$5.75) per month for each month in
9 which such privilege is exercised, and is also charged with the duty of making a return and payment
10 of the tax to the manager. Further, each employer is hereby authorized to deduct this tax from the
11 compensation of each employee in the employer's employ, whether the employee is paid by salary,
12 wages, commission or other compensation, and whether or not all of such services are performed
13 within the city.

14 (b) All amounts deducted and withheld by an employer from the wages of an employee
15 shall be considered a tax collected under the provisions of this article, and no employee shall have
16 any right of action against the employer in respect to any moneys so deducted and withheld from
17 wages and paid over to the city in compliance and in intended compliance with this article.

18 (c) Employers that are exempt from the business occupational privilege tax imposed in
19 article VI of this chapter, including the State of Colorado and School District No. 1, are subject to
20 withholding provisions herein and must withhold the tax levied by section 53-203 of the code for each
21 taxable employee.

22 (d) The manager is authorized to enter into voluntary agreements with employers who are
23 not subject to or claim they are not subject to the withholding provisions herein, in order that the
24 employer may withhold, collect and remit the tax imposed by this article upon all their employees
25 exercising the taxable employee occupation privilege within the city.

26 (e) The manager is hereby required to withhold from wages, salaries, commissions or
27 other compensation of all employees of the city the tax herein imposed and to account for the same
28 as set out in this article.

29 (f) Each employee who shall have more than one (1) employer within the city shall be
30 subject to the payment of this tax by the principal employer and the principal employer shall deduct
31 this tax and when requested so to do shall deliver to the employee evidence on a form to be furnished
32 to the employer by the manager, which form shall be evidence of deduction having been made, and

1 when presented to any other employer, shall be authority for such employer to not deduct this tax
2 from the employee's wages.

3 (g) The failure or omission by any employer to withhold the tax imposed by section 53-203
4 of the code shall not relieve the employee from the payment of the tax and from compliance by such
5 employee with the requirements in this article and article I of this chapter, including filing returns and
6 remitting the tax to the manager.

7 **Sec. 53-206. – Employers responsible for payment of tax.**

8 (a) Every employer shall, irrespective of other provisions of this article and article I of this
9 chapter, be liable and responsible for the payment of the tax imposed in this article.

10 (b) *Returns.* Every taxpayer obligated to collect and/or pay any of the tax imposed in this
11 article shall file a return and remit the total amount due to the manager in accordance with section
12 53-7 of the code.

13 **DIVISION 2 – REGISTRATION**

14 **Sec. 53-210. - Registration required.**

15 (a) Every employer within the city, as well as every employer situated outside of the city
16 who engages in business within the city and every person engaged in any business, trade,
17 occupation, profession or calling of any kind having a fixed or transitory situs within the city, for any
18 period of time in a calendar month within the city shall file an occupational privilege tax registration
19 with the department of finance.

20 (b) No fee shall be charged for an occupational privilege tax registration.

21 **Section 6.** Article VI, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
22 and is reenacted to read as follows:

23 **ARTICLE VI – BUSINESS OCCUPATIONAL PRIVILEGE TAX**

24 **DIVISION 1. - GENERALLY**

25 **Sec. 53-250. - Legislative intent.**

26 The city council finds, determines and declares that considering the business and occupations
27 in the city, and the relation of such business and occupations to the municipal welfare, as well as the
28 relation thereof to the expenditures required by the city and proper, just and equitable distribution of
29 the tax burdens within the city and all matters proper to be considered in relation thereto, and that
30 the tax imposed on each business is reasonable, proper, uniform and nondiscriminatory and
31 necessary for a just and proper distribution of tax burdens within the city.

32 **Sec. 53-251. - Purpose of tax.**

1 The council declares hereby that the purpose of the levy of the tax imposed by this article is
2 for the raising of funds:

3 (a) For the servicing and retirement of revenue bonds and revenue refunding bonds, except
4 airport revenue bonds, issued for the financing of, in whole or in part, or related to repair or
5 improvement of, city facilities and equipment or to make required deposits to any reserve or other
6 similar account established by the manager pursuant to the ordinance authorizing the issuance of
7 such bonds; and

8 (b) For the general welfare and operation of the city; in accordance with this purpose, all of
9 the proceeds of the tax shall be placed in the unapportioned occupational (head) tax account of the
10 fund plan, section 20-18 of the code, to be allocated, transferred and disbursed by the manager in
11 accordance with the provisions therein made.

