

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2017

COUNCIL BILL NO. CB17-_____
COMMITTEE OF REFERENCE:

A BILL

For an ordinance amending the definitions in Articles I, II, and III of Chapter 53 (Taxation and Miscellaneous Revenue) of the Denver Revised Municipal Code to adopt standardized definitions developed and recommended by the Colorado Municipal League.

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

Section 1. That section 53-7 of the Denver Revised Municipal Code is hereby amended by adding the underlined language and deleting the stricken language to read and be read as follows:

Sec. 53-7. - Definitions.

The following words and phrases, when used in this chapter, shall have the meanings given to them in this section, except where the context in which they are used indicates clearly and requires a different meaning according to customary usage.

(1) “City” means the City and County of Denver or the geographical area within its territorial limits, depending upon the context.

(2) “Director of excise and licenses” means the director of excise and licenses for the City and County of Denver.

(3) “Manager” means the manager of finance for the City and County of Denver or the manager of finance's designee.

(4) ~~Person means any natural person, corporation, partnership, limited liability company, association, and other legal entities.~~ 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.

(5) “Taxpayer” means any person obligated to ~~account to the manager for taxes collected or to be collected, or from whom a tax is due,~~ collect and/or pay tax under the terms of this chapter.

Section 2. That section 53-24 of the Denver Revised Municipal Code is hereby amended by adding the underlined language and deleting the stricken language to read and be read as follows:

Sec. 53-24. - Definitions.

1 As used in this article, the following words, phrases and, where applicable, their
2 declensional and inflectional forms shall have the meanings given to them in this section except
3 where the context in which they are used indicates clearly and requires a different meaning
4 according to customary usage. The words "shall" and "must" are to be construed as mandatory
5 and not directory. In addition to the following definitions, the definitions and general provisions of
6 chapter 1 shall be applicable insofar as not expressly inconsistent with the provisions hereof.

7 ~~(1) Aircraft means any contrivance now known or hereafter invented, used, or designed~~
8 ~~for navigation or flight through the air and designed to carry at least one person.~~
9 ~~Aircraft shall not include aircraft parts.~~

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

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

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

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

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

29 (6) "Automotive vehicle" means any vehicle or device in, upon, or by which any person or
30 property is or may be transported or drawn upon a public highway, or any device
31 used or designed for aviation or flight in the air. Automotive vehicle includes, but is

1 not limited to, motor vehicles, trailers, semi-trailers or mobile homes. Automotive
2 vehicle shall not include devices moved by human power or used exclusively upon
3 stationary rails or tracks.

4 (7) “Business” ~~shall include~~ means all activities engaged in or caused to be engaged in
5 with the object of gain, benefit or advantage, direct or indirect.

6 (8) “Charitable corporation” ~~shall means~~ a corporation organized and operating
7 exclusively for the purpose of providing a gift for an indefinite number of persons who
8 are either residents of the city or using facilities of the city on a regular basis that
9 lessens the economic burdens of the city by making the gift to the young, aged, poor,
10 infirm or uneducated. Lessening the economic burden of the city by making a gift to
11 the uneducated shall mean providing free instruction or training to a majority of
12 enrollees on subjects useful to the individual and beneficial to the community by
13 schools having a regularly scheduled curriculum, a regular faculty, and a regularly
14 enrolled body of students in attendance at a place where educational activities are
15 regularly carried on. This definition of charitable corporation shall not necessarily
16 include religious corporations, which may be exempt on a religious basis whether or
17 not they fall within the definition of a charitable corporation.

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

1 (10) “Cover charge” means a charge paid to a club or similar entertainment establishment
2 which may, or may not, entitle the patron paying such charge to receive tangible
3 personal property, such as food and/or beverages.

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

16 ~~(10) *Farm machinery* means self-propelled or power-drawn equipment used directly for~~
17 ~~plowing, planting, cultivating and harvesting of crops, such as combines, tractors,~~
18 ~~plows, discs, planters and rakes.~~

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

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

5 (4112) "Food" shall mean:

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

27 (13) "Gross sales" means the total amount received in money, credit, property or other
28 consideration valued in money for all sales of tangible personal property, products, or
29 services.

30 ~~(12) Gross taxable sales means the total amount received in money, credits, property,~~
31 ~~including the fair market value of exchange property which is to be sold thereafter in~~

1 ~~the usual course of the retailer's business, or other consideration valued in money~~
2 ~~from sales and purchases or sales at retail or deemed to be at retail, within the city,~~
3 ~~and embraced within the provisions of this article gross sales less any exemptions, in~~
4 ~~addition to the following deductions and credits:~~

5 a. ~~Provided, however, that the vendor may take credit in his report of gross sales~~
6 ~~for an amount equal to the sale price of property returned by the purchaser~~
7 ~~when the full sale price thereof is refunded, either in cash or by credit;~~

8 b. ~~Provided, further, that deduction for an amount equal to the fair market value~~
9 ~~of any exchanged property which is to be sold thereafter in the usual course of~~
10 ~~the retailer's business, if included in the full price of a new article, shall be~~
11 ~~excluded from gross taxable sales;~~

12 c. ~~Provided, further, that credit for an amount equal to taxes paid on the amount~~
13 ~~of gross sales which are represented by accounts not secured by a conditional~~
14 ~~sale contract or chattel mortgage and which are found to be worthless and are~~
15 ~~actually and properly charged off as bad debts for the purpose of the income~~
16 ~~tax imposed by the laws of the state may be credited upon a subsequent~~
17 ~~payment of the tax herein provided; but if any such accounts are thereafter~~
18 ~~collected by the vendor, a tax shall be paid upon the amount so collected.~~
19 ~~Such credit shall not be allowed with respect to any account or item therein~~
20 ~~arising either from the sale of any article under a conditional sale contract~~
21 ~~whereby the vendor retains title as security for all or part of the purchase price~~
22 ~~or from the sale of any article when the vendor takes a chattel mortgage on~~
23 ~~the article to secure all or part of the purchase price.~~

24 (14) "Internet subscription" service means software programs, systems, data and
25 applications available online through rental, lease or subscription, that provide
26 information and services including, but not limited to, data linking, data research, data
27 analysis, data filtering or record compiling.

28 ~~(13) *Manufacturing* is the performance as a business of an integrated series of operations~~
29 ~~which places personal property in a form, composition or character different from that~~
30 ~~in which it was acquired whether for sale or for use by the manufacturer. The change~~
31 ~~in form, composition or character must result in a different product having a~~

1 ~~distinctive name, character and use.~~

2 (15) "Manufacturing" means the operation or performance of an integrated series of
3 operations which places a product, article, substance, commodity, or other tangible
4 personal property in a form, composition or character different from that in which it
5 was acquired whether for sale or for use by a manufacturer. The change in form,
6 composition or character must result in a different product having a distinctive name,
7 character or use from the raw or prepared materials.

8 ~~(1416)~~ "Medical supplies" shall mean prescription drugs for humans, prosthetic devices for
9 humans, and special beds for patients with neuromuscular or similar debilitating
10 ailments, when sold for the direct, personal use of a specific individual in accordance
11 with a prescription or other written directive issued by a licensed practitioner of
12 medicine, dentistry or podiatry; corrective eyeglass lenses (including eyeglass
13 frames), and corrective contact lenses, when sold for the direct, personal use of a
14 specific individual in accordance with a prescription or other written directive issued
15 by a licensed practitioner of medicine or optometry; wheelchairs, and crutches, when
16 sold for the direct, personal use of a specific individual; oxygen and hemodialysis
17 products for use by a medical patient, hearing aids, hearing aid batteries, insulin,
18 insulin measuring and injecting devices, glucose to be used for treatment of insulin
19 reactions, and human whole blood, plasma, blood products and derivatives. This
20 exemption excludes items purchased for use by medical and dental practitioners or
21 medical facilities in providing their services, even though certain of those items may
22 be packaged for single use by individual patients after which the item would be
23 discarded.

24 ~~(1517)~~ "Motor fuel" shall mean gasoline, casing head or natural gasoline, benzol, benzene
25 and naphtha, gasohol and any liquid prepared, advertised, offered for sale, sold for
26 use or used or commercially usable in internal combustion engines for the generation
27 of power for the propulsion of motor vehicles upon the public highways. The term
28 does not include fuel used for the propulsion or drawing of aircraft or railroad cars or
29 railroad locomotives, however.

30 ~~(16)~~ Pay television shall include, but not be limited to, cable, microwave or other television
31 service for which a charge is imposed.

1 (4718) “Prepress preparation” material means all materials used by those in the printing
2 industry including, but not limited to, airbrush color photos, color keys, dies,
3 engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar,
4 plates, proofing materials, tape, transparencies, and veloxes, which are used by
5 printers in the preparation of customer specific layouts or in plates used to fill
6 customers' printing orders, which are eventually sold to a customer, either in their
7 original purchase form or in an altered form, and for which a sales or use tax is
8 demonstrably collected from the printer's customer, if applicable, either separately
9 from the printed materials or as part of the inclusive price therefor. Materials sold to a
10 printer which are used by the printer for the printer's own purposes, and are not sold,
11 either directly or in an altered form, to a customer, are not included within this
12 definition.

13 (19) “Prescription drugs for humans” means a drug which, prior to being dispensed or
14 delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect.
15 301, et. seq., as amended, to state at a minimum the symbol “Rx Only”, and is
16 dispensed in accordance with any written or electronic order dated and signed by a
17 licensed practitioner of the healing arts, or given orally by a practitioner and
18 immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy
19 intern, specifying the name and any required information of the patient for whom the
20 medicine, drug or poison is offered and directions, if any, to be placed on the label.

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

1 exchanged property is subject to tax.

2 Price or purchase price includes:

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

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

6 (3) Any consideration valued in money, whereby the manufacturer or someone
7 else reimburses the retailer for part of the purchase price and other media of
8 exchange.

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

17 (5) Installation, applying, remodeling or repairing the property, delivery and
18 wheeling-in charges included in the purchase price and not separately stated.

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

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

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

26 Price or purchase price shall not include:

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

29 (2) The fair market value of property exchanged if such property is to be sold

1 thereafter in the retailers' usual course of business. This is not limited to
2 exchanges in Colorado. Out of state trade-ins are an allowable adjustment to
3 the purchase price.

4 (3) Discounts from the original price if such discount and the corresponding
5 decrease in sales tax due is actually passed on to the purchaser, and the
6 seller is not reimbursed for the discount by the manufacturer or someone else.
7 An anticipated discount to be allowed for payment on or before a given date is
8 not an allowable adjustment to the price in reporting gross sales.

9 (21) “Prosthetic devices for humans” means any artificial limb, part, device or appliance
10 for human use which ~~aids or replaces a~~ body party or aids or replaces a bodily
11 function; is designed, manufactured, altered or adjusted to fit a particular individual
12 patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic
13 devices include, but are not limited to, prescribed auditory, ophthalmic or ocular,
14 cardiac, dental or orthopedic devices or appliances, oxygen concentrators and
15 oxygen with related accessories.

