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CHAPTER 1

General

Sec. 14-1-1. Receipts and revenues.

All fees and revenues of whatever kind, received by any department of the City or by any person, official or agency on behalf of the City shall belong to the City, and shall be remitted to the Director of Finance. (1957 Code, §24-12)

Sec. 14-1-2. Fiscal year.

The fiscal year of the City shall begin on the first day of January and end on the last day of December of each year. The first quarter of the fiscal year shall end on the last day of March and the second, third and last quarters shall end respectively on the last days of June, September and December of each year.

CHAPTER 4

Sales and Use Tax

Article I

Imposition, Rate of Tax, General Provisions

Sec. 14-4-1. Declaration of purpose.

The City Council hereby declares that the purpose of the levy of the taxes imposed by this Chapter is for the raising of funds for the payment of the expenses of operating the City; and in accordance with this purpose, all of the proceeds of such tax shall be placed in and become a part of the general fund of the City. (1957 Code, §25-60)

Sec. 14-4-2. Administration.

(a) The administration of the licensing provisions of this Chapter is hereby vested in the Director of Finance, and the administration of all the other provisions of this Chapter is hereby vested in and shall be exercised by the Director of Finance, who shall prescribe forms and reasonable rules and regulations in conformity with this Chapter for the making of returns, for the ascertainment, assessment and collection of the taxes imposed hereunder, and for the proper administration and enforcement hereof.

(b) Rules and regulations adopted or amended by the Director of Finance under the provisions of this Chapter may be rescinded by the Director of Finance, and all such rules and regulations adopted, amended or rescinded shall be effective in the manner and at the time prescribed by the Director.

(c) The Director shall appoint such persons to make such examinations, require such reports, make such investigations, make such expenditures and take such other action as he or she deems necessary or suitable to that end. The Director shall determine his or her own organization and

methods of procedure in accordance with the provisions of this Chapter. Subject to the provisions of this Chapter, the Director of Finance is authorized to appoint and prescribe the duties and powers of such officers, accountants, experts and other persons as may be necessary in the performance of his or her duty. The Director of Finance may delegate to any such person so appointed, such power and authority as he or she deems reasonable and proper for the effective administration of this Chapter and shall bond in a sufficient amount any person handling money under this Chapter. (1957 Code, §25-2)

Sec. 14-4-3. Rules; formulation by Director.

To provide uniform methods of adding the tax, or the average equivalent thereof, to the selling price, it shall be the duty of the Director of Finance to formulate and promulgate, after hearing, appropriate rules and regulations to effectuate the purpose of this Chapter. (1957 Code, §25-14)

Sec. 14-4-4. Tax cumulative.

The license and tax imposed by this Chapter shall be in addition to all other licenses and taxes imposed by law, except as herein otherwise provided. (1957 Code, §25-59)

Sec. 14-4-5. Examination of return.

As soon as practicable after a return is filed, the Director shall examine it and shall determine the correct amount of tax. If the tax found due is greater than the amount theretofore assessed or paid, a notice of deficiency shall be mailed to the taxpayer by certified mail. (1957 Code, §25-37; Ord. No. 5022, 12-27-82; Ord. No. 5292, 2-24-86)

Sec. 14-4-6. Information confidential; limitation; destruction of records.

(a) Except in accordance with judicial order or as otherwise herein provided, the Director of Finance, his or her agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this Chapter.

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

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

(d) Reports and returns shall be preserved for three (3) years and thereafter until the Director of Finance orders them destroyed.

(e) Notwithstanding the provisions of this Section, the Director of Finance in his or her discretion may furnish to the taxing officials of any other state and its political subdivisions, to the State of Colorado and its political subdivisions, and to the United States any information contained in tax returns and related schedules and documents filed pursuant to this Chapter, or in a report of an audit or investigation made with respect thereto, provided that said jurisdiction enters into an agreement with the Director to grant similar privileges to the City, and provided further that such information is to be used for tax purposes only. (1957 Code, §25-30; Ord. No. 3450, §1, 5-24-71)

Sec. 14-4-7. Investigation; hearings.

For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the Director of Finance may hold investigations and hearings concerning any matters covered by this Chapter, and may examine any relevant books, papers, records or memoranda of any such person and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such sales, and may take testimony and require proof for his or her information. The Director of Finance shall have power to issue subpoenas and administer oaths to such persons. (1957 Code, §25-33)

Sec. 14-4-8. Depositions; power to take.

The Director of Finance or any party in an investigation or hearing before the Director of Finance may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda. (1957 Code, §25-36)

Sec. 14-4-9. Subpoenas; witness fees.

(a) If any taxpayer shall refuse voluntarily to furnish any books and records, as required by this Chapter, when requested by the Director, the Director, by subpoena issued under his or her hand, may require the attendance of the taxpayer and the production by him or her of any of the required information in his or her possession, and may administer an oath to him or her and take his or her testimony. If the taxpayer fails or refuses to respond to said subpoena and give testimony, the Director may apply to any Judge of the Municipal Court for an attachment against such taxpayer as for contempt. Said Judge may cause the arrest of such person and, upon hearing, said Judge shall have, for the purpose of enforcing obedience to the requirements of said subpoena, power to make such order as in his or her discretion he or she deems consistent with the law for punishment of contempts.

(b) If the Director is unable to secure from the taxpayer information relating to the correctness of the taxpayer's return or the amount of the income of the taxpayer, the Director may apply to any Judge of the Municipal Court for the issuance of subpoenas to such other persons as the Director believes may have knowledge in the premises, and upon making a showing satisfactory to the Court that the taxpayer cannot be found, evades service of subpoena, fails or refuses to produce his or her records or give testimony, or is unable to furnish such records or testimony, the Judge shall have

power, after service of summons upon the persons named in the petition of the Director, and after hearing, to cause the issuance of subpoenas under the seal of the Court to the persons sought to be so summoned requiring them or any of them to appear before said Director and give testimony relating to said taxpayer's return or income; and in case any of said persons so served with subpoena shall fail to respond thereto, the Judge may proceed against such persons as in cases of contempt. (1957 Code, §25-34; Ord. No. 3450, §1, 5-24-71)

Sec. 14-4-10. Compelling witness attendance.

The Judge of the Municipal Court, upon the application of the Director of Finance, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Director of Finance, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before such Court. (1957 Code, §25-35)

Sec. 14-4-11. Site of hearings.

Every hearing before the Director of Finance shall be held in the City. (1957 Code, §25-58)

Sec. 14-4-12. Limitations.

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

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

(c) Before the expiration of such period of limitation, the taxpayer and the Director of Finance may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing. (1957 Code, §25-61; Ord. No. 5292, 2-24-86)

Sec. 14-4-13. Duration of tax law.