12 **Sec. 53-252. - Definitions.**

13 (a) The following words and phrases shall have the meanings given to them in this section,
14 unless the context clearly requires a different meaning.

15 (1) "Business" shall mean any business, trade, occupation, profession, avocation or
16 calling of any kind carried on or engaged in by any person having a fixed or transitory
17 situs within the city.

18 (2) "Employee" shall mean any natural person who performs within the city sufficient
19 services to receive as compensation therefor from an employer no less than five
20 hundred dollars (\$500.00) for any period of time in a calendar month upon a salary,
21 wage, commission or other basis of compensation, whether or not all of the services
22 of such person are performed within the city.

23 (3) "Engage in business" shall mean to carry on or take part in the operation of the
24 business as owner, operator or agent.

25 **Sec. 53-253. - Imposition of tax.**

26 (a) There is hereby levied by the city upon, and there shall be collected monthly from and
27 paid to the manager by, every person engaged in any business, trade, occupation, profession or
28 calling of any kind having a fixed or transitory situs within the city, for any period of time in a calendar
29 month within the city, a business occupational privilege tax in the sum of four dollars (\$4.00) per
30 month for the first owner, partner, manager or employee, and the additional sum of four dollars
31 (\$4.00) per month for each and every additional owner, partner, manager or employee who performs
32 within the city for any period of time in a calendar month any services or other activities in the

1 operation of such business, trade, occupation, profession or calling within the city.

2 **Sec. 53-254. - Exemptions.**

3 (a) There shall be exempt from taxation under the provisions of this article the following:

4 (1) Any charitable organization engaging in its regular organizational or operational
5 activities.

6 (2) Any owner, partner, manager or employee engaged in business within the city, who
7 performs services within the city and one (1) or more other municipalities and who
8 would otherwise be subject to taxation under the provisions of this article, if both of the
9 following conditions are met in each calendar month for which an exemption is claimed;

10 (i) the number of hours of services the owner, partner, manager or employee for which
11 an exemption is claimed, performs in another municipality exceeds the number of
12 hours of services performed in the city; and (ii) such employer or person engaged in
13 business has actually paid to the municipality in which the majority of hours of services
14 were performed by each owner, partner, manager or employee for which an exemption
15 is claimed, an employer or business occupational privilege tax substantially the same
16 as the one that would have been imposed under this article.

17 (3) Any business that the city is prohibited from taxing under the Constitution or laws of
18 the United States or the Constitution of the State of Colorado.

19 (b) The burden of proving that any person engaged in business within the city is exempt
20 from payment of the business occupational privilege tax under this article shall be on the person
21 claiming such exemption, and such proof shall be by a preponderance of evidence.

22 **Sec. 53-255. – Returns.**

23 Every taxpayer obligated to collect and/or pay any of the tax imposed in this article shall file
24 a return and remit the total amount due to the manager in accordance with section 53-7 of the code.

25 **DIVISION 2 – REGISTRATION**

26 **Sec. 53-260. - Registration required.**

27 (a) Every employer within the city, as well as every employer situated outside of the city
28 who engages in business within the city and every person engaged in any business, trade,
29 occupation, profession or calling of any kind having a fixed or transitory situs within the city, for any
30 period of time in a calendar month within the city shall file an occupational privilege tax registration
31 with the department of finance.

32 (b) No fee shall be charged for an occupational privilege tax registration.

1 **Section 7.** Article VII, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
2 and is reenacted to read as follows:

3 **ARTICLE VII – FACILITIES DEVELOPMENT ADMISSION TAX**

4 **Sec. 53-300. - Name of tax.**

5 This article shall be known and cited as the facilities development admissions tax article.

6 **Sec. 53-301. - Legislative intent.**

7 (a) It is hereby declared to be the legislative intent of the city council that, for the purposes
8 of this article, every person who purchases an admission is exercising a taxable privilege.

9 (b) It is hereby declared to be the legislative intent of the city council that, for the purposes
10 of this article, every vendor who shall make a sale of admission to a purchaser shall collect the tax
11 imposed by this article in the manner herein set forth for each admission furnished at any one (1)
12 time.