16 ~~(19) Purchase price or price means the aggregate value measured in currency paid or~~
17 ~~delivered or promised to be paid or delivered in consummation of a sale, without any~~
18 ~~discount from the price on account of the cost of the property sold, cost of materials~~
19 ~~used, labor or service cost, transportation and delivery charges, or any other expense~~
20 ~~whatsoever; and provided that when articles of tangible personal property are sold by~~
21 ~~the manufacturer after manufacture or after having been made to order, the gross~~
22 ~~value of all materials, labor and services, inclusive of the profit thereon, shall be~~
23 ~~included in the purchase price; but said price shall be exclusive of any direct tax~~
24 ~~imposed by the federal government, by the state or by this article; and in the case of~~
25 ~~all retail sales involving the exchange of property, also exclusive of the fair market~~
26 ~~value of the property exchanged at the time and place of exchange; provided,~~
27 ~~however, that such exchanged property is to be sold thereafter in the usual course of~~
28 ~~the retailer's business. "Price" and "purchase price" shall not include the following:~~
29 ~~a. The consideration received for labor or services used in installing, applying,~~
30 ~~remodeling or repairing the property sold if the consideration for such services~~
31 ~~is separately stated from the consideration received for the tangible personal~~
32 ~~property in the retail sale;~~

1 b. ~~The amount paid by any purchaser as, or in the nature of, interest or finance~~
2 ~~charges on account of credit extended in connection with the sale of any~~
3 ~~tangible personal property if the interest or finance charges are separately~~
4 ~~stated from the consideration received for the tangible personal property~~
5 ~~transferred in the retail sale.~~

6 (22) "Purchase" or "sale" means the acquisition for any consideration by any person of
7 taxable tangible personal property, products, or services. These terms include
8 capital leases, installment and credit sales, and property and services acquired by:

9 (1) Transfer, either conditionally or absolutely, of title or possession or both to
10 taxable tangible personal property, products, or services;

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

14 (3) Performance of taxable services; or

15 (4) Barter or exchange for other taxable tangible personal property, products, or
16 services.

17 The terms purchase and sale do not include:

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

20 (2) The transfer of assets of shareholders in the formation or dissolution of
21 professional corporations, if no consideration including, but not limited to, the
22 assumption of a liability is paid for the transfer of assets;

23 (3) The dissolution and the pro rata distribution of the corporation's assets to its
24 stockholders, if no consideration including, but not limited to, the assumption
25 of a liability is paid for the transfer of assets;

26 (4) A transfer of a partnership or limited liability company interest;

27 (5) The transfer of assets to a commencing or existing partnership or limited
28 liability company, if no consideration including, but not limited to, the
29 assumption of a liability is paid for the transfer of assets;

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

3 (2023) “Rail carrier” means "rail carrier" as defined in Section 10102 of Title 49 of the United
4 States Code as of October 10, 2013, and as it may be amended hereafter.

5 (2124) “Rail carrier part” means any tangible personal property that is originally designed
6 and intended to be permanently affixed or attached as a component part of a
7 locomotive or rail car used by a rail carrier.

8 (2225) “Retail sale” means any sale ~~within the city~~ except a wholesale sale.

9 ~~(23) Retailer or vendor means any person selling, leasing, renting or granting a license to~~
10 ~~use tangible personal property or services at retail. Retailer or vendor shall include,~~
11 ~~but is not limited to, any:~~

12 a. ~~— Auctioneer;~~

13 b. ~~— Salesman, representative, peddler or canvasser, who as agent, directly or~~
14 ~~indirectly, of the dealer, distributor, supervisor, employer or principal under~~
15 ~~whom he operates or from whom he obtains the tangible personal property or~~
16 ~~services sold by such agent, makes sales of tangible personal property or~~
17 ~~services subject to the tax imposed herein; and in such event such agent shall~~
18 ~~be responsible for the collection and payment of the tax imposed by this article~~
19 ~~whenever the principal of such agent neglects or refuses to become licensed~~
20 ~~as a vendor hereunder;~~

21 c. ~~— Charitable organization or governmental entity which makes sales of tangible~~
22 ~~personal property to the public, notwithstanding the fact that the merchandise~~
23 ~~sold may have been acquired by gift or donation or that the proceeds are to be~~
24 ~~used for charitable or governmental purposes.~~

25 (26) “Retailer” or “vendor” means any person selling, leasing, renting, or granting a license
26 to use tangible personal property or services at retail. Retailer shall include, but is not
27 limited to, any: (1) auctioneer; (2) salesperson, representative, peddler or canvasser,
28 who makes sales as a direct or indirect agent of or obtains such property or services
29 sold from a dealer, distributor, supervisor or employer; and (3) charitable corporation
30 or governmental entity which makes sales of tangible personal property to the public,

1 notwithstanding the fact that the merchandise sold may have been acquired by gift or
2 donation or that the proceeds are to be used for charitable or governmental
3 purposes.

4 ~~(24) Sale or purchase or sale and purchase~~ includes installment and credit purchases and
5 sales and the exchange of property or services that are taxable under the terms of
6 this article as well as the purchase and sale thereof for money; and every transaction,
7 conditional or otherwise, based upon consideration constitutes a sale. The term
8 "sale," "purchase," or "sale and purchase" includes transactions whereby the
9 acquisition of tangible personal property was effected by (a) the transfer, conditionally
10 or absolutely, of title or possession or both of the tangible personal property; or (b) a
11 lease, hire or rental of, or a grant of a license to use (including royalty agreements),
12 tangible personal property. The terms "sale" and "purchase" and "sale and purchase"
13 do not include:

14 a. ~~A division of partnership assets among the partners according to their interests~~
15 ~~in the partnership;~~

16 b. ~~The transfer of assets of shareholders in the formation or dissolution of~~
17 ~~professional corporations if no consideration including, but not limited to, the~~
18 ~~assumption of a liability is paid for the transfer of assets;~~

19 c. ~~The pro rata distribution of a corporation's assets to its stockholders upon~~
20 ~~dissolution of the corporation if no consideration including, but not limited to,~~
21 ~~the assumption of a liability is paid for the transfer of assets;~~

22 d. ~~A transfer of a partnership interest;~~

23 e. ~~The transfer of assets to a commencing or existing partnership if no~~
24 ~~consideration including, but not limited to, the assumption of a liability is paid~~
25 ~~for the transfer of assets;~~

26 f. ~~The repossession of personal property by a chattel mortgage holder or~~
27 ~~foreclosure by a lienholder.~~

28 (27) "Software program" means a sequence of instructions that can be measured,
29 interpreted and executed by an electronic device (e.g. a computer, tablets, smart
30 phones) regardless of the means by which it is accessed or the medium of

1 conveyance. Software program includes: (1) custom software program, which is a
2 software program prepared to the special order or specifications of a single customer;
3 (2) pre-written software program, which is a software program prepared for sale or
4 license to multiple users, and not to the special order or specifications of a single
5 customer. Pre-written software is commonly referred to as “canned,” “off-the-shelf
6 (“COTS”),” “mass produced” or “standardized;” (3) modified software, which means
7 pre-written software that is altered or enhanced by someone other than the purchaser
8 to create a program for a particular user; and (4) the generic term “software,”
9 “software application,” as well as “updates,” “upgrades,” “patches,” “user exits,” and
10 any items which add or extend functionality to existing software programs.

11 (28) “Software as a service” means software that is rented, leased or subscribed to from a
12 provider and used at the consumer’s location, including but not limited to
13 applications, systems or programs.

14 (29) “Software license fee” means a fee charged for the right to use, access, or maintain
15 software programs.

16 (30) “Software maintenance agreement” means an agreement, typically with a software
17 provider, that may include (1) provisions to maintain the right to use the software; (2)
18 provisions for software upgrades including code updates, version updates, code fix
19 modifications, enhancements, and added or new functional capabilities loaded into
20 existing software, or (3) technical support.

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

25 (2532) “Special fuel” means kerosene oil, kerosene distillate, diesel fuel, all liquefied
26 petroleum gases, and all combustible gases and liquids for use in the generation of
27 power for propulsion of motor vehicles upon the public highways. The term does not
28 include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad
29 locomotives, however.

30 (2633) “Tangible personal property” means corporeal personal property. ~~personal property~~
31 that can be one or more of the following: seen, weighed, measured, felt, touched,

1 stored, transported, exchanged, or that is in any other manner perceptible to the
2 senses.

3 ~~(27) Tax means either the tax payable by the purchaser of a commodity or service subject~~
4 ~~to tax or the aggregate amount of taxes due from the vendor of such commodities or~~
5 ~~services during the period for which the vendor is required to report his collections, as~~
6 ~~the context may require.~~

7 ~~(28) Tax deficiency or deficiency means any amount of tax, penalty or interest that is not~~
8 ~~reported, returned or paid on or before the date that the return and payment of the~~
9 ~~tax are required under the terms of this article.~~

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

13 (35) "Taxable Sales" means gross sales less any exemptions and deductions specified in
14 this chapter.

15 ~~(29) Taxable services or services means services subject to tax pursuant to this article.~~

16 (36) "Taxable service" means any service subject to tax pursuant to this article.

17 ~~(30) Telecommunications service means the transmission of any two-way interactive~~
18 ~~electromagnetic communications including, but not limited to, voice, image, data and~~
19 ~~any other information, by the use of any means but not limited to wire, cable, fiber~~
20 ~~optical cable, microwave, radio wave or any combinations of such media.~~
21 ~~Telecommunications service includes, but is not limited to, basic local exchange~~
22 ~~telephone service, toll telephone service and teletypewriter service, including, but not~~
23 ~~limited to, residential and business service, directory assistance, cellular mobile~~
24 ~~telephone or telecommunication service, specialized mobile radio and two-way~~
25 ~~paggers and paging service, including any form of mobile two-way communication.~~
26 ~~Telecommunications service does not include separately stated nontransmission~~
27 ~~services which constitute computer processing applications used to act on the~~
28 ~~information to be transmitted.~~

29 (37) "Telecommunications service" means the service of which the object is the
30 transmission of any two-way interactive electronic or electromagnetic

1 communications including but not limited to voice, image, data and any other
2 information, by the use of any means but not limited to wire, cable, fiber optical cable,
3 microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of
4 such media, including any form of mobile two-way communication.

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

7 ~~(31) Wholesale sale means:~~

8 a. ~~A sale by wholesalers to licensed retail merchants, jobbers, dealers or other~~
9 ~~wholesalers for resale, and does not include (i) a sale by wholesalers to users~~
10 ~~or consumers not for resale; (ii) the leasing, hiring or renting of, or granting of~~
11 ~~a license to use (including royalty agreements) tangible personal property to a~~
12 ~~user or consumer thereof; (iii) sales of returnable containers to manufacturers,~~
13 ~~compounders, wholesalers, retailers, jobbers, packagers, distributors or~~
14 ~~bottlers; (iv) sales of tangible personal property to persons for resale when~~
15 ~~there is a likelihood that the city will otherwise lose tax revenues due to the~~
16 ~~difficulty of policing the business operations because:~~

- 17 1. ~~of the frequent replacement of independent contractors or agents;~~
- 18 2. ~~of the lack of a place of business in which to display a city retail sales~~
19 ~~license;~~
- 20 3. ~~of the lack of a place of business in which to keep records;~~
- 21 4. ~~of the lack of adequate records;~~
- 22 5. ~~the persons engaged in selling, or in the chain of selling events, are~~
23 ~~minors or transients; or~~
- 24 6. ~~the persons selling, or in the chain of events leading to sale, are~~
25 ~~engaged essentially in providing services in transferring tangible~~
26 ~~personal property;~~

27 ~~but the transactions set forth in items (i), (ii), (iii) and (iv) above shall be~~
28 ~~deemed retail sales and subject to the provisions of this article;~~

29 b. ~~Sales to and purchases of tangible personal property by a person engaged in~~
30 ~~the business of manufacturing or compounding for use, profit or sale, which~~

1 ~~tangible personal property meets all of the following conditions: (i) is actually~~
2 ~~and factually transformed by the process of manufacture; (ii) becomes by the~~
3 ~~manufacturing or compounding process a necessary and recognizable~~
4 ~~ingredient, component and constituent part of the finished product; and (iii) its~~
5 ~~physical presence in the finished product is essential to the use thereof in the~~
6 ~~hands of the ultimate consumer; shall be deemed wholesale sales and shall~~
7 ~~be deemed exempt from taxation under this article; and~~