This Chapter shall be null and void upon final adoption by the City Council of a tax levy ordinance which sets the mill levy for all municipal purposes, excluding water bonds, at a rate in excess of nineteen and three-quarters ($19\frac{3}{4}$) mills for each one dollar (\$1.00) of assessed valuation. This Chapter shall be null and void upon final adoption of an ordinance which amends this Section. (1957 Code, §25-62)

Sec. 14-4-14. Computation of interest.

(a) When interest is required or permitted to be charged under any provision of this Title in connection with interest on underpayment, nonpayment, extension of time for payment, or

overpayment, such interest shall be computed at the annual rate which has been established pursuant to this Section.

(b) The annual rate of interest shall be the same as that imposed under Section 39-21-110.5, C.R.S. 1973 as amended, which section is incorporated herein as above and as follows:

(c) The annual rate of interest shall be the prime rate, as reported by the Wall Street Journal, plus three (3) points, rounded to the nearest full percent. In the event that more than one (1) rate is so reported, the highest rate shall be utilized.

(d) The Commissioner of Banking shall establish an adjusted annual rate of interest based upon the computation specified in Subsection (c) of this Section and rounded to the nearest full percent. The adjusted annual rate of interest shall be so established by the Commissioner of Banking as of July 2, 1990, to become effective January 1, 1991. Thereafter, on July 1, or the next succeeding business day, of each year, the adjusted annual rate of interest shall be established in the same manner, to become effective on January 1 of the next succeeding year. (Ord. No. 5022, 12-27-82; Ord. No. 5648, 12-10-90)

Sec. 14-4-15. Interest on underpayment, nonpayment or extensions of time for payment of tax.

(a) If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under Section 14-4-14 shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises, and in no event shall it be later than the date notice and demand for the tax is made by the Director of Finance.

(b) Interest prescribed under this Section shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.

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

(d) Interest prescribed under this Section on any tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected. (Ord. No. 5292, 2-24-86)

Sec. 14-4-16. Penalty interest on unpaid use tax.

Any use tax due and unpaid under this Chapter shall be a debt to the City, and shall draw interest at the rate imposed under Section 14-4-14, in addition to the interest provided by Section 14-4-15, from the time when due until paid. The Director of Finance may recover at law the amount of such tax and interest in a suit instituted in the name of the City, and this remedy shall be in addition to all other remedies. (Ord. No. 5292, 2-24-86)

Sec. 14-4-17. Collection fees.

Notwithstanding Sections 14-4-1 and 14-4-85 of this Chapter, three and three-tenths percent (3.3%) of the revenues derived from the taxes imposed by this Chapter shall be deposited and placed in a special fund hereby created pursuant to Section 7-21 of the Charter of the City to be known as the "Collection Fee Fund". The moneys in the Collection Fee Fund shall be used solely for one or more of the following purposes in such amounts and proportions as the City Council shall determine: (1) paying the operation and maintenance expenses of a civic center and hotel complex within the Urban Renewal Authority of the City; (2) paying the principal of, premium, if any, and interest on revenue bonds of the Urban Renewal Authority of the City issued to finance the civic center and hotel complex and other improvements, or any bonds issued to refinance such bonds; and/or (3) reimbursing retailers for their costs incurred in collecting and remitting the sales and use tax revenues to the City. The City Council is authorized to pledge irrevocably all or any part of the moneys in the Collection Fee Fund for the purposes set forth in clauses (1) and/or (2) above. (Ord. No. 5810, 11-2-93)

Editor's Note: Ord. No. 5810 was passed and approved by the people of the City at an election held 11-2-93.

Secs. 14-4-18--14-4-20. Reserved.

Article II
General Terms, Distinctions, Definitions, Enforcement

Sec. 14-4-21. Definitions.

When not clearly otherwise indicated by the context, the following words and phrases, as used in this Chapter, shall have the following meanings:

(1) *Access services* means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

(2) *Auction* means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

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

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

(5) *Charitable organization* means any entity which:

- a. Has been certified as a not-for-profit organization under Section 501(c)(3) of the Internal Revenue Code; and
- b. Is a religious or charitable organization.

As used in this definition, a *charitable organization* is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.

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

(7) *Consumer* means (a) any individual person, or (b) any person engaged in business in the City who uses, stores, distributes or otherwise consumes in the City tangible personal property or taxable services purchased from sources inside or outside the City.

(8) *Drugs dispensed in accordance with a prescription* means drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by such a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

(9) *Engaged in business in the City* means performing or providing taxable services in the City or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Such term includes, but is not limited to, any one of the following activities by a person:

- a. Maintaining a building, store, office, salesroom, warehouse or other place of business within the City either directly, indirectly or through a subsidiary;
- b. Sending one (1) or more employees, agents or commissioned salespersons into the City to solicit business or to demonstrate, install, assemble, repair, service or assist in the use of its products, or for other business reasons;
- c. Maintaining one (1) or more employees, agents or commissioned salespersons on duty at a location within the taxing jurisdiction;

d. Owning, leasing, renting or otherwise exercising control over real or personal property within the City;

e. Making more than one (1) delivery into the City within any twelve-month period.

(10) *Exempt commercial packaging materials* means containers, labels and shipping cases used by a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling, for sale, profit or use, that meet all of the following conditions: (a) are used by such person to contain or label the finished product; (b) are transferred by said person to the purchaser along with and as a part of the finished product; and (c) are not returnable to said person for reuse.

(11) *Farm closeout sale* means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

(12) *Finance Director* means the Director of Finance of the City.

(13) *Food* means food for domestic home consumption as defined in 7 U.S.C. §2012(g), as amended, for purposes of the Federal Food Stamp Program as defined in 7 U.S.C. §2012(h), as amended; except that *food* does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow foods; prepared salads and salad bars; cold sandwiches; deli trays; and food or drink vended by or through machines or noncoin-operated coin-collecting food and snack devices on behalf of a vendor.

(14) *Gross sales* means the total amount received in money, credit, property or other consideration valued in money for all sales, leases or rentals of tangible personal property or services.

(15) *License* means a City sales tax, use tax or tax exempt license.

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

(17) *Resident of the City* means a person, if an individual, whose primary or principal residence is within the City or, if a firm, partnership or corporation, whose primary or principal place of business is within the City.

(18) *Medical supplies* means drugs, prosthetic medical and dental appliances, and special beds for patients with neuromuscular or similar debilitating ailments, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry or podiatry; corrective eyeglass lenses (including

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

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

(20) *Newspaper* means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term *newspaper* does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

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

(22) *Person* means any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in the fiduciary or representative capacity, whether appointed by court or otherwise or any group or combination acting as a unit.