13 **Sec. 53-302. - Purpose of tax.**

14 The council of the city hereby declares that the purpose of the levy of the tax imposed by this
15 article is for the payment of expenses in acquiring, constructing, installing, maintaining, repairing,
16 operating or improving facilities of the city. The proceeds of said tax shall be placed in the
17 unapportioned facilities development admissions tax account of the treasurer's group of accounts
18 fund of the Revised Municipal Code from which account there shall be allocated to an appropriate
19 account of any trust fund created by the manager pursuant to authorization given to the manager by
20 any ordinance authorizing the issuance of revenue bonds, including revenue refunding bonds but
21 not including any airport revenue bonds, the proceeds of which are to be used for the acquisition,
22 construction, installation, improvement, maintenance or repairing of facilities of the city, or the
23 refunding of bonds issued for any of those purposes, such amounts as determined by the manager
24 necessary to pay the interest and principal due upon such duly authorized, issued and outstanding
25 revenue or revenue refunding bonds, or to make required deposits to any reserve or other similar
26 account established by such ordinance, provision for whose payment has not otherwise been duly
27 made. After sufficient aggregate receipts have been placed in any such accounts as provided in
28 such ordinances, the manager shall transfer as surplus facilities development admissions tax
29 receipts any balance remaining in the unapportioned facilities development admissions tax account
30 to an appropriate account of the special trust funds of the fund plan, section 20-18 of the code, to
31 which account shall also be transferred any balance accruing as a result of investment earnings over
32 and above the bond requirements aforesaid, and said surplus, if any, may be transferred to the

1 capital improvements fund of said fund plan to the extent necessary to account for any allocations
2 and transfers from the unapportioned occupational (head) tax account of the fund plan made by the
3 manager to meet the bond requirements of any of the aforesaid revenue or revenue refunding bonds;
4 following such transfer to the capital improvements fund, the manager may redeem with remaining
5 surplus outstanding revenue or revenue refunding bonds prior to their maturities; otherwise, such
6 surplus to be expended by appropriation as part of the general fund budget or for unforeseen
7 contingencies in accordance with the Charter.

8 **Sec. 53-303. - Definitions.**

9 (a) The following words and phrases shall have the meanings given to them in this section,
10 unless the context clearly requires a different meaning.

11 (1) "Admission" shall mean the right to an entrance and an occupancy of a seat or an
12 entrance alone, of a person who, for a consideration by whatever name known,
13 including involuntary "contributions," uses, possesses or has the right to use or
14 possess entrance and occupancy of a seat or an entrance alone to any entertainment,
15 amusement, athletic event, exhibition or other production or assembly staged,
16 produced, convened or held at or on any facility or property owned or leased by the
17 city, including, but not limited to, the following facilities: the Denver Coliseum Complex;
18 the Red Rocks Theatre; Phipps Auditorium; the Denver Performing Arts Complex; the
19 National Western Stock Show Complex; and the Colorado Convention Center.

20 (2) "Gross taxable sales" shall mean the total amount, valued in money, received or to be
21 received in money, credits, property or other consideration derived from sales of
22 admissions subject to the tax imposed by this article.

23 (3) "Purchase or sale" shall mean contract for sale and include any transaction for the
24 furnishing by any person to any person of the taxable privilege of admission.

25 (4) "Purchaser" shall mean any person to whom the taxable privilege of admission is or
26 has been rendered.

27 (5) "Tax" shall mean either the tax payable by the purchaser or the aggregate amount of
28 taxes due from a vendor.

29 (6) "Vendor" shall mean a person making a sale to a purchaser of the taxable privilege of
30 admission.

31 **Sec. 53-304. - Imposition of the tax.**

32 (a) There is levied and there shall be collected and paid a tax in the amount stated in this

1 article on the purchase price of admissions.

2 **Sec. 53-305. - Exemptions.**

- 3 (a) There shall be exempt from the provisions of this article the following:
- 4 (1) Admissions to events in which the persons participating or performing in the event are
5 not paid or do not compete for money or are not paid and do not compete for money
6 and which have been granted exemption in advance by the manager;
- 7 (2) All sales which the city is prohibited from taxing under the Constitution and laws of the
8 United States of America or under the Constitution of the state;
- 9 (3) All sales to or by the United States government or the state, its departments or
10 institutions, and the political subdivisions thereof that are:
- 11 a. Billed directly to such governmental entities;
- 12 b. Paid directly from funds of such governmental entities: and
- 13 c. Used exclusively by such governmental entities in their governmental capacities.
- 14 (4) All sales to charitable organizations that are:
- 15 a. Billed directly to the charitable organization;
- 16 b. Paid directly from funds of the charitable organization; and
- 17 c. Used exclusively for the charitable organization's organizational or operational
18 purposes.
- 19 (5) Admissions for which no consideration of any sort is paid.