8 ~~e. Sales to and purchases of tangible personal property for use as containers,~~
9 ~~labels and shipping cases by a person engaged in manufacturing,~~
10 ~~compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling~~
11 ~~for sale, profit or use, which tangible personal property meets all of the~~
12 ~~following conditions: (i) is used by the manufacturer, compounder, wholesaler,~~
13 ~~jobber, retailer, packager, distributor or bottler to contain or label the finished~~
14 ~~product; (ii) is transferred by said person along with and as a part of the~~
15 ~~finished product to the purchaser; and (iii) is not returnable to said person for~~
16 ~~reuse, shall be deemed wholesale sales and shall be exempt from taxation~~
17 ~~under this article.~~

18 ~~Provided, however, that skin casing or cellulose casing or sales of and purchases of~~
19 ~~edible fryer oil used as a cooking medium which enters into the processing of food~~
20 ~~products intended to be sold at retail for human consumption shall be exempt from~~
21 ~~taxation when such skin casing or cellulose casing or edible fryer oil used as a~~
22 ~~cooking medium, which does not become an integral or constituent part of a food~~
23 ~~product, is directly used, consumed, dissipated or destroyed to the extent that it is~~
24 ~~rendered unfit for further use in the processing of a food product.~~

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

29 ~~(32) Wholesaler means a person doing a regularly organized wholesale or jobbing~~
30 ~~business and selling to licensed retailers, merchants, jobbers, dealers or other~~
31 ~~wholesalers, for the purpose of resale.~~

1 (40) “Wholesaler” means any person doing an organized wholesale or jobbing business
2 and selling to a retailer, jobber, dealer, or other wholesaler, for the purpose of resale,
3 and not for storage, use, consumption, or distribution.

4 **Section 3.** That section 53-25 of the Denver Revised Municipal Code is hereby amended by
5 adding the underlined language and deleting the stricken language to read and be read as follows:

6
7 **Sec. 53-25. - Imposition of tax.**

8 There is levied and there shall be collected and paid a tax in the amount stated in this article,
9 as follows:

- 10 (1) On the purchase price ~~paid or charged upon for~~ all sales and purchases of tangible
11 personal property at retail.
- 12 (2) In the case of retail sales involving the exchange of property, on the purchase price
13 ~~paid or charged~~, including the fair market value of the property exchanged at the time
14 and place of the exchange, excluding however, from the consideration or purchase
15 price the fair market value of the exchanged property if such exchanged property is to
16 be sold thereafter in the usual course of the retailer's business.
- 17 (3) Upon the purchase price ~~or charge~~ for telephone and telecommunications services,
18 including in addition to audio and video transmission and reception, other two-way
19 electronic or electromagnetic wave transmissions, receptions or communications of
20 any sort, by or through any medium, whether such services are furnished by public or
21 private corporations or associations, that, except as otherwise provided by this article
22 for mobile telecommunication services, both originate in and are charged to a
23 telephone number or an account located within the city, excepting, however, monthly
24 or other periodic usage charges that represent varying amounts billed to accounts for
25 a subscriber's actual use of interstate services provided by a long-distance
26 telecommunications company and charged to the subscriber by or on behalf of a long-
27 distance telecommunications company.
- 28 (4) Upon the purchase price ~~or charge~~ for coal, petroleum, liquid petroleum, electric, steam
29 and natural gas services, and any other products used for energy-producing purposes,
30 whether furnished by municipal, public or private corporations or associations,
31 furnished and sold for domestic, commercial or industrial consumption and not for
32 resale.
- 33 (5) Upon the ~~amount paid~~ purchase price for food or drink served or furnished in or by

1 restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs,
2 nightclubs, cabarets, resorts, snack bars, caterers, boardinghouses, carryout shops
3 and other places at which prepared food or drink is regularly sold, including sales from
4 pushcarts, motor vehicles and other mobile facilities. Cover charges, admission or
5 entrance fees, and mandatory service or service-related charges, whether described
6 as tips, gratuities or otherwise, shall be included as part of the ~~amount paid~~ purchase
7 price for such food or drink.

8 (6) Upon the purchase price ~~or charge~~ for the furnishing or sale to customers within the
9 city of informational or entertainment service wherein the relay or transmission of
10 electromagnetic waves through any medium, tangible or intangible, including cable,
11 glass fiber and ambient air, is necessary for the service to be received, including, but
12 not limited to, digital products, internet subscription services, sound system services,
13 and television and entertainment services, ~~pay television,~~ excepting however,
14 telephone and telecommunications services described in section 53-25(3) and
15 television, cinema or similar programming provided at a theater or similar place open
16 to the public.

17 (7) Upon the purchase price ~~or charge~~ for digital products, software programs, software
18 as a service, software license fees, and software maintenance agreements. ~~data~~
19 ~~processing equipment and data processing programs.~~

20 **Section 4.** That section 53-26 of the Denver Revised Municipal Code is hereby amended by
21 adding the underlined language and deleting the stricken language to read and be read as follows:

22 **Sec. 53-26. - Exemptions.**

23 There shall be exempt from taxation under the provisions of this article the following:

- 24 (1) All sales to the United States government, to the state, its departments and institutions,
25 and the political subdivisions thereof only when purchased in their governmental
26 capacities.
- 27 (2) All sales made to religious or charitable corporations when purchased for their regular
28 religious or charitable functions and activities.
- 29 (3) All sales of cigarettes.
- 30 (4) All sales of motor fuel and special fuel ~~as defined in this article.~~
- 31 (5) All sales ~~and purchases~~ of ~~neat~~-cattle, sheep, lambs, swine and goats; all sales of
32 mares and stallions for breeding purposes.
- 33 (6) All sales ~~and purchases~~ of feed for livestock or poultry and all sales of seeds to farmers,

ranchers, truck farmers, florists and horticulturists who sell the crops resulting from the propagation of such seeds or use such crops as feed for livestock or poultry.

- (7) ~~The sale and purchase~~ All sales of medical supplies.
- (8) ~~The sale and purchase~~ All sales of food.
- (9) ~~Sales~~ All sales of tangible personal property to a purchaser residing or doing business outside the city, where delivery is made to the purchaser's residence or business address outside the city by the vendor; on the vendor's vehicle; by common, contract, or commercial carrier that is hired by the vendor, or by mail.
- (10) All sales which the city is prohibited from taxing under the Constitution or laws of the United States or the Constitution of the state.
- (11) ~~Sale~~ All sales of automotive vehicles as defined in this article that are registered and required by state law to be registered outside the city.
- (12) All sales of farm ~~machinery as defined in this article~~ equipment used directly for plowing, planting, cultivating or harvesting of crops.
- (13) ~~Sales~~ All sales of tangible personal property for use in improving real property outside the city only in the amount and to the extent that a use tax has been or will be paid in respect to the proposed use of such property to a municipal corporation organized and existing under the authority of the laws or the constitution of any state, if the purchaser presents to the retailer a building permit or other documentation acceptable to the manager showing that a use tax has been or will be paid to the municipality in which the real property is located.
- (14) ~~Sales~~ All sales of tangible personal property to a natural gas and electric utility or a telephone utility for use in its business operations outside the city, even though the property is delivered and temporarily stored within the city.
- (15) ~~Sales~~ All sales of machinery, tools, and equipment, including replacement parts, to a transportation utility to be used by the utility in the operation of an equipment maintenance facility and at an industrial building:
 - a. That is located in the city within an enterprise zone designated as such pursuant to state law;
 - b. That contains at least one million (1,000,000) square feet of enclosed, useable floor space on a single level;
 - c. That serves as a regular place of work and for reporting for duty for at least two thousand (2,000) employees in the third year of operations of the maintenance

1 facility and continually thereafter; and

- 2 d. That is operated by an interstate carrier for hire primarily for maintaining,
3 rebuilding or repairing equipment moving in interstate commerce.

4 This exemption may be applicable to the first and second years of operations at the
5 industrial building provided that the utility establishes a reserve account for the tax for
6 its return to the city at the end of the third year of operations should less than two
7 thousand (2,000) employees be employed at the facility in said third year.

- 8 (16) ~~Sales~~ All sales of construction ~~and building~~ materials for use in the construction,
9 reconstruction or remodeling of a new industrial building of a transportation utility to be
10 used by the utility for an equipment maintenance facility:

- 11 a. That is located in the city within an enterprise zone designated as such pursuant
12 to state law;
13 b. That is designed to contain at least one million (1,000,000) square feet of
14 enclosed, useable floor space on a single level;
15 c. That serves as a regular place of work and for reporting for duty for at least two
16 thousand (2,000) employees in the third year of operations of the maintenance
17 facility and continually thereafter; and
18 d. That is operated by an interstate carrier for hire primarily for maintaining,
19 rebuilding or repairing equipment moving in interstate commerce.

20 This exemption may be applicable to the design and construction phases of the new
21 facility and to the first and second years of operations at the facility provided that the
22 utility establishes a reserve account for the tax for its return to the city at the end of the
23 third year of operations should less than two thousand (2,000) employees be employed
24 at the facility in said third year.

- 25 (17) All sales of prepress preparation materials ~~as defined in this article.~~

- 26 (18) ~~Sales~~ All sales made to, billed directly to, and paid for directly by, qualified hospital
27 organizations (as defined in paragraph (a) of this subsection (18)), provided that the
28 property or service purchased by the qualified hospital organization is employed in
29 furtherance of an exempt function (as defined in paragraph b. of this subsection (18)).

- 30 (a) For purposes of this subsection (18), a "qualified hospital organization" is any
31 of the following:

- 32 (1) An organization that is exempt from federal income tax under section 115
33 or section 501(c)(3) of the United States Internal Revenue Code of 1986,

1 as amended, but only if the organization holds a license to operate a
2 "general hospital" for people issued pursuant to sections 25-3-101 and
3 25-3-102, Colorado Revised Statutes (2000), as amended, including any
4 successor provisions to those sections, and operates a general hospital;

5 (2) A corporation or trust that:

6 (a) Is exempt from federal income tax under section 501(c)(3) of the
7 United States Internal Revenue Code of 1986, as amended; and

8 (b) Owns or employs personal property or improvements that are
9 used in the operations of one (1) or more organizations described
10 in subparagraph (a)(1) of this subsection (18); and

11 (c) Either (i) directly controls, or is controlled by, one (1) or more
12 organizations described in subparagraph (a)(1) of this subsection
13 (18), (ii) is controlled by a management organization as defined in
14 subparagraph (a)(3) of this subsection (18) in common with one
15 (1) or more organizations described in subparagraph (a)(1) of this
16 subsection (18), or (iii) owns a hospital that is licensed to operate
17 as a "general hospital" for people pursuant to sections 25-3-101
18 and 25-3-102, Colorado Revised Statutes (2000), as amended,
19 including any successor provisions to those sections, and that is
20 operated by an organization described in subparagraph (a)(1) of
21 this subsection (18).

22 (3) An organization that is exempt from federal income tax under section 501(c)(3)
23 of the United States Internal Revenue Code of 1986, as amended, and a
24 principal function of which is to manage the property or operations, or both, of
25 one (1) or more organizations described in subparagraphs (1) or (2) of this
26 paragraph (a); and

27 (4) A partnership, limited partnership, limited liability limited partnership, limited
28 liability partnership, limited liability company, or joint venture if all of the partners,
29 members, joint venturers or other participants in such partnership, limited
30 partnership, limited liability limited partnership, limited liability partnership,
31 limited liability company or joint venture are organizations described in
32 subparagraphs (1), (2) or (3) of this paragraph (a).