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

(24) *Price* or *purchase price* means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this Article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

- a. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
- b. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration or certification under the laws of this State,

including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Price or purchase price includes:

- a. The amount of money received or due in cash and credits.
- b. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- c. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- d. The total price charged on credit sales, including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
- e. Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.
- f. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- g. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- h. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

Price or purchase price shall not include:

- a. Any sales or use tax imposed by the State or by any political subdivision thereof.
- b. The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.
- c. Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

(25) *Private communications services* means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

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

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

- a. Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;
- b. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;
- c. Performance of taxable services; or
- d. Barter or exchange for other property or services including coupons.

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

- a. A division of partnership assets among the partners according to their interests in the partnership;
- b. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;
- c. The transfer of assets of shareholders in the formation or dissolution of professional corporations;
- d. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
- e. A transfer of a partnership interest;
- f. The transfer in a reorganization qualifying under Section 368(a)(1) of the "Internal Revenue Code of 1954" as amended;
- g. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;

h. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

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

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

k. The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Article was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating or physical changing of the assets by the transferor corporation. To such an extent any transfer referred to in this paragraph k shall constitute a sale. For the purposes of this paragraph k, a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

(28) *Retail sales* means all sales except wholesale sales.

(29) *Retailer* means any person selling, leasing or renting tangible personal property or services at retail. *Retailer* shall include any:

a. Auctioneer;

b. Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;

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

(30) *Return* means the sales and use tax reporting form used to report sales and use tax.

(31) *Sales tax* means the tax to be collected and remitted by a retailer on sales taxed under this Code.

(32) *Security system services* means electronic security system services. Such term does not include nonelectronic security services such as consulting or human or guard dog patrol services.

(33) *Sound system services* means sound system services involving provision of broadcast or prerecorded audio programming to a building or portion thereof. Such term does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

(34) *Tangible personal property* means corporeal personal property.

(35) *Tax* means the use tax due from a consumer, the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

(36) *Tax deficiency* means any amount of tax that is not reported or not paid on or before the due date.

(37) *Taxable sales* means gross sales less any exemptions and deductions specified in this Code.

(38) *Taxable services* means services subject to sales tax or use tax pursuant to this Code.

(39) *Taxpayer* means any person obligated to collect and/or pay tax under the terms of this Code.

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

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

(42) *Use tax* means the tax paid or required to be paid by a person for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

(43) *WATS/800 service* means any outbound or inbound interstate wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

(44) *Wholesale sales* means sales to licensed retailers, jobbers, dealers or wholesalers for resale.

a. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

b. Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product which is manufactured, compounded or furnished or the container, label or the furnished shipping case thereof, shall be deemed to be wholesale sales and shall be deemed to be exempt from taxation under this Chapter.

c. Sales and purchases of electricity, gas, coal, fuel, oil or coke, for use in processing, manufacturing, mining, refining, irrigation, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses, and newsprint and printers' ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under the provisions of this Chapter, except that electricity, gas, coal, fuel oil or coke used for lighting or space heating in these operations shall not be exempt.

(45) *Wholesaler* means any person selling to retailers, jobbers, dealers or other wholesalers, for resale, and not for storage, use, consumption or distribution. (1957 Code, §25-1; Ord. No. 3450, §1, 5-24-71; Ord. No. 4572, 2-13-79; Ord. No. 4734, 4-28-80; Ord. No. 5667, 3-25-91; Ord. No. 5717, 12-9-91)

Sec. 14-4-22. Burden of proof.

The burden of proving that sales, services and commodities on which tax refunds are claimed are exempt from taxation hereunder, or were not at retail, shall be on the one making such claim under such reasonable requirements of proof as the Director of Finance prescribes. Should the applicant for refund be aggrieved at the final decision of the Director of Finance, he or she may proceed to have the same reviewed by the District Court in the manner provided for review of other decisions of the Director of Finance as provided in Section 14-4-33. (1957 Code, §25-27; Ord. No. 5292, 2-24-86)

Sec. 14-4-23. Distraint warrants penalties.

If any person liable for the payment of any tax covered by this Chapter has repeatedly failed, neglected or refused to pay the same within the time specified for such payment, and the Director of Finance has been required to issue distraint warrants to enforce collection of any taxes due from such taxpayer, the Director is hereby authorized to assess and collect the amount of such taxes due, together with all interest and penalties thereon provided by law, and also the following additional penalties for recurring distraint warrants:

(1) Three (3), four (4) or five (5) consecutive distraint warrants issued: fifteen percent (15%) of the delinquent taxes, interest and penalties due or the sum of twenty-five dollars (\$25.00), whichever amount is greater;

(2) Six (6) or more consecutive distraint warrants issued: thirty percent (30%) of the delinquent taxes, interest and penalties due or the sum of fifty dollars (\$50.00), whichever amount is greater. (1957 Code, §25-38; Ord. No. 3450, §1, 5-24-71; Ord. No. 5292, 2-24-86)

Sec. 14-4-24. Same penalty for violating.

Any City officer or employee, or any member of the office of, or officer or employee of, the Director of Finance, who shall divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation hereof. (1957 Code, §25-31)

Sec. 14-4-25. Tax estimated where no return; assessment; modification; notice.

(a) If a person neglects or refuses to make a return in payment of the tax or to pay any tax as required by this Chapter, the Director of Finance shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars (\$15.00) for such failure or ten percent (10%) thereof and interest on such delinquent taxes at the rate imposed under Section 14-4-14 plus one-half percent (0.5%) per month from the date when due, not exceeding eighteen percent (18%) in the aggregate. Promptly thereafter, the Director shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice shall be sent by certified mail directed to the last address of such person on file with the Department of Finance.

(b) Such estimate shall thereupon become a notice of deficiency as provided in Section 14-4-5. A hearing may be held and the Director shall make a final determination pursuant to Section 14-4-27. The taxpayer may appeal said final determination in the manner provided in Section 14-4-33. (1957 Code, §25-43; Ord. No. 5022, 12-27-82; Ord. No. 5292, 2-24-86)

Sec. 14-4-26. Notice; mailing.

All notices required to be given to the retailer or vendor, under the provisions of this Chapter, shall be in writing. If mailed postpaid by certified mail, return receipt requested to him or her at his or her last known address, such service shall be sufficient for the purpose of this Chapter. (1957 Code, §25-57)

Sec. 14-4-27. Complaints as to assessments; petition; hearing; notice.

(a) The taxpayer may request a hearing on the proposed tax by application to the Director of Finance within twenty (20) calendar days of the mailing of a notice of deficiency.

(b) The request for hearing shall set forth the taxpayer's reasons for and the amount of the requested changes in the deficiency.

(c) The Director of Finance shall notify the taxpayer in writing of the time and place for such hearing thirty (30) days prior thereto.

(d) After a hearing under this Section, the taxpayer shall not be entitled to a second hearing before the Director of Finance on the matters set forth in his or her previous request for hearing.