20 **Sec. 53-306. - Collection of tax by vendor; liability.**

- 21 (a) A tax in the amount of ten (10) percent is imposed on the price of each admission.
- 22 (b) Every vendor making a sale to a purchaser which is taxable under the provisions of
23 this article is required at the time of making such sale to collect the tax imposed by this article from
24 the purchaser.
- 25 (c) Whenever admissions are sold under an installment purchase-plan or a purchase plan
26 allowing deferred payment, the tax levied by this article shall be based on the total purchase price.
- 27 (d) The tax to be collected as provided herein shall be conspicuously, indelibly and
28 separately stated and charged from the sale price on the ticket or card evidencing the sale and
29 shown separately from the sale price on any record made thereof at the time of the sale or at the
30 time when evidence of the sale is first issued or employed by the vendor, provided, however, that
31 when added, such tax shall constitute a part of such purchase price or charge and shall be a debt
32 from the purchaser to the vendor until paid and shall be recoverable at law in the same manner as

1 other debts. The tax shall be paid by the purchaser to the vendor, who, as trustee for and on account
2 of the city, shall be liable to the city for the collection and return thereof.

3 (e) Every vendor shall add the tax imposed by this article to the purchase price, charge or
4 other consideration paid for the taxable privilege of admission, provided, however, that the vendor
5 shall be liable and responsible to the city for the payment of an amount equivalent to said tax on
6 each such admission based on his gross taxable sales irrespective of the provisions of subsection
7 53-301(b) of the code.

8 (f) Every taxpayer obligated to collect and/or pay any of the tax imposed in article shall
9 file a return and remit the total amount due to the manager in accordance with section 53-7 of the
10 code.

11 (g) A credit will be allowed the vendor in the return of sales of admissions for admissions
12 that have been surrendered by the purchaser, provided that the full sale price thereof and the full tax
13 due and paid thereon have been refunded by the vendor to the purchaser.

14 (h) Taxes paid hereunder on admissions represented by accounts that are unsecured by
15 conditional sales contracts or security agreements, that are found to be worthless and that are
16 actually and properly charged off as bad debts for the purpose of income-tax reporting under the
17 laws of the United States, may be credited upon subsequent returns of the tax, but if any such
18 accounts are thereafter collected by the vendor, a tax shall be paid in accordance with the terms of
19 this article upon the amount so collected.

20 **Section 8.** Article VIII, Chapter 53 of the Revised Municipal Code, is repealed in its entirety
21 and is reenacted to read as follows:

22 **ARTICLE VIII – TELECOMMUNICATIONS BUSINESS TAX**

23 **DIVISION 1. - GENERALLY**

24 **Sec. 53-350. - Title.**

25 This article may be referred to and shall be known as the telecommunications business tax
26 article.

27 **Sec. 53-351. - Purpose of tax.**

28 The tax levied under this article is imposed purely for the purpose of raising revenue to support
29 the government of the city, and is in addition to all other taxes, excises, license fees or charges
30 levied or imposed under any other provision of the code or ordinance of the city, or under the general
31 laws of the state. Payment of the tax imposed by this article shall not relieve a person from the
32 payment of any other tax or charge unless specifically so provided in the other taxing or charging

1 enactment. Neither the nonpayment, delinquency in payment, nor any violation of this article shall
2 be grounds for the suspension or revocation of any license issued by any licensing authority pursuant
3 to the statutes of the state or the charter or code of the city.

4 **Sec. 53-352. - Definitions.**

5 (a) The following words and phrases shall have the meanings given to them in this section,
6 unless the context clearly requires a different meaning.

7 (1) "Account" means a periodically rendered statement to a customer of a
8 telecommunications business listing charges and credits.

9 (2) "Local exchange telecommunications" means telecommunication services of the type
10 that provide through any means, irrespective of ownership of the media through which
11 such services are provided, a local dial-tone line and local usage necessary to send or
12 receive a telecommunication within an "exchange area" as defined by the public utilities
13 commission of the state and, further, includes any other service or feature that may be
14 added to the statutory definition of "basic local exchange service" found in subsection
15 40-15-102(3), C.R.S., by the commission under subsection 40-15-502(2), C.R.S.

16 (3) "Telecommunications" means communication services wherein devices or
17 instruments, operable by the general public as opposed to the employees of a
18 telecommunications business only, using electromagnetic wire or radio waves control
19 or direct the sending and receiving of messages at a distance. Telephone and
20 telegraph companies operating as public utilities are included in the definition, but
21 commercial broadcasters of radio and television programs are not.