33 (b) For purposes of this subsection (18):

1 (1) Except as provided in subparagraph (3) of this paragraph (b), "employed in
2 furtherance of an exempt function" means employed by a qualified hospital
3 organization in an activity from which none of the proceeds are treated as
4 unrelated business income.

5 (2) "Unrelated business income" means gross income derived from any unrelated
6 trade or business within the meaning of section 512 of the United States Internal
7 Revenue Code of 1986, as amended.

8 (3) If the ~~purchase and~~ sale of any property or service would be exempt under this
9 subsection (18) but for the fact that the property or service is employed in an
10 activity from which a portion of the proceeds is treated as unrelated business
11 income, the manager of finance is authorized to approve written formulas or
12 methodologies (including formulas or methodologies of individual qualified
13 hospital organizations) as may be appropriate and reasonable to determine,
14 based on the evidence available, the percentage of the proceeds from such
15 activity that is not treated as unrelated business income. This calculated
16 percentage shall be the percentage of the cost of such property or service that
17 will be exempt under this subsection (18). The manager of finance may
18 condition approval of formulas and methodologies on receipt of such information
19 as is reasonably deemed necessary for proper implementation of such formulas
20 and methodologies.

21 (19) ~~The sale~~ All sales of aircraft to an airline company that is used in interstate commerce
22 by the airline company.

23 **Section 5.** That subsection 53-27 of the Denver Revised Municipal Code is hereby amended
24 by adding the underlined language and deleting the stricken language to read and be read as follows:

25 **Sec. 53-27. - Retailers to collect tax.**

26 (a) Tax rates. A tax of three and sixty-five one-hundredths (3.65) percent is imposed and
27 levied upon all taxable sales of ~~commodities~~ tangible personal property, products, and
28 services except ~~those commodities~~ the tangible personal property, products, or
29 services specified in subsection (b) of this section. In order to avoid amounts that are
30 fractions of pennies, taxpayers shall use a rounding procedure approved by the
31 manager when computing the tax.

32 On those taxable sales of ~~commodities~~ tangible personal property, products, or services
33 specified in subsection (b) of this section, there is levied and imposed upon all taxable sales

1 a tax in accordance with the rates set forth in subsection (b).

2 (b) Special rates.

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

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

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

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

30 (d) Vending machines; liquor by the drink. Notwithstanding provisions hereinafter
31 regarding the unlawful assumption or absorption of the tax, any retailer selling malt,
32 vinous or spirituous liquors by the drink or vending items through coin-operated
33 vending machines may include in the purchase price for the drink or the purchase price

1 for the vended item the tax levied by this article; but no such retailer shall advertise or
2 hold out to the public in any manner, directly or indirectly, that such tax is not included
3 as a part of the sales price to the consumer.

4 (e) Retailer as collecting agent. The retailer shall be entitled as collecting agent of the city
5 to apply and credit the amount of his collections of the tax levied by this article against
6 the amount required to be paid over by him under the provisions of section 53-28,
7 remitting any excess of collections over the amount required by section 53-28 and
8 rounding to the nearest whole dollar as provided in section 53-28, to the manager in
9 the retailer's next periodic sales tax return.

10 (f) Retailer not to benefit. No retailer shall gain any benefit from the collection or payment
11 of the tax, except as permitted by this article, and the use of the rounding procedure
12 approved by the manager shall not relieve the retailer from liability for payment of the
13 amount required by section 53-28.

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

21 **Section 6.** That subsection 53-28(a) of the Denver Revised Municipal Code is hereby
22 amended by adding the underlined language and deleting the stricken language to read and be read
23 as follows:

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

25 (a) Amount. Every retailer shall, irrespective of other provisions of this article, be liable and
26 responsible for the payment of an amount equivalent to three and sixty-five one-
27 hundredths (3.65) percent of the retailer's ~~gross taxable sales of commodities~~ tangible
28 personal property, products, or services specified in this article, except:

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

31 (2) Automotive vehicles when they are for any term of thirty (30) days or less hired
32 for use, rented, leased or transferred under a grant of a license to use, as to
33 which a rate of taxation as set forth in subsection 53-27(b)(2) shall apply;

- 1 (3) Food and beverages not exempted from taxation under subsection 53-26(8) of
2 this article, as to which the rate of four (4) percent shall apply;
- 3 (4) For each of which respective rates aforesaid the retailer shall be liable for an
4 equivalent amount;
- 5 (5) Every retailer shall, on its return, round each calculation, as directed on such
6 form as the manager may require, to the nearest whole dollar and remit the
7 rounded amount. In rounding under this section, any amount of forty-nine cents
8 (\$0.49) or less shall be rounded down, and any amount of fifty cents (\$0.50) or
9 higher shall be rounded up.

10 **Section 7.** That section 53-33 of the Denver Revised Municipal Code is hereby amended by
11 adding the underlined language and deleting the stricken language to read and be read as follows:

12 **Sec. 53-33. - Tax on rentals.**

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

18 **Section 8.** That section 53-35 of the Denver Revised Municipal Code is hereby amended by
19 adding the underlined language and deleting the stricken language to read and be read as follows:

20 **Sec. 53-35. - Automotive vehicle—Registration license.**

- 21 (a) No registration certificate or license shall be issued by the manager for the operation
22 of any automotive vehicle unless and until the tax levied by this article upon the
23 purchase ~~and or~~ sale of such vehicle has been paid.
- 24 (b) No certificate of title evidencing ownership of any automotive vehicle shall be issued
25 by the manager unless and until said tax upon the purchase ~~and or~~ sale of such
26 automotive vehicle has been paid.

27 **Section 9.** That subsection 53-50(f) of the Denver Revised Municipal Code is hereby
28 amended by adding the underlined language and deleting the stricken language to read and be read
29 as follows:

- 30 (f) Burden of proof. The burden of proof that sales of tangible personal property, products,
31 and services upon which refunds of taxes are claimed, or for which modifications or
32 cancellations of assessments are sought, are exempt from or not subject to taxation
33 under this article shall be on the taxpayer and such proof shall be by a preponderance

1 of evidence.

2 **Section 10.** That section 53-67 of the Denver Revised Municipal Code is hereby amended
3 by adding the underlined language and deleting the stricken language to read and be read as follows:

4 **Sec. 53-67. - License and tax in addition to all others.**

5 The license required and the tax levied by this article shall be in addition to all other licenses
6 required and taxes levied by law except as herein otherwise provided. No delinquency in payment
7 and no violation of this article shall be grounds for the suspension or revocation of any license issued
8 to any person engaged in business ~~within~~ the city by any official of the city under any licensing
9 provisions of the Code or other ordinances, neither shall the same be grounds for the suspension or
10 revocation of any state license issued by any licensing authority pursuant to the statutes of the state.

11 **Section 11.** That section 53-77 of the Denver Revised Municipal Code is hereby amended
12 by adding the underlined language and deleting the stricken language to read and be read as follows:

13 **Sec. 53-77. - Exemption.**

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

17 **Section 12.** That section 53-92 of the Denver Revised Municipal Code is hereby amended
18 by adding the underlined language and deleting the stricken language to read and be read as follows:

19 **Sec. 53-92. - Legislative intent.**

- 20 (a) It is hereby declared to be the legislative intent of the city, acting through its duly
21 elected representatives, that, for the purposes of this article, every person who stores,
22 uses, distributes or consumes in the city any article of tangible personal property,
23 product, or any service subject to the provisions of this article, purchased at retail, is
24 exercising a taxable privilege.
- 25 (b) It is hereby declared to be the legislative intent of the city, acting through its duly
26 elected representatives, that, for the purposes of this article, every vendor who is
27 engaged in business in the city and who shall deliver or cause to be delivered to the
28 purchaser in the city any tangible personal property, product, or service taxable herein
29 shall collect the tax imposed by this article upon the basis of an addition of the tax
30 imposed by this article to the purchase price of such property or service that is
31 purchased at any one (1) time by every such purchaser in the manner hereinafter set
32 forth.
- 33 (c) It is hereby declared to be the legislative intent of the city, acting through its duly

1 elected representatives, that the provisions of this article shall apply to any person who
2 has already paid a retail sales tax or a use tax in respect to the sale of ~~a service or~~
3 tangible personal property, a product, or a service taxable hereunder, to a municipal
4 corporation organized and existing under the authority of the laws or the Constitution
5 of any state in an amount less than the tax imposed by this article, and who thereafter
6 causes ~~a service or~~ tangible personal property, a product, or a service taxable
7 hereunder, to be used, stored, distributed or consumed in the city, but the tax imposed
8 by this article shall, in such event, be measured by the difference between the amount
9 imposed by this article and the amount previously imposed by the other municipality
10 on said sale. If the retail sales tax imposed and paid to such municipal corporation
11 aforesaid is equal to or more than the tax imposed by this article, no tax shall be due
12 hereunder for the exercise of the privilege of using, storing, distributing or consuming
13 such service or personal property in the city.

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

21 **Section 13.** That section 53-95 of the Denver Revised Municipal Code is hereby amended
22 by adding the underlined language and deleting the stricken language to read and be read as follows:

23 **Sec. 53-95. - Definitions.**

24 As used in this article the following words, phrases and, where applicable, their declensional
25 and inflectional forms shall have the meanings given to them in this section except where the
26 context in which they are used indicates clearly and requires a different meaning according to
27 customary usage. The words "shall" and "must" are to be construed as mandatory and not
28 directory. In addition to the following definitions, the definitions and general provisions of chapter 1
29 shall be applicable insofar as not expressly inconsistent with the provisions hereof.

30 (1) ~~*Aircraft* means any contrivance now known or hereafter invented, used, or designed~~
31 ~~for navigation or flight through the air and designed to carry at least one person.~~
32 ~~*Aircraft* shall not include aircraft parts.~~

- 1 (1) “Aircraft” means a device that is used or intended to be used for flight in the air and
2 designed to carry at least one person.
- 3 (2) “Aircraft part” means any tangible personal property that is intended to be
4 permanently affixed or attached as a component part of an aircraft.
- 5 (3) “Aircraft simulator” means a Flight Simulator Training Device (FSTD) as defined in
6 Part I of Title 14 of the Code of Federal Regulations that is qualified in accordance
7 with Part 60 of Title 14 of the Code of Federal Regulations for use in a Federal
8 Aviation Administration Approved Flight Training Program.
- 9 (4) “Aircraft simulator part” means any tangible personal property that is originally
10 designed and intended to be permanently affixed or attached as a component part of
11 an aircraft, and which will also function when it is permanently affixed or attached as
12 a component part of an aircraft simulator.
- 13 (5) “Airline company” means any operator who engages in the carriage by aircraft of
14 persons or property as a common carrier for compensation or hire, or the carriage of
15 mail, or any aircraft operator who operates regularly between two (2) or more points
16 and publishes a flight schedule. Airline company shall not include operators whose
17 aircraft are all certified for a gross takeoff weight of twelve thousand five hundred
18 (12,500) pounds or less and who do not engage in scheduled service or mail carriage
19 service.
- 20 (6) “Automotive vehicle” means any vehicle or device in, upon or by which any person or
21 property is or may be transported or drawn upon a public highway, or any device
22 used or designed for aviation or flight in the air. Automotive vehicle includes, but is
23 not limited to, motor vehicles, trailers, semi-trailers or mobile homes. Automotive
24 vehicle shall not include devices moved by human power or used exclusively upon
25 stationary rails or tracks.
- 26 (7) “Business” ~~shall include~~ means all activities engaged in or caused to be engaged in
27 with the object of gain, benefit or advantage, direct or indirect.
- 28 (8) “Charitable corporation” ~~shall means~~ a corporation organized and operating
29 exclusively for the purpose of providing a gift for an indefinite number of persons who
30 are either residents of the city or using facilities of the city on a regular basis that
31 lessens the economic burdens of the city by making the gift to the young, aged, poor,

1 infirm or uneducated. Lessening the economic burden of the city by making a gift to
2 the uneducated shall mean providing free instruction or training to a majority of
3 enrollees on subjects useful to the individual and beneficial to the community by
4 schools having a regularly scheduled curriculum, a regular faculty and a regularly
5 enrolled body of students in attendance at a place where educational activities are
6 regularly carried on. This definition of charitable corporation shall not necessarily
7 include religious corporations, which may be exempt on a religious basis whether or
8 not they fall within the definition of a charitable corporation.