(e) The hearing shall be held before the Director of Finance or before such person within the Department as the Director shall designate. The Director or his or her delegate is authorized to administer oaths and take testimony. At the hearing, the taxpayer may assert any facts, make any arguments and file any briefs and affidavits he or she believes pertinent to his or her cause.

(f) In lieu of the request for hearing within the time provided by this Section, the taxpayer may, at his or her election, file a written brief and such other written materials or documents as he or she deems appropriate and request that the Director of Finance reconsider the deficiency without a hearing. The Director shall reconsider the deficiency in the same manner as if the written material submitted had been presented at a hearing pursuant to this Section. The submission of written material shall be considered for all purposes the same as a request for and submission of the material at a hearing.

(g) Based on the evidence presented at such hearing or filed in support of the taxpayer's contentions or after the expiration of thirty (30) days from the mailing of the notice of deficiency, if no request for hearing or brief has been filed by the taxpayer, the Director of Finance shall make a final determination within a reasonable time and shall send the taxpayer a notice of final determination by certified mail accompanied by notice and demand for payment. The Director may modify the tax, penalty and interest questioned at the hearing and may approve a refund; except that no additional tax shall be assessed for less than one dollar (\$1.00). Unless an appeal is taken as provided in Section 14-4-33, the tax, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after mailing of the notice and demand for payment by the Director. (1957 Code, §25-51; Ord. No. 3450, §1, 5-24-71; Ord. No. 5292, 2-24-86; Ord. No. 5717, 12-9-91)

Sec. 14-4-28. Rejection of refund claims.

Upon rejection, in whole or in part, of a claim for refund filed by a taxpayer, the Director of Finance shall send a notice of rejection to the taxpayer in writing by first-class mail directed to the last address on file with the Department as indicated on the last return filed by such taxpayer; and, within twenty (20) days from the mailing thereof, the taxpayer may request a hearing or file a brief with the Director, except where the claim is for refund of a deficiency in taxes assessed after hearing or determination on written briefs had under the provisions of Section 14-4-27. Thereafter, both the taxpayer and the Director shall proceed as provided in Section 14-4-27 with respect to the hearing or determination on written brief. Upon reaching a decision upon such claim for refund after hearing had thereon or consideration of the written brief, the Director shall send to the taxpayer, by first-class mail directed to the last address on file with the Department as indicated on the last return filed by such taxpayer, notice of final determination of claim for refund, stating therein the grounds for allowance or rejection in whole or in part. This Section shall not prevent a taxpayer from suing for a refund in the District Court within the time provided by law, whether or not he or she requests a hearing or presents a written brief. (1957 Code, §25-52; Ord. No. 3450, §1, 5-24-71; Ord. No. 5292, 2-24-86; Ord. No. 5717, 12-9-91)

Editor's Note: Section 14-4-29 was repealed in its entirety by Ord. No. 5292, passed and approved 2-24-86.

Sec. 14-4-30. Closing agreements.

(a) Satisfaction of Liability. For the purpose of facilitating the settlement and distribution of estates, trusts, receiverships, other fiduciary relationships and corporations in the process of

dissolution or which have been dissolved, the Director may agree with the fiduciary or surviving directors upon the amount of taxes due from the decedent, or from the decedent's estate, the trust, receivership or other fiduciary relationship or corporation, for any of his, her or its taxable periods, under the provisions of the taxes covered by this Code and except upon a showing of fraud, malfeasance or misrepresentation of a material fact, payment in accordance with such agreement shall be full satisfaction of the taxes for the taxable periods to which the agreement related.

(b) **Personal Liability.** Except as provided in Subsection (d) of this Section, any personal representative of a decedent or of the estate of a decedent, or any trustee, receiver or other person acting in a fiduciary capacity, or any director of a corporation in the process of dissolution or which has been dissolved, who distributes the estate or fund in his or her control without having first paid any taxes covered by this Code due from such decedent's estate, trust estate, receivership or corporation, covered by this Code and which may be assessed within the time limited by this Code, shall be personally liable to the extent of the property so distributed, for any unpaid taxes of the decedent, decedent's estate, trust estate, receivership or corporation covered by this Code and which may be assessed within the time limited by this Code.

(c) **Notification of Liability.** The distributee of a decedent's estate or a trust estate or fund or the stockholder of any dissolved corporation who receives any of the property of such decedent's estate, trust estate, fund or corporation, shall be liable to the extent of the decedent, trust estate, fund or corporation, covered by this Code, and which may be assessed within the time limited by this Code. Notice to such distributee or stockholder shall be given in the same manner and within the time limit which would have been applicable had there been no distributions.

(d) **Limitation of Liability.**

(1) In case tax covered by this Code is due from a decedent, his or her estate or a corporation, in order for personal liability under Subsection (b) of this Section to remain in effect, determination of the tax due shall be made and notice and demand therefor shall issue within eighteen (18) months after written request for such determination, filed after the filing of the decedent's final return or filed after the filing of the return of the decedent's estate with respect to which such request is applicable, by any personal representative of such decedent, or by the corporation, filed after the filing of its return; but a request under this provision shall not extend the period of limitation otherwise applicable.

(2) This Subsection (d) will not apply in the case of a corporation unless:

a. Such request notifies the Director that the corporation contemplates dissolution at or before the expiration of such eighteen-month period.

b. The dissolution is begun in good faith before the expiration of such eighteen (18) month period; and

c. The dissolution is completed.

(3) Upon the expiration of said eighteen-month period, without determination being made and notice and demand being issued, the personal representative or representatives of the decedent and

the directors of the corporation no longer will be liable under the provisions of Subsection (b) of this Section. (1957 Code, §25-9.1; Ord. No. 3450, §1, 5-24-71)

Sec. 14-4-31. Compromise.

(a) **Compromise Limitation.** The Director may compromise any civil or criminal case arising under the Sales and Use Tax Code, prior to reference to the City Attorney's office for prosecution or defense; and the City Attorney shall, upon the written direction of the Director, compromise any such case after reference to the City Attorney's office for prosecution or defense.

(b) **Compromise Record.** Whenever a compromise, in value or valuation, of two thousand five hundred dollars (\$2,500.00) or more is made by the Director in any case, there shall be placed on file in the office of the Director the opinion of the Director with his or her reasons therefor, which may include a financial inability of the taxpayer to pay a greater amount with the statement of:

(1) The amount of tax assessed;

(2) The amount of interest, additional amount, addition to the tax or assessable penalty imposed by law on the person against whom the tax is assessed; and

(3) The amount paid in accordance with the term of the compromise.

(c) Notwithstanding the provisions of Subsection (b), no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed, including any interest, additional amount, addition to the tax or assessable penalty, is less than two thousand five hundred dollars (\$2,500.00). (1957 Code, §25-9.2; Ord. No. 5292, 2-24-86)

Sec. 14-4-32. Appeals; bond; filing.