22 (4) "Telecommunications business" means a business providing telecommunications to its
23 customers.

24 **Sec. 53-353. - Imposition of tax.**

25 There is levied a tax on the privilege of engaging in the telecommunications business within
26 the city upon each business so engaged one and twelve-hundredths dollars (\$1.12) for each
27 account of such business regarding a customer for which local exchange telecommunications are
28 provided by said business within the city.

29 **Sec. 53-354. - Exemptions.**

30 Nothing in this article shall be construed so as to empower the city to levy and collect the tax
31 imposed hereby upon any person not within the taxing power of the city under the Constitutions of
32 the United States and the State of Colorado.

1 **Sec. 53-355. – Returns.**

2 Every taxpayer obligated to collect and/or pay any of the tax imposed in article shall file a
3 return and remit the total amount due to the manager in accordance with section 53-7 of the code.

4 **Section 9.** Article IX of Chapter 53 of the Revised Municipal Code is enacted to read as
5 follows:

6 **ARTICLE IX. - GENERAL**

7 **Sec. 53-400. - Generally.**

8 (a) *Examinations and reports required.* An examination of the books and records and
9 supporting documents pertaining to the assessment of real estate as maintained by the manager in
10 the exercise of the powers and the performance of the acts and duties required by the constitution,
11 or general laws of the state, to be exercised or performed by the county assessor, shall be made at
12 least once each year. Such examination shall be made in accordance with generally accepted
13 auditing standards. A report shall be made to the mayor, to the city council, and to the manager as
14 to the reliability of real estate assessment roll and tax warrant as certified in accordance with the
15 laws of the state, and the effectiveness of the internal control of real estate assessments within the
16 city. Such report shall become a matter of public record within the office of the manager.

17 (b) *By whom examinations and reports made.* The examinations and reports required by
18 subsection (a) may be made by the expert accountant employed by the audit committee pursuant to
19 subsection 5.2.2(A) of the Charter, if so directed by the audit committee.

20 (c) *Accessibility of records.* The manager shall make freely accessible to the expert
21 accountant employed by the audit committee, or to the auditor, as the case may be, such of the
22 records in the manager's office as are necessary to permit the examinations and reports required by
23 subsection (a) to be adequately conducted and made.

24 **Sec. 53-401. - Special assessments on land taken by eminent domain.**

25 In all cases where an entire property, or a portion of any parcel, tract or lot of property, is likely
26 to become legally exempt from special assessments through exercise of the power of eminent
27 domain, the manager shall be joined as a party respondent in any such action, and upon joinder and
28 notice of the proceedings, the manager shall assert a claim for the amount of all special
29 assessments, penalty interest or charges thereon with the clerk of the court in which the proceedings
30 are filed. Upon institution of any such proceedings, the lien of special assessments levied shall be
31 transferred from the property acquired or sought to be acquired to any money awarded or to be
32 awarded for the taking of such property. Nothing herein contained shall require the manager to file

1 a claim in any such proceedings involving acquisition of only a portion of any property if the manager
2 is satisfied that there is sufficient taxable property remaining after the taking of such portion to satisfy
3 any lien for the amount of special assessments payable on such portion taken, and in such event,
4 the lien for special assessments shall be transferred in its entirety from the part of the property taken
5 to the part of the property of the same owner and not taken.

6 **Sec. 53-402. - Charge for unpaid bank drafts and other negotiable instruments.**

7 Whenever any person shall give or cause to be given to the city, or any department or agency
8 thereof, a negotiable instrument drawn on a bank, savings and loan association, or similar financial
9 institution in purported payment of any obligation due the city, which instrument is dishonored or
10 unpaid because of improper signature or by reason of the drawer having no account or having
11 insufficient funds therein or having stopped payment on the negotiable instrument, and the manager
12 shall have determined that the instrument in all probability will not be honored or paid through normal
13 banking channels within a reasonable period of time, there shall be added to the obligation due the
14 city the charge of thirty dollars (\$30.00) to cover the additional cost of collection to the city thereby
15 entailed. Such charge shall be collected in the same manner as prescribed for any other
16 indebtedness due the city, and any receipt theretofore given in reliance upon such instrument shall
17 be null and void, and no other receipt shall be given for the payment of the original indebtedness
18 until the charge has also been paid.