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

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

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

31 (12) "Digital product" means an electronic product including, but not limited to: (1) "digital
32 images" which means works that include, but are not limited to, the following that are

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

11 ~~(10) *Engaged in business* in the city means the selling, leasing or delivering in the city, or~~
12 ~~any activity in the city in connection with the selling, leasing or delivering in the city of~~
13 ~~tangible personal property by a retail sale for use, storage, distribution or~~
14 ~~consumption within the city. This term shall include, but shall not be limited to, the~~
15 ~~following acts or methods of transacting business:~~

16 a. ~~The maintaining within the city directly or indirectly or by a subsidiary of an~~
17 ~~office, distributing house, sales room or house, warehouse or other place of~~
18 ~~business.~~

19 b. ~~The soliciting, either by direct representatives, indirect representatives,~~
20 ~~manufacturer's agent, or by distribution of catalogues or other advertising, or~~
21 ~~by use of any communication media, or by use of the newspaper, radio or~~
22 ~~television advertising media, or by any other means whatsoever of business~~
23 ~~from persons residing in the city and by reason thereof receiving orders from~~
24 ~~such persons residing in the city for purchasing, or hiring tangible personal~~
25 ~~property or taxable services for use, consumption, distribution or storage in the~~
26 ~~city; and the tangible personal property or services so ordered, purchased or~~
27 ~~leased actually comes to rest or is used for any length of time in the city and,~~
28 ~~in the case of tangible personal property, becomes a part of the mass of~~
29 ~~property in the city as a result thereof.~~

30 (13) “Engaged in business in the city” means performing or providing services or selling,
31 leasing, renting, delivering or installing tangible personal property, products or
32 services, for storage, use or consumption, within the city. Engaged in business in the

1 city includes, but is not limited to, any one of the following activities by a person: (1)
2 directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom,
3 warehouse, or other place of business within the taxing jurisdiction; (2) sends one or
4 more employees, agents or commissioned sales persons into the taxing jurisdiction
5 to solicit business or to install, assemble, repair, service, or assist in the use of its
6 products, or for demonstration or other reasons; (3) maintains one or more
7 employees, agents or commissioned sales persons on duty at a location within the
8 taxing jurisdiction; or (4) owns, leases, rents or otherwise exercises control over real
9 or personal property within the taxing jurisdiction.

10 ~~(11) *Farm machinery* means self-propelled or power-drawn equipment used directly for~~
11 ~~plowing, planting, cultivating and harvesting of crops, such as combines, tractors,~~
12 ~~plows, discs, planters and rakes.~~

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

31 ~~(4215)~~ "Food" shall mean:

32 a. Food for domestic, home or household use as the manager may by regulation

1 define which is advertised or marketed for human consumption and is sold in
2 the same form, condition, quantities and packaging as is commonly sold by
3 grocers.

4 b. Food as defined in Section 2012(g) of Title 7 of the United States Code as of,
5 and as it may be amended after, October 1, 1987, that is eligible for purchase
6 by the medium of exchange commonly known as "food stamps," and the sale
7 of food as defined in or pursuant to Section 1786 of Title 42 of the United
8 States Code as of, and as it may be amended after, October 1, 1987, that is
9 eligible for purchase with vouchers, checks or similar certificates of exchange
10 for the "special supplemental food program" for women, infants and children.

11 c. Notwithstanding the definition of food referred to in paragraph b of this
12 subsection, the term "food" shall not include food or drink served or furnished
13 as described in subsection 53-25(5) of this ~~article~~ chapter; neither shall it
14 include carbonated water sold in containers, chewing gum, spirituous, malt or
15 vinous liquors, seeds and plants to grow foods, prepared salads, salad bars,
16 cold sandwiches and deli trays unless any of those items, excepting spirituous,
17 malt or vinous liquors, is actually purchased with food stamps or vouchers as
18 they are described in paragraph b of this subsection; nor shall the term "food"
19 as used in this subsection include food and drink vended by or through
20 machines.

21 (16) "Gross sales" means the total amount received in money, credit, property or other
22 consideration valued in money for all purchases or sales of tangible personal
23 property, products, or services.

24 ~~(13) Gross taxable sales means the total amount received in money, credits, property,~~
25 ~~including the fair market value of exchange property which is to be sold thereafter in~~
26 ~~the usual course of the retailer's business, or other consideration valued in money~~
27 ~~from sales and purchases at retail or deemed to be at retail, within the city and~~
28 ~~embraced within the provisions of this article:~~

29 a. ~~Provided, however, that the vendor may take credit in his report of gross sales~~
30 ~~for an amount equal to the sale price of property returned by the purchaser~~
31 ~~when the full sale price thereof is refunded, either in case or by credit;~~

1 ~~b. Provided, further, that the fair market value of any exchanged property which~~
2 ~~is to be sold thereafter in the usual course of the retailer's business, if included~~
3 ~~in the full price of a new article, shall be excluded from gross taxable sales;~~

4 ~~c. Provided, further, that taxes paid on the amount of gross sales which are~~
5 ~~represented by accounts not secured by conditional sale contract or chattel~~
6 ~~mortgage and which are found to be worthless and are actually and properly~~
7 ~~charged off as bad debts for the purpose of the income tax imposed by the~~
8 ~~laws of the state may be credited upon a subsequent payment of the tax~~
9 ~~herein provided; but if any such accounts are thereafter collected by the~~
10 ~~vendor, a tax shall be paid upon the amount so collected. Such credit shall not~~
11 ~~be allowed with respect to any account or item therein arising either from the~~
12 ~~sale of any article under a conditional sale contract whereby the vendor retains~~
13 ~~title as security for all or part of the purchase price or from the sale of any~~
14 ~~article when the vendor takes a chattel mortgage on the article to secure all or~~
15 ~~part of the purchase price.~~

16 (17) "Internet subscription service" means software programs, systems, data and
17 applications available online through rental, lease or subscription, that provide
18 information and services including, but not limited to, data linking, data research, data
19 analysis, data filtering or record compiling.

20 ~~(14) Manufacturing is the performance as a business of an integrated series of operations~~
21 ~~which places personal property in a form, composition or character different from that~~
22 ~~in which it was acquired, whether for sale or for use by the manufacturer. The change~~
23 ~~in form, composition or character must result in a different product having a~~
24 ~~distinctive name, character and use.~~

25 (18) "Manufacturing" means the operation or performance of an integrated series of
26 operations which places a product, article, substance, commodity, or other tangible
27 personal property in a form, composition or character different from that in which it
28 was acquired whether for sale or for use by a manufacturer. The change in form,
29 composition or character must result in a different product having a distinctive name,
30 character or use from the raw or prepared materials.

31 (4519) "Medical supplies" shall means prescription drugs for humans, prosthetic devices for

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

16 (20) “Mobile machinery and self-propelled construction equipment” means those vehicles,
17 self-propelled or otherwise, which are not designed primarily for the transportation of
18 persons or cargo over the public highways, and those motor vehicles which may
19 have originally been designed for the transportation of persons or cargo over the
20 public highways, and those motor vehicles which may have originally been designed
21 for the transportation of persons or cargo but which have been redesigned or
22 modified by the mounting thereon of special equipment or machinery, and which may
23 be only incidentally operated or moved over the public highways. This definition
24 includes but is not limited to wheeled vehicles commonly used in the construction,
25 maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

26 (1521) “Motor fuel” shall mean gasoline, casing head or natural gasoline, benzol, benzene
27 and naphtha, gasohol and any liquid prepared, advertised, offered for sale, sold for
28 use or used or commercially usable in internal combustion engines for the generation
29 of power for the propulsion of motor vehicles upon the public highways. The term
30 does not include fuel used for the propulsion or drawing of aircraft or railroad cars or
31 railroad locomotives, however.

32 ~~(17) Pay television shall include, but not be limited to, cable microwave or other television~~

1 service for which a charge is imposed.

2 (4822) “Prepress preparation material” means all materials used by those in the printing
3 industry including, but not limited to, airbrush color photos, color keys, dies,
4 engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar,
5 plates, proofing materials, tape, transparencies, and veloxes, which are used by
6 printers in the preparation of customer specific layouts or in plates used to fill
7 customers' printing orders, which are eventually sold to a customer, either in their
8 original purchase form or in an altered form, and for which a sales or use tax is
9 demonstrably collected from the printer's customer, if applicable, either separately
10 from the printed materials or as part of the inclusive price therefor. Materials sold to a
11 printer which are used by the printer for the printer's own purposes, and are not sold,
12 either directly or in an altered form, to a customer, are not included within this
13 definition.

14 (23) “Prescription drugs for humans” means a drug which, prior to being dispensed or
15 delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect.
16 301, et. seq., as amended, to state at a minimum the symbol “Rx Only”, and is
17 dispensed in accordance with any written or electronic order dated and signed by a
18 licensed practitioner of the healing arts, or given orally by a practitioner and
19 immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy
20 intern, specifying the name and any required information of the patient for whom the
21 medicine, drug or poison is offered and directions, if any, to be placed on the label.

22 (24) “Price” or “purchase price” means the aggregate value measured in currency paid or
23 delivered or promised to be paid or delivered in consummation of a sale, without any
24 discount from the price on account of the cost of materials used, labor or service
25 cost, and exclusive of any direct tax imposed by the federal government or by this
26 article, and, in the case of all retail sales involving the exchange of property, also
27 exclusive of the fair market value of the property exchanged at the same time and
28 place of the exchange, if: (1) such exchanged property is to be sold thereafter in the
29 usual course of the retailer's business, or (2) such exchanged property is a vehicle
30 and is exchanged for another vehicle and both vehicles are subject to licensing,
31 registration, or certification under the laws of this state, including, but not limited to,
32 vehicles operating upon public highways, off-highway recreation vehicles, watercraft,

1 and aircraft. Any money or other consideration paid over and above the value of the
2 exchanged property is subject to tax.

3 Price or purchase price includes:

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

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

7 (3) Any consideration valued in money, whereby the manufacturer or someone
8 else reimburses the retailer for part of the purchase price and other media of
9 exchange.

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

18 (5) Installation, applying, remodeling or repairing the property, delivery and
19 wheeling-in charges included in the purchase price and not separately stated.

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

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

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

27 Price or purchase price shall not include:

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

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

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

10 (4925) "Prosthetic devices for humans" means any artificial limb, part, device or appliance
11 for human use which aids or replaces a body part or aids or replaces a bodily
12 function; is designed, manufactured, altered or adjusted to fit a particular individual
13 patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic
14 devices for humans include, but are not limited to, prescribed auditory, ophthalmic or
15 ocular, cardiac, dental or orthopedic devices or appliances, oxygen concentrators
16 and oxygen with related accessories.