(a) Within fifteen (15) days after filing the notice of appeal, the taxpayer shall file with the District Court a surety bond in twice the amount of the taxes, interest and other charges stated in the final determination by the Director which are contested on appeal.

(b) The taxpayer may, at his or her option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank doing business in this State or by a state or federal savings and loan association doing business in this State. Such savings account, deposit or certificate of deposit shall be in an amount equal to twice the amount of the taxes, interest and other charges stated in the final determination by the Director, and shall be assigned to the Department of Finance for the use of the people of the City. The aggregate liability of the bank or savings and loan association shall in no event exceed the amount of the deposit. For the purposes of this Chapter, *bond* includes the savings account, deposit or certificate of deposit authorized by this Subsection. The Director of Finance shall promulgate rules and regulations defining the method of assignment, required period of liability and such other procedures as may be necessary.

(c) The taxpayer may, at his or her option, deposit the disputed amount with the Director in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal

to the Colorado Supreme Court or the Court of Appeals or after the time for such appeal has expired, the funds deposited shall be, at the direction of the court, either retained by the Director and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed under Section 14-4-14. No claim for refund of amounts deposited with the Director need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the court. (1957 Code, §25-54; Ord. No. 5022, 12-27-82; Ord. No. 5292, 2-24-86)

Sec. 14-4-33. Appeals.

(a) The taxpayer may appeal the final determination of the Director of Finance issued pursuant to Section 14-4-27 or 14-4-28 within thirty (30) days of the mailing of such determination.

(b) The District Court of the Tenth Judicial District of the State shall have jurisdiction to hear and determine appeals from any final determination of the Director of Finance under the provisions of this Chapter.

(c) Appeal to the District Court shall be taken by filing with the Clerk of the District Court a copy of the notice of final determination received by the taxpayer, together with a written notice stating that the taxpayer appeals to the District Court and alleging the pertinent facts upon which such appeal is grounded.

(d) The District Court shall try the case de novo, reviewing all questions of law and fact, such review being conducted in accordance with the Colorado Rules of Civil Procedure. The taxpayer shall present his or her case in the same manner as the plaintiff in other civil actions and the normal rules of evidence shall apply. The taxpayer shall have the burden of proof with respect to the issues raised in the notice of appeal except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. The burden of proof shall be on the Director of Finance to show that a petitioner is liable as a transferee of property of a taxpayer but not to show that the taxpayer was liable for the tax. The District Court may affirm, modify or reverse the determination of the Director and may enter judgment on its findings.

(e) Upon filing of the Notice of Appeal, the Director of Finance shall be deemed to be a party to such appeal; and the Clerk of the District Court shall docket the cause as a civil action. The appellant shall cause summons to be issued and cause the same to be served upon the Director of Finance, in accordance with the manner provided by law in civil cases. Notice of the date of trial shall be mailed to the taxpayer and to the Director of Finance, at least twenty (20) days prior thereto.

(f) The final decision made in such appeal shall be entered as a judgment, as in other civil cases, against the taxpayer or against the Director of Finance as the case may be. (1957 Code, §25-55; Ord. No. 5292, 2-24-86)

Sec. 14-4-34. Review by Supreme Court.

The decision of the District Court shall be reviewable by the Supreme Court or the Court of Appeals as is otherwise provided by law. (1957 Code, §25-56; Ord. No. 5292, 2-24-86)

Sec. 14-4-35. Deficiencies; penal sum; interest.

(a) If any part of the deficiency is due to negligence or intentional disregard of authorized rules and regulations with knowledge thereof but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under Section 14-4-14 in addition to the interest provided by Section 14-4-15 on the amount of such deficiency from the time the return was due from the person required to file the return, which interest and addition shall become due and payable ten (10) days after written notice and demand to him or her by the Director.

(b) If any part of the deficiency is due to fraud with the intent to evade the tax, there shall be added one hundred percent (100%) of the total amount of the deficiency and in such case the whole of amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand by the Director and an additional three percent (3%) per month on said amount shall be added from the date the return was due until paid. (1957 Code, §25-39; Ord. No. 3877, 6-10-74; Ord. No. 5022, 12-27-82; Ord. No. 5292, 2-24-86)

Sec. 14-4-36. Penalties; waiver; definition.

The Director is hereby authorized to waive, for good cause shown, any penalty assessed as in this Chapter provided; and any interest imposed at a rate in excess of the rate imposed under Section 14-4-14 shall be deemed a penalty. (1957 Code, §25-63; Ord. No. 5022, 12-27-82)

Sec. 14-4-37. Evasion of tax.

(a) It shall be a violation of this Code for any retailer, vendor or purchaser of tangible personal property outside of the City for storage, use or consumption within the City to refuse to make any return provided to be made in this Chapter, to make any false or fraudulent return or any false statement in any return, to fail or refuse to make payment to the Director of Finance of any taxes collected or due the City, or in any manner to evade the collection and payment of the tax or any part thereof imposed by this Chapter; or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax imposed by this Chapter. Any corporation making a false return or a return containing a false statement shall be guilty of a violation of this Code.

(b) Any person who shall violate any of the provisions of this Chapter shall be guilty of a violation hereof and shall be punished as provided in Section 1-2-1 of this Code.

(c) Each and every twenty-four (24) hours' continuation of any violation shall constitute a distinct and separate offense. (1957 Code, §25-64)

Sec. 14-4-38. License for sale at retail; revocation; hearing; reissuance, bond.

(a) The Director may, on a reasonable notice and after full hearing, revoke the license of any person, found by the Director to have violated any provision of this Chapter or to have violated the provisions of any ordinance or this Code which require registration, a license, a permit or the posting of bond or evidence of insurance with the Director of Finance.

(b) Before a sales tax license may be issued to a person whose license has been previously revoked, the violation shall have been cured and a cash bond in an amount equal to the licensee's estimated sales and use tax payment for a two-month period or a minimum of twenty-five dollars (\$25.00), whichever amount shall be the greater, must be posted with the Director. Revocation of a sales tax license of any person shall apply to the person and the conditions of issue of a license to a new business or for a new location, where the ownership or the management is vested, in whole or in part, with that person, shall be subject to this Section. In the event that no violations occur within twelve (12) months after the issuance of the sales tax license, and upon the application for refund to the Director of Finance filed by the person, the bond shall be refunded to the licensee. (1957 Code, §25-7)

Sec. 14-4-39. Appeal from license revocation order.

Any finding and order of the Director revoking the license of any person shall be subject to review by the District Court. The procedure for review shall be, as nearly as possible, the same as provided for the review of findings as provided by proceedings in the nature of certiorari. (1957 Code, §25-9; Ord. No. 3877, 6-10-74; Ord. No. 5292, 2-24-86)

Sec. 14-4-40. Refunds.