19 **Sec. 53-403. - Collection methods and collection fees for unpaid debts.**

20 (a) *Collection methods.* To collect on past due fines, debts, fees, or dishonored bank drafts
21 and other negotiable instruments, the city may employ any collection method available, including
22 assigning such accounts to private counsel or private collection agencies. In order to collect
23 delinquent fines, debts, fees, or dishonored bank drafts and other negotiable instruments, the city
24 may, at its option, sue the debtor in any court of competent jurisdiction. If suit is brought, then
25 reasonable collection costs, attorney's fees, and legal expenses shall be added to the amount due.
26 In the case of dishonored bank drafts and other negotiable instruments, in addition to the fee
27 provided for in section 53-402 of the code, the city may pursue all remedies provided for in the
28 Colorado Revised Statutes.

29 (b) *Fee schedule.* Whenever any account or debt due the city, or any department or
30 agency thereof, excluding taxes or dishonored bank drafts and other negotiable instruments, is
31 referred for collection, the following collection fees will be added to the original debt amount:

Amount of debt	Collection fee
----------------	----------------

\$0.01 to 50.00	\$20.00
\$50.01 to 100.00	\$30.00
\$100.01 to 150.00	\$40.00
\$150.01 to 200.00	\$60.00
\$200.01 to 300.00	\$80.00
\$300.01 and above	30% of the debt amount

1

2 The debtor shall be liable for repayment of the total of the amount outstanding plus the
3 collection fee. The city may, at its option, waive the collection fee for good cause shown.
4 These fees will apply to accounts which become delinquent on or after the effective date.

5 **Sec. 53-404. - Property acquired due to unpaid taxes.**

6 (a) *Disposition of property acquired by tax deed.* Whenever title to any real estate is
7 conveyed to the City and County of Denver by tax deed or treasurer's tax deed, the board of
8 equalization shall have the power to lease or to sell the same, whenever the mayor certifies in writing
9 to said board that such real estate is not necessary or useful for municipal purposes. When such
10 real estate is so leased, the same shall be leased for the highest rent obtainable, considering the
11 condition and location of such real estate, in the discretion of the board, for a term not exceeding
12 five years. At the board's discretion, such real estate may be offered for sale by public auction, or by
13 sealed bids, reserving in the board the right and power to accept or reject any or all bids. Such real
14 estate may only be sold by the board for cash. Prior to such sale, notice of sale shall be advertised
15 in an official publication for a sufficient duration and number of times as the board determines is
16 sufficient publication and in compliance with applicable laws. Sale shall be held at a location in the
17 City and County of Denver as specified in said notice. When such real estate is so sold by the board,
18 the mayor, upon written directions of the board, shall execute the deed thereto for and on behalf of
19 said board and the City and County of Denver without covenants of title or warranties.

20 (b) *Sale of tax certificates.* The board of equalization shall also have the power to sell and
21 dispose of any and all tax certificates now held or owned by the City and County of Denver, issued
22 for the cost of public improvements or general taxes.

23 (c) *Property sold for unpaid public improvement assessments; reinstatement by board.*
24 The board of equalization shall have the power to reinstate any and all property sold for public
25 improvement assessments, where the tax certificates are held by the city and county upon the
26 payment of all the installments that would have been due up to the time of the reinstatement, had

1 the property not been sold, including accrued interest and cost of sale, and the owner shall thereupon
2 be restored to the right thereafter to pay in installments in the same manner as if default had not
3 been suffered. The City and County of Denver may thereafter sell the property for unpaid subsequent
4 installments the same as if said sale had not been made. When there is a default in the payment of
5 principal or interest of public improvement assessments, the whole shall become due and payable
6 immediately, and the treasurer shall sell the same as provided by law, but the board of equalization
7 may reinstate on part payment as above provided.

8 COMMITTEE APPROVAL DATE: _____

9 MAYOR-COUNCIL DATE: _____

10 PASSED BY THE COUNCIL: _____

11 _____ - PRESIDENT

12 APPROVED: _____ - MAYOR _____

13 ATTEST: _____ - CLERK AND RECORDER,
14 EX-OFFICIO CLERK OF THE
15 CITY AND COUNTY OF DENVER

16 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

17 PREPARED BY: Charles T. Solomon, Assistant City Attorney DATE: _____

18 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
19 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
20 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
21 §3.2.6 of the Charter.

22
23 Kristin M. Bronson, Denver City Attorney

24 BY: _____, Assistant City Attorney DATE: _____