17 ~~(20) *Purchase price or price* means the aggregate value measured in currency paid or~~
18 ~~delivered or promised to be paid or delivered in consummation of a sale, without any~~
19 ~~discount from the price on account of the cost of the property sold, cost of materials~~
20 ~~used, labor or service cost, transportation or delivery charges, or any other expense~~
21 ~~whatsoever; and provided that when articles of tangible personal property are sold by~~
22 ~~the manufacturer after manufacture or after having been made to order, the gross~~
23 ~~value of all materials, labor and services, inclusive of the profit thereon, shall be~~
24 ~~included in the purchase price; but said price shall be exclusive of any direct tax~~
25 ~~imposed by the federal government, by the state or by this article; and in the case of~~
26 ~~all retail sales involving the exchange of property, also exclusive of the fair market~~
27 ~~value of the property exchanged at the time and place of exchange; provided,~~
28 ~~however, that such exchanged property is to be sold thereafter in the usual course of~~
29 ~~the retailer's business. "Price" and "purchase price" shall not include the following:~~
30 a. ~~The consideration received for labor or services used in installing, applying,~~
31 ~~remodeling or repairing the property sold if the consideration for such services~~
32 ~~is separately stated from the consideration received for the tangible personal~~

1 property in the retail sale;

2 b. ~~The amount paid by any purchaser as, or in the nature of, interest or finance~~
3 ~~charges on account of credit extended in connection with the sale of any~~
4 ~~tangible personal property if the interest or finance charges are separately~~
5 ~~stated from the consideration received for the tangible personal property~~
6 ~~transferred in the retail sale.~~

7 ~~When tangible personal property is first distributed, stored, used or consumed in the~~
8 ~~city more than one (1) year after its retail sale, "purchase price" and "price" shall~~
9 ~~mean market value in the city and its environs.~~

10 (26) "Purchase" or "sale" means the acquisition for any consideration by any person of
11 taxable tangible personal property, products, services. These terms include capital
12 leases, installment and credit sales, and property and services acquired by:

13 (1) Transfer, either conditionally or absolutely, of title or possession or both
14 to taxable tangible personal property, products, or services;

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

18 (3) Performance of taxable services; or

19 (4) Barter or exchange for other taxable tangible personal property,
20 products, or services.

21 The terms purchase and sale do not include:

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

24 (2) The transfer of assets of shareholders in the formation or dissolution of
25 professional corporations, if no consideration including, but not limited
26 to, the assumption of a liability is paid for the transfer of assets;

27 (3) The dissolution and the pro rata distribution of the corporation's assets
28 to its stockholders, if no consideration including, but not limited to, the
29 assumption of a liability is paid for the transfer of assets;

1 (4) A transfer of a partnership or limited liability company interest;

2 (5) The transfer of assets to a commencing or existing partnership or
3 limited liability company, if no consideration including, but not limited to,
4 the assumption of a liability is paid for the transfer of assets;

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

7 (2127) "Purchaser" shall mean any person to whom a taxable service has been rendered or
8 who shall have purchased or hired at retail tangible personal property.

9 (2228) "Rail carrier" means "rail carrier" as defined in Section 10102 of Title 49 of the United
10 States Code as of October 10, 2013, and as it may be amended hereafter.

11 (2329) "Rail carrier part" means any tangible personal property that is originally designed
12 and intended to be permanently affixed or attached as a component part of a
13 locomotive or rail car used by a rail carrier.

14 (2430) "Retail sale" means any sale, ~~as defined in this section,~~ except a wholesale sale.

15 ~~(25) Retailer or vendor means any person selling, leasing, renting or granting a license to~~
16 ~~use tangible personal property or services at retail. Retailer or vendor shall include,~~
17 ~~but is not limited to, any:~~

18 a. ~~Auctioneer;~~

19 b. ~~Salesman, representative, peddler or canvasser, who as agent, directly or~~
20 ~~indirectly, of the dealer, distributor, supervisor, employer or principal under~~
21 ~~whom he operates or from whom he obtains the tangible personal property or~~
22 ~~services sold by such agent, makes sales of tangible personal property or~~
23 ~~services subject to the tax imposed herein; and in such event such agent shall~~
24 ~~be responsible for the collection and payment of the tax imposed by this article~~
25 ~~whenever the principal of such agent neglects or refuses to become licensed~~
26 ~~as a vendor hereunder.~~

27 c. ~~Charitable organization or governmental entity which makes sales of tangible~~
28 ~~personal property to the public, notwithstanding the fact that the merchandise~~
29 ~~sold may have been acquired by gift or donation or that the proceeds are to be~~
30 ~~used for charitable or governmental purposes.~~

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

10 ~~(26) Sale or purchase or sale and purchase includes installment and credit purchases and~~
11 ~~sales and the exchange of property or services that are taxable under the terms of~~
12 ~~this article as well as the purchase and sale thereof for money; and every transaction~~
13 ~~conditional or otherwise, based upon consideration constitutes a sale. The term~~
14 ~~"sale," "purchase," or "sale and purchase" includes transactions whereby the~~
15 ~~acquisition of tangible personal property was effected by (a) the transfer, conditionally~~
16 ~~or absolutely, of title or possession or both of the tangible personal property; or (b) a~~
17 ~~lease, hire or rental of, or a grant of a license to use (including royalty agreements)~~
18 ~~tangible personal property. The terms "sale" and "purchase" and "sale and purchase"~~
19 ~~do not include:~~

20 a. ~~— A division of partnership assets among the partners according to their interests~~
21 ~~in the partnership;~~

22 b. ~~— The transfer of assets of shareholders in the formation or dissolution of~~
23 ~~professional corporations if no consideration including, but not limited to, the~~
24 ~~assumption of a liability is paid for the transfer of assets;~~

25 c. ~~— The pro rata distribution of a corporation's assets to its stockholders upon~~
26 ~~dissolution of the corporation if no consideration including, but not limited to,~~
27 ~~the assumption of a liability is paid for the transfer of assets;~~

28 d. ~~— A transfer of a partnership interest;~~

29 e. ~~— The transfer of assets to a commencing or existing partnership if no~~
30 ~~consideration including, but not limited to, the assumption of a liability is paid~~
31 ~~for the transfer of assets;~~

1 f. — The repossession of personal property by a chattel mortgage holder or
2 foreclosure by a lienholder.

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

16 (33) “Software as a service” means software that is rented, leased or subscribed to from a
17 provider and used at the consumer’s location, including but not limited to
18 applications, systems or programs.

19 (34) “Software license fee” means a fee charged for the right to use, access, or maintain
20 software programs.

21 (35) “Software maintenance agreement” means an agreement, typically with a software
22 provider, that may include (1) provisions to maintain the right to use the software; (2)
23 provisions for software upgrades including code updates, version updates, code fix
24 modifications, enhancements, and added or new functional capabilities loaded into
25 existing software, or (3) technical support.

26 (36) “Sound system services” means the provision of broadcast or pre-recorded audio
27 programming to a building or portion thereof. Such term does not include installation
28 of sound systems where the entire system becomes the property of the building
29 owner or the sound system service is for presentation of live performances.

30 (2737) “Special fuel” means kerosene oil, kerosene distillate, diesel fuel, all liquefied
31 petroleum gases, and all combustible gases and liquids for use in the generation of

1 power for propulsion of motor vehicles upon the public highways. The term does not
2 include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad
3 locomotives, however.

4 ~~(2838)~~ “Storage” means any keeping or retention of, or exercise of dominion or control over,
5 or possession for any length of time of tangible personal property under a lease or
6 when purchased at retail within or without the city. tangible personal property not
7 while in transit but on a stand still basis for future use when leased, rented or
8 purchased at retail from sources either within or without the City from any person or
9 vendor.

10 ~~(2939)~~ “Tangible personal property” means corporeal personal property. personal property
11 that can be one or more of the following: seen, weighed, measured, felt, touched,
12 stored, transported, exchanged, or that is in any other manner perceptible to the
13 senses.

14 ~~(30)~~ Tax means either the tax payable by the user, consumer, distributor, storekeeper or
15 purchaser of tangible personal property or of a service subject to the tax imposed by
16 this article, or the aggregate amount of taxes due from the vendor of such
17 commodities or services during the period for which the vendor is required by this
18 article to report his collections, as the context may require.

19 ~~(31)~~ Tax deficiency or deficiency means any amount of tax, penalty or interest that is not
20 reported, returned or paid on or before the date that the return and payment of the
21 tax are required under the terms of this article.

22 ~~(40)~~ “Tax deficiency” or “deficiency” means any amount of tax, penalty, interest, or other
23 fee that is not reported and/or not paid on or before the date that any return or
24 payment of the tax is required under the terms of this article.

25 ~~(41)~~ “Taxable sales” means gross sales less any exemptions and deductions specified in
26 this chapter.

27 ~~(32)~~ Taxable services or services means services subject to tax pursuant to this article.

28 ~~(42)~~ “Taxable service” means any service subject to tax pursuant to this article.

29 ~~(31)~~ Telecommunications service means the transmission of any two-way interactive
30 electromagnetic communications including, but not limited to, voice, image, data and

1 any other information, by the use of any means but not limited to wire, cable, fiber
2 optical cable, microwave, radio wave or any combinations of such media.
3 Telecommunications service includes, but is not limited to, basic local exchange
4 telephone service, toll telephone service and teletypewriter service, including, but not
5 limited to, residential and business service, directory assistance, cellular mobile
6 telephone or telecommunication service, specialized mobile radio and two-way
7 pagers and paging service, including any form of mobile two-way communication.
8 Telecommunications service does not include separately stated nontransmission
9 services which constitute computer processing applications used to act on the
10 information to be transmitted.

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

17 (44) “Television and entertainment services” means audio or visual content, that can be
18 transmitted electronically by any means, for which a charge is imposed.

19 (3445) “Use” means the exercise, for any length of time, by any person within the city of any
20 right, power or dominion over tangible personal property, products, or services either
21 under a lease, or pursuant to a transaction whereby tangible personal property
22 together with the services of an operator thereof, is furnished for another person,
23 irrespective of the fact that during all times that the said property is so furnished, the
24 control of the operation of the same remains in the person so providing the said
25 property, or pursuant to a purchase at retail either within or without the city. when
26 rented, leased or purchased at retail from sources either within or without the city
27 from any person or vendor or used in the performance of a contract in the city
28 whether such tangible personal property is owned or not owned by the taxpayer. Use
29 also includes the withdrawal of items from inventory for consumption.