(a) If the Director discovers from the examination of a return within the time periods provided for the filing of refunds, or upon claim duly filed by the taxpayer, or upon final judgment of a court that the tax, penalty or interest paid by any taxpayer is in excess of the amount due, or has been illegally or erroneously collected, the Director shall issue in favor of the taxpayer his or her warrant for refund of such illegally collected tax, penalty or interest, regardless of whether or not such sum was paid under protest, together with interest at the rate imposed under Section 14-4-14, out of the reserve provided therefor; but the Director shall keep in his or her files a duplicate of said warrant and also a statement which shall set forth the reason why such refund has been ordered.

(b) Whenever it is established that any taxpayer has, for any period open under this Chapter, overpaid a sales or use tax and that there is an unpaid balance of tax and interest accrued, according to the records of the Director, owing by such taxpayer for any other period, or that there is any unpaid debt owing to the City or any agency thereof by such taxpayer, and which is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment and as certified by the Director, so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt shall be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment shall be refunded.

(c) Interest shall be allowed and paid upon any overpayment in respect to any sales or use tax at the rate imposed under Section 14-4-14. Such interest shall be allowed and paid as follows:

(1) In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken;

(2) In the case of a refund, from the date of the overpayment to a date, to be determined by the Director of Finance, preceding the date of the refund by not more than thirty (30) days, whether or not such refund is accepted by the taxpayer after tender of such refund to the taxpayer. The

acceptance of such refund shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(d) Any portion of a sales or use tax or any interest, assessable penalty, additional amount or addition to a tax or charge which has been erroneously refunded shall bear interest at the rate imposed under Section 14-4-14 from the date of the payment of the refund.

(e) If any overpayment of sales or use tax is refunded within ninety (90) days after the last date prescribed for filing the return of such tax, determined without regard to any extension of time for filing the return, no interest shall be allowed under Subsection (c) of this Section on such overpayment. (1957 Code, §25-25; Ord. No. 3877, 6-10-74; Ord. No. 5022, 12-27-82; Ord. No. 5292, 2-24-86)

Sec. 14-4-41. Right of refund; nonassignable.

The right of any person to a refund under this Chapter shall not be assignable and, except as provided in Section 14-4-90(d), such application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale thereof. (1957 Code, §25-26; Ord. No. 5292, 2-24-86)

Sec. 14-4-42. False statements concerning refunds.

Any applicant for refund under the provisions of this Chapter, or any other person who makes any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this Code. (1957 Code, §25-28; Ord. No. 5292, 2-24-86)

Sec. 14-4-43. Fraudulently obtaining refund; evidence of other violations.

If any person is convicted under the provisions of the preceding Section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Director of Finance is hereby empowered and directed to bring appropriate action for recovery of such refunds. The foregoing statement shall be printed on each form application for refund. (1957 Code, §25-29)

Sec. 14-4-44. Lien; unpaid tax constitutes.

The tax imposed by this Chapter shall be a first and prior lien upon the goods and business fixtures of, or used by, any retailer under lease, title-retaining contract or other contract arrangement, excepting stock of goods sold or for sale in the ordinary course of business, and shall take precedence on all such property over other liens or claims of whatsoever kind or nature except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. Upon default of payment thereof, the Director of Finance after demand upon the person owing such tax may bring an action in his or her name as Director of Finance in attachment, and seize any property to secure the payment of said tax, interest and penalties. (1957 Code, §25-45)

Sec. 14-4-45. Notice; levy.

(a) If any taxes, penalty or interest imposed by this Chapter shown due by returns filed by the taxpayer, or as shown by assessments duly made as provided herein, are not paid within five (5) days after the same are due, the Director of Finance shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the City claims a first and prior lien therefor on the real and tangible personal property of the taxpayer except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as herein provided on property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer.

(b) Such notice shall be on forms prepared by the Director of Finance, and shall be verified by him or her or his or her duly qualified deputy, or any duly qualified agent of the Director of Finance, whose duties are the collection of such tax, and may be filed in the office of the Clerk and Recorder of any county in this State in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create such lien on such property in that county and constitute a notice thereof.

(c) After such notice has been filed, concurrently therewith, or at any time when taxes due are unpaid, whether such notice is filed or not, the Director of Finance may distraint, levy upon, seize and sell sufficient of the real and personal property of the tax debtor wherever found for the payment of the amount due, together with interest, penalties and costs, as now or hereafter provided by this Chapter subject to valid pre-existing claims or liens, with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record.

(d) If the Director finds that collection of the tax will be jeopardized by delay, in his or her discretion he or she may declare the taxable period immediately terminated, determine the tax and issue notice and demand for payment thereof; and, having done so, the tax shall be due and payable forthwith, and the Director may proceed immediately to collect such tax as provided in this Section regardless of provision for hearing and appeal contained in this Chapter.

(e) Collection under this Section may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Director.

(f) The Director of Finance may, at the discretion of the Director, summons to the Municipal Court any person who may be in violation of the Chapter as set forth in Section 14-4-37 and elsewhere herein. (1957 Code, §25-46; Ord. No. 3450, §1, 5-24-71)

Sec. 14-4-46. Release.

Any lien for taxes as shown on the records of the county clerks and recorders as herein provided shall, upon the payment of all taxes, penalties and interest covered thereby, be released by the Director of Finance in the same manner as mortgages or judgments are released. (1957 Code, §25-48)

Sec. 14-4-47. Satisfaction; sale; garnishment.

(a) Distraint Seizure Advertisement of Sale Owner Recovers Seized Property by Purchase.

(1) The Director of Finance may issue a warrant under his or her own hand directed to any employee, agent or representative of the Department of Finance, sometimes referred to collectively as *agent*, commanding him or her to distraint, seize and sell the personal property of the taxpayer except such as is exempted from execution and sale by any statute of the State for the payment of tax due together with the penalties and interest accrued thereon and costs of execution.

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

(b) Certificate of Sale Evidence of Purchase. In all cases of sale, the agent making the sale shall issue a certificate of sale to each purchaser, and such certificate shall be prima facie evidence of the right of the agent to make such sale, and the conclusive evidence of the regularity of his or her proceedings in making the sale; and shall transfer to the purchaser all right, title and interest of such delinquent in and to the property sold; and where such property consists of certificates of stock in the possession of the agent, the certificate of sale shall be notice, when received, to any corporation, company or association of said transfer and said certificate of such sale shall be authority for such corporation, company or association to record the transfer on its books and records; and where the subject of sale is securities or other evidences of debt, in the possession of the agent the certificate of sale shall be good and valid evidence of title in the person holding the same, as against any other person. Any surplus remaining above the taxes, penalties, interest, costs and expenses of making the seizure and of advertising the sale shall be returned to the owner, or such other person having a legal right thereto, and on demand the Director shall render an account in writing of the sale.