30 (35) Wholesale sale means:

31 a. — A sale by wholesalers to licensed retail merchants, jobbers, dealers or other

1 ~~wholesalers for resale, and does not include (i) a sale by wholesalers to users~~
2 ~~or consumers not for resale; (ii) the leasing, hiring or renting of, or granting of~~
3 ~~a license to use (including royalty agreements) tangible personal property to a~~
4 ~~user or consumer thereof; (iii) sales of returnable containers to manufacturers,~~
5 ~~compounders, wholesalers, retailers, jobbers, packagers, distributors or~~
6 ~~bottlers; (iv) sales of tangible personal property to persons for resale when~~
7 ~~there is a likelihood that the city will otherwise lose tax revenues due to the~~
8 ~~difficulty of policing the business operations because:~~

- 9 ~~1. — of the frequent replacement of independent contractors or agents;~~
- 10 ~~2. — of the lack of a place of business in which to display a city retail sales~~
11 ~~license;~~
- 12 ~~3. — of the lack of a place of business in which to keep records;~~
- 13 ~~4. — of the lack of adequate records;~~
- 14 ~~5. — the persons engaged in selling, or in the chain of selling events, are~~
15 ~~minors or transients; or~~
- 16 ~~6. — the persons selling, or in the chain of events leading to sale, are~~
17 ~~engaged essentially in providing services in transferring tangible~~
18 ~~personal property;~~

19 ~~but the transactions set forth in items (i), (ii), (iii) and (iv) above shall be~~
20 ~~deemed retail sales and subject to the provisions of this article.~~

21 ~~b. — Sales to and purchases of tangible personal property by a person engaged in~~
22 ~~the business of manufacturing or compounding for use, profit or sale shall be~~
23 ~~deemed wholesale sales and shall be deemed exempt from taxation under this~~
24 ~~article if said tangible personal property meets all of the following conditions:~~
25 ~~(i) it is actually and factually transformed by the process of manufacture; (ii) it~~
26 ~~becomes by the manufacturing or compounding process a necessary and~~
27 ~~recognizable ingredient, component and constituent part of the finished~~
28 ~~product; and (iii) its physical presence in the finished product is essential to the~~
29 ~~use thereof in the hands of the ultimate consumer.~~

30 ~~c. — Sales to and purchases of tangible personal property for use as containers,~~

1 ~~labels and shipping cases by a person engaged in manufacturing,~~
2 ~~compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling~~
3 ~~for sale, profit or use, which tangible personal property meets all of the~~
4 ~~following conditions: (i) is used by the manufacturer, compounder, wholesaler,~~
5 ~~jobber, retailer, packager, distributor or bottler to contain or label the finished~~
6 ~~product; (ii) is transferred by said person along with and as a part of the~~
7 ~~finished product to the purchaser; and (iii) is not returnable to said person for~~
8 ~~reuse, shall be deemed wholesale sales and shall be exempt from taxation~~
9 ~~under this article.~~

10 ~~Provided, however, that skin casing or cellulose casing or sales of and~~
11 ~~purchases of edible fryer oil used as a cooking medium which enters into the~~
12 ~~processing of food products intended to be sold at retail for human~~
13 ~~consumption shall be exempt from taxation when such skin casing or cellulose~~
14 ~~casing or edible fryer oil used as a cooking medium, which does not become~~
15 ~~an integral or constituent part of a food product, is directly used, consumed,~~
16 ~~dissipated or destroyed to the extent that it is rendered unfit for further use in~~
17 ~~the processing of a food product.~~

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

22 ~~(36) *Wholesaler* means a person doing a regularly organized wholesale or jobbing~~
23 ~~business and selling to licensed retailers, merchants, jobbers, dealers or other~~
24 ~~wholesalers, for the purpose of resale.~~

25 (47) "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 **Section 14.** That section 53-96 of the Denver Revised Municipal Code is hereby amended
29 by adding the underlined language and deleting the stricken language to read and be read as follows:

30 **Sec. 53-96. - Imposition of tax.**

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

1 article, by every person exercising the taxable privilege of storing, using, distributing or consuming
2 in the city ~~a service subject to the provisions of this article or any article of tangible personal~~
3 property, or a product or service subject to the provisions of the is article, purchased at retail, for
4 said exercise of said privilege, as follows:

- 5 (1) On the purchase price ~~paid or charged~~ upon all ~~sales and purchases~~ and sales of
6 tangible personal property.
- 7 (2) In the case of retail sales involving the exchange of property, on the purchase price
8 ~~paid or charged~~, including the fair market value of the property exchanged at the time
9 and place of the exchange, excluding, however, from the consideration or purchase
10 price the fair market value of the exchanged property if such exchanged property is to
11 be sold thereafter in the usual course of the retailer's business.
- 12 (3) Upon the purchase price ~~or charge~~ for telephone and telecommunications services,
13 including in addition to audio and video transmission and reception, other two-way
14 electronic or electromagnetic wave transmissions, receptions or communications of
15 any sort, by or through any medium, whether such services are furnished by public or
16 private corporations or associations, that, except as otherwise provided by this article
17 for mobile telecommunication services, both originate in and are charged to a
18 telephone number or an account located within the city, excepting, however, monthly
19 or other periodic usage charges that represent varying amounts billed to accounts for
20 a subscriber's actual use of interstate services provided by a long-distance
21 telecommunications company and charged to the subscriber by or on behalf of a
22 long-distance telecommunications company.
- 23 (4) Upon the purchase price ~~or charge~~ for coal, petroleum, liquid petroleum, electric,
24 steam and natural gas services, and any other products used for energy-producing
25 purposes, whether furnished by municipal, public or private corporations or
26 associations, furnished and sold for domestic, commercial or industrial consumption
27 and not for resale.
- 28 (5) Upon the purchase price ~~or charge~~ for the furnishing or sale to customers within the
29 city of informational or entertainment service wherein the relay or transmission of
30 electromagnetic waves through any medium, tangible or intangible, including cable,
31 glass fiber and ambient air, is necessary for the service to be received, including, but
32 not limited to, digital products, internet subscription services, sound system services,

1 and television and entertainment services, pay television, excepting however,
2 telephone and telecommunications services described in section 53-25(3) and
3 television, cinema or similar programming provided at a theater or similar place open
4 to the public.

- 5 (6) Upon the purchase price ~~or charge~~ for digital products, software programs, software
6 as a service, software license fees, and software maintenance agreements. ~~data~~
7 ~~processing equipment and data processing programs.~~

8 **Section 15.** That section 53-97 of the Denver Revised Municipal Code is hereby amended
9 by adding the underlined language and deleting the stricken language to read and be read as follows:

10 **Sec. 53-97. - Exemptions.**

11 There shall be exempt from taxation under the provisions of this article the following:

- 12 (1) All purchases by or sales to the United States government, to the state, its
13 departments and institutions, and the political subdivisions thereof only when
14 purchased in their governmental capacities.
- 15 (2) All purchases by or sales ~~made to~~ religious or charitable corporations when
16 purchased for their regular religious or charitable functions and activities.
- 17 (3) All purchases or sales of cigarettes.
- 18 (4) All purchases or sales of motor fuel and special fuel ~~as defined in this article.~~
- 19 (5) All purchases or sales ~~and purchases~~ of meat, cattle, sheep, lambs, swine and goats;
20 all sales of mares and stallions for breeding purposes.
- 21 (6) All purchases or sales ~~and purchases~~ of feed for livestock or poultry and all sales of
22 seeds to farmers, ranchers, truck farmers, florists and horticulturists who sell the
23 crops resulting from the propagation of such seeds or use such crops as feed for
24 livestock or poultry.
- 25 (7) ~~The sale and purchase~~ All purchases or sales of medical supplies.
- 26 (8) ~~The sale and purchase~~ All purchase or sales of food.
- 27 (9) ~~Sales~~ All purchases or sales of tangible personal property purchased outside the city
28 for use, storage, distribution or consumption outside the city by a nonresident of the
29 city while the property is temporarily within the city for the purchaser's own personal
30 use, storage or consumption.

- 1 (10) ~~Sales~~ All purchases or sales of tangible personal property to a natural gas and
2 electric utility or a telephone utility that is not used, consumed or distributed in the city
3 but is for use, consumption or distribution in its business operations outside the city
4 even though the property is delivered and temporarily stored within the city.
- 5 (11) All purchases or sales which the city is prohibited from taxing under the Constitution
6 or laws of the United States or the Constitution of the state.
- 7 (12) ~~Sales~~ All purchases or sales of automotive vehicles as defined in this article that are
8 registered and required by state law to be registered outside the city.
- 9 (13) All purchases or sales of farm ~~machinery as defined in this article~~ equipment used
10 directly for plowing, planting, cultivating or harvesting of crops.
- 11 (14) ~~Sales~~ All purchases or sales of tangible personal property, products, and services
12 taxable under the city retail sales tax article, article II of this chapter, upon which a
13 sales tax has been paid to the city.
- 14 (15) ~~The sale~~ All purchases or sales of construction and building materials for their
15 storage in the city; but any use, consumption or distribution beyond storage of the
16 construction and building materials in the city shall be taxable.
- 17 (16) ~~Sales~~ All purchases or sales of machinery, tools and equipment, including
18 replacement parts, to a transportation utility to be used by the utility in the operation
19 of an equipment maintenance facility and at an industrial building:
- 20 a. That is located in the city within an enterprise zone designated as such
21 pursuant to state law;
- 22 b. That contains at least one million (1,000,000) square feet of enclosed, useable
23 floor space on a single level;
- 24 c. That serves as a regular place of work and for reporting for duty for at least
25 two thousand (2,000) employees in the third year of operations of the
26 maintenance facility and continually thereafter; and
- 27 d. That is operated by an interstate carrier for hire primarily for maintaining,
28 rebuilding or repairing equipment moving in interstate commerce.

29 This exemption may be applicable to the first and second years of operations at the
30 industrial building provided that the utility establishes a reserve account for the tax for

1 its return to the city at the end of the third year of operations should less than two
2 thousand (2,000) employees be employed at the facility in said third year.

- 3 (17) ~~Sales~~ All purchases or sales of construction ~~and building~~ materials for use in the
4 construction, reconstruction or remodeling of a new industrial building of a
5 transportation utility to be used by the utility for an equipment maintenance facility:
- 6 a. That is located in the city within an enterprise zone designated as such
7 pursuant to state law;
 - 8 b. That is designed to contain at least one million (1,000,000) square feet of
9 enclosed, useable floor space on a single level;
 - 10 c. That serves as a regular place of work and for reporting for duty for at least
11 two thousand (2,000) employees in the third year of operations of the
12 maintenance facility and continually thereafter; and
 - 13 d. That is operated by an interstate carrier for hire primarily for maintaining,
14 rebuilding or repairing equipment moving in interstate commerce.

15 This exemption may be applicable to the design and construction phases of the new
16 facility and to the first and second years of operations at the facility provided that the
17 utility establishes a reserve account for the tax for its return to the city at the end of
18 the third year of operations should less than two thousand (2,000) employees be
19 employed at the facility in said third year.

- 20 (18) All sales of prepress preparation materials ~~as defined in this article.~~

- 21 (19) ~~Sales~~ All purchases or sales of tangible personal property (excepting (a) construction
22 equipment, tools and machinery; (b) construction ~~and building~~ materials ~~as defined in~~
23 ~~this article~~; and (c) vehicles that are capable of moving themselves, or of being
24 moved from place to place upon wheels or endless tracks, excluding bicycles and
25 other devices moved by human power and excluding "farm ~~machinery equipment~~"
26 used directly for plowing, planting, cultivating or harvesting of crops ~~as defined in this~~
27 ~~article~~) that are first used, stored, consumed or distributed within the city more than
28 one (1) year after the most recent sale of the property if, within the year following
29 such sale, the property has been used in a significant way outside the ~~city~~ City and
30 ~~County of Denver~~ for the principal purpose for which it was most recently purchased.

1 (20) ~~Sales~~ All purchase or sales made to, billed directly to, and paid for directly by,
2 qualified hospital organizations (as defined in paragraph (a) of this subsection (20)),
3 provided that the property or service purchased by the qualified hospital organization
4 is employed in furtherance of an exempt function (as defined in paragraph (b) of this
5 subsection (20)).