(c) Filing and Release of Lien. Any employee, agent or representative of the Director to whom a warrant has been issued may file a notice of lien in such forms as the Director may prescribe with the person in possession of any personal property or rights to property belonging to the taxpayer, and if not previously recorded, the filing of such notice of lien shall operate from the date of such filing. The Director may release said lien as to any part or all of the property or rights to property covered by any such lien upon such terms as he or she may deem proper. (1957 Code, §25-47; Ord. No. 3450, §1, 5-24-71; Ord. No. 3877, 6-10-74)

Sec. 14-4-48. Suit at law.

(a) In any case where there has been a refusal or neglect to pay any tax due the City and a statement or notice shall have been filed which, under law, creates a lien upon any real property for such tax, the Director of Finance may cause a civil action to be filed in any court of competent jurisdiction of the county in which is situated any real property which is subject to said lien, to enforce the lien of the City for such tax upon the real property situate in that county or in any other county in the State which may be subject to such lien or to subject any real property or any right, title or interest in real property to the payment of such tax.

(b) Any person having a lien upon or any interest in any real estate referred to in this Section under or by virtue of any instrument which shall have been duly filed of record in the office of the County Clerk and Recorder of the county in which such real estate is located prior to the filing of the statement or notice which created a lien upon such real property for such taxes, or any person purchasing such real estate at a sale to satisfy such prior lien or interest may make a written request to the Director of Finance to file a civil action as provided in this Section. If no such civil action shall have been commenced as provided within two (2) months after receipt by the Director of Finance of such written request, such person or purchaser may file a civil action in the District Court of any county where any such real property is situate asking for a final determination of all claims of the City to and all liens of the City upon the real estate in question. Service of the process in such action upon the City shall be made upon the Director of Finance or upon one (1) of his or her deputies. Permission is hereby given for the City to be so sued. The court shall in such civil action adjudicate the matters involved therein in the same manner as in the case of civil actions filed by the City under this Section.

(c) If any property, real or personal, under the law, shall be subject to a lien for the payment of any tax due the City, the Director of Finance may issue a certificate of discharge of any part of the property subject to the lien if he or she finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect to such tax and the amount of all prior liens upon such property.

(d) If any property, real or personal, under the law, shall be subject to a lien for the payment of any tax due the City, the Director of Finance may issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the Director of Finance in part satisfaction of the liability in respect to such tax an amount determined by the Director of Finance, which shall not be less than the value as determined by him or her of the interest of the City in the part to be so discharged. In determining such values, the Director of Finance shall give consideration to the fair market value of the part to be so discharged and to such lien thereon as have priority to the lien of the City.

(e) A certificate of release or of partial discharge issued under this Section shall be held conclusive that the lien of the City upon the property released therein is extinguished, but shall not extinguish or release any portion of the lien or property not specified in the release. (1957 Code, §25-49; Ord. No. 3450 §1, 5-24-71)

Sec. 14-4-49. Question of title; City a party.

In any action affecting the title to real estate or the ownership or rights to possession of personal property, the City may be made a party defendant for the purpose of obtaining a judgment or determination of its lien upon the property involved therein. (1957 Code, §25-50)

Sec. 14-4-50. Penalties.

In addition to the personal liability provided in Section 14-4-30, all officers of a corporation and all members of a partnership required to collect, account for and pay over any tax administered by this Chapter who willfully fail to collect, account for or pay over such tax or who willfully attempt in any manner to evade or defeat any such tax, or the payment thereof, are subject to, in addition to other penalties provided in this Chapter, a penalty equal to one hundred fifty percent (150%) of the total amount of the tax not collected, accounted for, paid over or otherwise evaded. An officer of a corporation or a member of a partnership shall be deemed to be subject to this Section if the corporation or partnership is subject to filing returns or paying taxes administered by this Chapter and if such officers of corporations or members of partnerships voluntarily or at the direction of their superiors assume the duties or responsibilities of complying with the provisions of any tax administered by this Chapter on behalf of the corporation or partnership. (Ord. No. 5292, 2-24-86)

Secs. 14-4-51—14-4-60. Reserved.

Article III
Taxable Transactions, Commodities and Services

Sec. 14-4-61. Items taxable.

There is hereby levied and there shall be collected and paid a tax in the amount stated in Section 14-4-85 hereof, as follows:

- (1) On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail, as those terms are defined in Section 14-4-21 above.
- (2) Upon the entire amount paid or charged to any person for lodging services as defined in Section 14-4-21 herein.
- (3) Upon telephone and telegraph services, whether furnished by public or private corporations or enterprises for all intrastate telephone and telegraph services;
- (4) For gas and electric service for gas and electricity furnished and sold for domestic or commercial consumption and not for resale.

(5) Upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops and other like places of business at which prepared food or drink is regularly sold, including sales from push-carts, motor vehicles and other mobile facilities. Cover charges shall be included as part of the amount paid for such food or drink.

(6) For steam or other heating service furnished and sold for domestic or commercial use.

(7) Should a dispute arise between the purchaser and seller as to whether or not any such sale is exempt from taxation hereunder, nevertheless the seller shall collect and the purchaser shall pay such tax and the seller shall thereupon issue to the purchaser a receipt, or certificate, on forms prescribed by the Director, showing the names of the seller and purchaser, the items purchased, the date, price, amount of tax paid and a brief statement of the claim of exemption. The purchaser thereafter may apply to the Director for a refund of such taxes, and it shall then be the duty of the Director to determine the question of exemption, subject to review by the courts as provided in this Chapter. It shall be a violation of this Code, punishable as provided in Section 1-2-1, for any seller to fail to collect or purchaser to fail to pay the tax levied by this Chapter, and on sales on which exemption is disputed.

(8) A retailer is not required to charge or collect the tax imposed by this Chapter on a sale exempt under Section 14-4-76(1) if the required purchaser's affidavit is obtained and forwarded by the retailer to the Director with the retailer's return for the month in which said sale was made. (1957 Code, §25-10; Ord. No. 3450 §1, 5-24-71; Ord. No. 4573, 2-26-79; Ord. No. 4734, 4-28-80; Ord. No. 5656, 1-28-91; Ord. No. 5667, 3-25-91; Ord. No. 5717, 12-9-91)

Sec. 14-4-62. Applicability of article.

(a) When right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable under this Chapter if an outright sale were made, such lease or contract shall be considered the sale of such article and the tax shall be computed as each payment is made and paid as in the case of an outright sale taxable hereunder.

(b) The sales tax is imposed on the full purchase price as defined in Section 14-4-21 above. (1957 Code, §25-3; Ord. No. 5717, 12-9-91)

Sec. 14-4-63. Storage, consumption and use tax schedule.