6 (a) For purposes of this subsection (20), a "qualified hospital organization" is any
7 of the following:

8 (1) An organization that is exempt from federal income tax under section
9 115 or section 501(c)(3) of the United States Internal Revenue Code of
10 1986, as amended, but only if the organization holds a license to
11 operate a "general hospital" for people issued pursuant to sections 25-
12 3-101 and 25-3-102, Colorado Revised Statutes (2000), as amended,
13 including any successor provisions to those sections, and operates a
14 general hospital;

15 (2) A corporation or trust that:

16 (a) Is exempt from federal income tax under section 501(c)(3) of the
17 United States Internal Revenue Code of 1986, as amended;

18 (b) Owns or employs personal property or improvements that are
19 used in the operations of one (1) or more organizations
20 described in subparagraph (a)(1) of this subsection (20); and

21 (c) Either (i) directly controls, or is controlled by, one (1) or more
22 organizations described in subparagraph (a)(1) of this subsection
23 (20), (ii) is controlled by a management organization as defined
24 in subparagraph (a)(3) of this subsection (20) in common with
25 one (1) or more organizations described in subparagraph (a)(1)
26 of this subsection (20), or (iii) owns a hospital that is licensed to
27 operate as a "general hospital" for people pursuant to sections
28 25-3-101 and 25-3-102, Colorado Revised Statutes (2000), as
29 amended, including any successor provisions to those sections,
30 and that is operated by an organization described in
31 subparagraph (a)(1) of this subsection (20).

- 1 (3) An organization that is exempt from federal income tax under section
2 501(c)(3) of the United States Internal Revenue Code of 1986, as
3 amended, and a principal function of which is to manage the property or
4 operations, or both, of one (1) or more organizations described in
5 subparagraphs (1) or (2) of this paragraph (a); and
- 6 (4) A partnership, limited partnership, limited liability limited partnership,
7 limited liability partnership, limited liability company, or joint venture if all
8 of the partners, members, joint venturers or other participants in such
9 partnership, limited partnership, limited liability limited partnership,
10 limited liability partnership, limited liability company or joint venture are
11 organizations described in subparagraphs (1), (2) or (3) of this
12 paragraph (a).

13 (b) For purposes of this subsection (20):

- 14 (1) Except as provided in subparagraph (3) of this paragraph (b),
15 "employed in furtherance of an exempt function" means employed by a
16 qualified hospital organization in an activity from which none of the
17 proceeds are treated as unrelated business income.
- 18 (2) "Unrelated business income" means gross income derived from any
19 unrelated trade or business within the meaning of section 512 of the
20 United States Internal Revenue Code of 1986, as amended.
- 21 (3) If the ~~purchase and~~ sale of any property or service would be exempt
22 under this subsection (20) but for the fact that the property or service is
23 employed in an activity from which a portion of the proceeds is treated
24 as unrelated business income, the manager of finance is authorized to
25 approve written formulas or methodologies (including formulas or
26 methodologies of individual qualified hospital organizations) as may be
27 appropriate and reasonable to determine, based on the evidence
28 available, the percentage of the proceeds from such activity that is not
29 treated as unrelated business income. This calculated percentage shall
30 be the percentage of the cost of such property or service that will be
31 exempt under this subsection (20). The manager of finance may

1 condition approval of formulas and methodologies on receipt of such
2 information as is reasonably deemed necessary for proper
3 implementation of such formulas and methodologies.

4 (21) ~~The sale~~ All purchases or sales of aircraft to an airline company that is used in
5 interstate commerce by the airline company.

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

9 (a) The United States government, to the state, its departments and institutions
10 and the political subdivisions thereof; or

11 (b) Any organization which has been certified as a not-for-profit organization
12 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
13 and which is also operated as a Colorado nonprofit corporation.

14 **Section 16.** That section 53-98 of the Denver Revised Municipal Code is hereby amended
15 by adding the underlined language and deleting the stricken language to read and be read as follows:

16 **Sec. 53-98. - Retailers to collect tax.**

17 (a) Tax rates. A tax of three and sixty-five one-hundredths (3.65) percent is imposed and
18 levied and there shall be collected and paid a tax upon the exercise of the privilege of
19 storing, using, distributing or consuming in the city ~~a service subject to the provisions~~
20 ~~of this article or any item of~~ tangible personal property, or a product or a service subject
21 to the provisions of this article, purchased at retail, or deemed to be purchased at retail,
22 except ~~these commodities~~ tangible personal property, are a product or a services
23 specified in subsection (b) of this section. In order to avoid amounts that are fractions
24 of pennies, taxpayers shall use a rounding procedure approved by the manager when
25 computing the tax.

26 On those taxable uses, consumptions, distributions and storages of ~~commodities-tangible~~
27 personal property, products, or services specified in subsection (b) of this section, there is
28 levied and imposed upon the privilege of storing, using, distributing or consuming in the city
29 a tax in accordance with the rates set forth therein.

30 (b) Special rates.

31 (1) Special note for aviation and railway fuel. Any fuel in the form of liquid or gas
32 that is prepared, advertised, offered for sale, sold for use and used or

1 commercially usable for the generation of power for the propulsion or drawing
2 of aircraft, railroad cars or railroad locomotives shall be taxed at the rate of four
3 cents (\$0.04) for each gallon used, consumed, stored or distributed. In order to
4 avoid amounts that are fractions of pennies, taxpayers shall use a rounding
5 procedure approved by the manager when computing the tax.

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

16 (3) Special note for prepared food and beverages. Food and beverages not
17 exempted from taxation under section 53-26(8) of the city retail sales tax article
18 shall be taxed under this article at the rate of four (4) percent of the purchase
19 price. In order to avoid amounts that are fractions of pennies, taxpayers shall
20 use a rounding procedure approved by the manager when computing the tax.

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

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

32 (e) Affixing of tangible personal property on realty. Every person who attaches and affixes
33 to realty or the improvements and structures located thereon, situated within the city,

1 any article of tangible personal property taxable hereunder, acquired from sources
2 without the city and who has not paid the tax imposed by this article thereon, to a
3 vendor required or authorized to collect the same, shall monthly make a return and pay
4 the tax due to the manager on or before the twentieth day of each calendar month
5 thereafter. The full amount of such unpaid taxes, arising as aforesaid, together with
6 interest and penalties as hereinafter provided shall constitute a first and paramount
7 lien upon such realty and the improvements located thereon, so benefited by the
8 attaching and affixing of such articles of tangible personal property thereto, which lien
9 shall have precedence over all other liens of whatsoever kind or nature, except as to
10 liens for general taxes created by state law, and except as to preexisting claims or liens
11 of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall
12 have attached prior to the filing of the notice of lien by the manager as hereinafter
13 provided; and the manager is hereby authorized to file a notice of lien therefor against
14 said benefited realty and the improvements and structures thereon with the clerk and
15 recorder of the city; and upon full payment of the amount of taxes, interest and
16 penalties on account thereof, the manager may release and discharge said lien. Unless
17 so released and discharged, said lien shall continue for six (6) years from the date said
18 notice of lien is filed, notwithstanding the general limitation-of-action clause contained
19 in this article.

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

- 23 (1) That the purchaser's order or contract of sale is delivered, mailed or otherwise
24 transmitted by the purchaser to the vendor at a point outside Denver as a result
25 of solicitation by the vendor through the medium of a catalog or other written
26 advertisement; or
- 27 (2) That the purchaser's order or contract of sale is made or closed by acceptance
28 or approval outside of the city or before said tangible personal property enters
29 the city; or
- 30 (3) That the purchaser's order or contract of sale provides that said property shall
31 be, or it is in fact, procured or manufactured at a point outside the city and
32 shipped directly to the purchaser from the point of origin; or
- 33 (4) That said property is mailed to the purchaser in the city from a point outside the

1 city or delivered to a carrier at a point outside the city F.O.B., or otherwise, and
2 directed to the vendor in the city, regardless of whether the cost of transportation
3 is paid by the vendor or by the purchaser; or

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

7 (g) Collection mandatory. Every vendor engaging in business in the city and selling
8 tangible personal property, or a product or a service ~~or services~~ taxable hereunder
9 shall collect, and is required to collect, the tax imposed and levied by this article from
10 the purchaser.

11 (h) Retailer as collecting agent. The retailer shall be entitled as collecting agent of the city
12 to apply and credit the amount of his collections of the tax levied by this article against
13 the amount required to be paid over by him under the provisions of section 53-99,
14 remitting any excess of collections over the amount required by section 53-99 of this
15 Code, and rounding to the nearest whole dollar as provided in section 53-99, to the
16 manager in the retailer's next periodic tax return.

17 (i) Consumer returns due, generally. Every person who is engaged in business in the city
18 and who purchases ~~services or~~ tangible personal property, a product or service taxable
19 hereunder for use, storage or consumption in the city in connection with the business,
20 who has not paid the tax imposed by this article thereon to a vendor required or
21 authorized to collect the same, shall, monthly, make a return of and pay over the tax
22 due to the manager, on or before the twentieth day of each calendar month thereafter.
23 The amount of the consumer use tax may be subject to reduction as provided by
24 section 53-92 for previously paid sales or use taxes.

25 (j) Retailer not to benefit. No retailer shall gain any benefit from the collection or payment
26 of the tax, except as permitted by this article, and the use of the rounding procedure
27 approved by the manager shall not relieve the retailer from liability for payment of the
28 amount required by section 53-99.

29 (k) Use tax increment to fund the Denver preschool program. In addition to the use tax
30 otherwise imposed by this section, a tax of fifteen one-hundredths of one (.15) percent
31 shall be paid on all taxable uses, consumptions, distributions, and storages of
32 ~~commodities—~~ tangible personal property, products, and services, except on
33 ~~commodities~~ tangible personal property, products, and services specified in subsection

1 (b) of this section, beginning January 1, 2015 and expiring December 31, 2026. The
2 revenue from such additional tax shall be used for the sole purpose of funding the
3 Denver preschool program pursuant to article III of chapter 11.

4 **Section 17.** That subsection 53-99(a) of the Denver Revised Municipal Code is hereby
5 amended by adding the underlined language and deleting the stricken language to read and be read
6 as follows:

7 **Sec. 53-99. - Retailer responsible for payment of tax.**

- 8 (a) Amount. Every retailer shall, irrespective of other provisions of this article, be liable and
9 responsible for the payment of an amount equivalent to three and sixty-five one-
10 hundredths (3.65) percent of gross taxable sales made by him of ~~services and tangible~~
11 personal property, products, and services ~~specified in this article~~, except:

12 **Section 18.** That subsection 53-118(f) of the Denver Revised Municipal Code is hereby
13 amended by adding the underlined language and deleting the stricken language to read and be read
14 as follows:

- 15 (f) Burden of proof. The burden of proof that storage, use, distribution, or consumption of
16 tangible personal property, products, or services upon which refunds of taxes are
17 claimed, or for which modifications or cancellations of assessments are sought, are
18 exempt from or not subject to taxation under this article shall be on the taxpayer and
19 such proof shall be by a preponderance of evidence.

20 **Section 19.** That section 53-135 of the Denver Revised Municipal Code is hereby amended
21 by adding the underlined language and deleting the stricken language to read and be read as follows:

22 **Sec. 53-135. - License and tax in addition to all others.**

23 The license required and the tax levied by this article shall be in addition to all other licenses
24 required and taxes levied by law except as herein otherwise provided. No delinquency in payment
25 and no violation of this article shall be grounds for the suspension or revocation of any license
26 issued to any person engaged in business ~~within~~ the city by any official of the city under any
27 licensing provisions of the Code or other ordinances, neither shall the same be grounds for the
28 suspension or revocation of any state license issued by any licensing authority pursuant to the
29 statutes of the state.
30

1 COMMITTEE APPROVAL DATE: _____

2 MAYOR-COUNCIL DATE: _____

3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

10 PREPARED BY: Charles Solomon, Assistant City Attorney DATE: _____

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
14 §3.2.6 of the Charter.

15
16 Kristin M. Bronson, Denver City Attorney

17 BY: _____, Assistant City Attorney DATE: _____