There is imposed and shall be collected from every person in the City a tax or excise at the rate of three percent (3%) of storage or acquisition charges or costs for the privilege of storing, using or consuming in the City any articles of tangible personal property purchased at retail. Such tax shall be payable to and shall be collected by the Director of Finance and shall be computed in accordance with schedules or systems approved by the Director of Finance.

(1) Notwithstanding the three-percent rate provision of Section 14-4-63 of this Chapter, for the period January 1, 1987, through December 31, 1991, the rate of tax imposed pursuant to this Section shall be three and one-half percent (3.5%).

(2) Notwithstanding the three-percent rate provision of this Section, for the period January 1, 1992 through December 31, 2011, the rate of tax imposed pursuant to this Section shall be three and one-half percent (3.5%). (1957 Code, §25-20; Ord. No. 3474 §2, 11-2-71; Ord. No. 4734, 4-28-80; Ord. No. 5170, 11-6-84; Ord. No. 5314, 11-4-86; Ord. No. 5668, 6-11-91; Ord. No. 5978, 11-7-95; Ord. No. 6683 §2, 11-6-01; Ord. No. 7464 §2, 11-7-06)

Editor's Note: Ord. No. 3474 §2 amended Ord. Nos. 2189 and 3160, was passed and approved by the people of the City at an election held 11-2-71 and became effective 1-1-72.

Editor's Note: Ord. No. 5170 was passed and approved by the people of the City at an election held 11-6-84 and became effective 1-1-85.

Editor's Note: Ord. No. 5314 was passed and approved by the people of the City at an election held 11-4-86 and became effective 1-1-87.

Editor's Note: Ord. No. 5668 was passed and approved by the people of the City at an election held 6-11-91 and became effective 1-1-92.

Editor's Note: Ord. No. 5978 was passed and approved by the people of the City at an election held 11-7-95 and became effective 1-1-96.

Editor's Note: Ord. No. 6683 was passed and approved by the people of the City at an election held 11-6-01 and became effective 1-1-02.

Editor's Note: Ord. No. 7464 was passed and approved by the people of the City at an election held 11-7-06 and became effective 11-7-06.

Sec. 14-4-64. Absorbing tax; representation thereof.

Except as provided in Section 14-4-85 of this Chapter, it shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Chapter will be assumed or absorbed by the retailer, or that it will not be added to the selling price of the property sold, or, if added, that it or any part thereof will be refunded. (1957 Code, §25-15; Ord. No. 4235, 9-27-76)

Sec. 14-4-65. Excess collections.

If any vendor, during any reporting period, shall collect as a tax an amount in excess of the tax imposed by Section 14-4-85 of this Chapter on his or her total taxable sales, he or she shall remit to the Director of Finance the full net amount of the tax herein imposed and also such excess. The retention by the retailer or vendor of any excess of tax collections over the tax imposed by Section 14-4-85 of this Chapter on the total taxable sales of such retailer or vendor or the intentional failure to remit punctually to the Director of Finance the full amount required to be remitted by the provisions of this Chapter is declared to be unlawful and shall constitute a violation of this Code. (1957 Code, §25-19, Ord. No. 5170, 11-6-84)

Sec. 14-4-66. Trust status.

All sums of money paid by the purchaser to the retailer as taxes imposed by this Chapter shall be and remain public money, the property of the City, in the hands of such retailer, and he or she shall hold the same in trust for the sole use and benefit of the City until paid to the Director of Finance as herein provided, and for failure so to pay to the Director of Finance, such retailer shall be punished for a violation hereof. (1957 Code, §25-43)

Sec. 14-4-67. Sale of business; return required; withholding by purchaser.

Any retailer who shall sell out his or her business or stock of goods or shall quit business shall be required to make out a return as provided in this Chapter within ten (10) days after the date he or she

sold out his or her business or stock of goods or quit business, and his or her successor in business shall be required to withhold sufficient of the purchase money to cover the amount of such tax due and unpaid until such time as the former owner shall produce a receipt from the Director of Finance showing that the taxes have been paid, or a certificate that no taxes are due. (1957 Code, §25-40)

Sec. 14-4-68. Purchaser liable; limit.

If the purchaser of a business or stock of goods shall fail to withhold the purchase money as above provided, and the tax shall be due and unpaid after the ten-day period allowed, he or she, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of, or used by, any retailer under lease, title-retaining contract or other contract arrangement, by purchase, foreclosure sale or otherwise, takes the same subject to the lien for any delinquent sales taxes owed by such retailer, and shall be liable for the payment of all delinquent sales taxes of such prior owner, not however, exceeding the value of the property so taken or acquired. (1957 Code, 25-41)

Sec. 14-4-69. Bankruptcy, receivership; status of tax.

Whenever the business or property of any taxpayer subject to this Chapter shall be placed in receivership, bankruptcy or assignment for the benefit of creditors or seized under distraint for property taxes; all taxes, penalties and interest imposed by this Chapter and for which such retailer is in any way liable under the terms of this Chapter shall be a prior and preferred lien against all the property of such taxpayer, except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as hereinafter provided on the property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. For the purpose of this Chapter the term *taxpayer* shall include *retailer*. (1957 Code, §25-42)

Secs. 14-4-70--14-4-75. Reserved.

Article IV
Exempt Transactions

Sec. 14-4-76. Items exempt.

The following classes of tangible personal property are exempt from taxation under this Chapter:

(1) Sales of automobiles or other vehicles required to be registered under the Colorado Uniform Motor Vehicle Law to a purchaser who is not a resident of the City and who purchases such vehicle for use outside the City if, at the time of sale, such purchaser executes and delivers to the retailer an affidavit, on forms approved by the Director, that he or she is not a resident of the City and that such vehicle will be used and registered outside the City.

CAVEAT: The purchase of any such vehicle outside the City by a resident of the City for use in the City shall be subject to tax hereunder, which tax shall be payable at the time such vehicle is registered. If any purchaser who is a resident of the City shall file a false affidavit under Subsection (1) above or register any such vehicle to a place or address outside the City, he or she

shall be liable for City sales and use tax on such purchase and shall be guilty of a violation of this Chapter and be punished as provided in Section 1-2-1 of this Code.

(2) Sales under conditional sales contracts made prior to January 1, 1956.

(3) Sales of tangible personal property shall be exempted from the operation of this Chapter if both the following conditions exist:

a. The purchaser is not a resident of the City as defined in Section 14-4-21(18) hereof; and

b. The articles purchased are to be delivered to the purchaser outside the City at the purchaser's residence or place of business by common carrier or by the conveyance of the seller or by mail.

(4) All commodities which are taxed under the provisions of Sections 138-2-5 to 138-2-23, C.R.S., and all commodities which are taxed under said provisions and the tax refunded, and all sales and purchases of aviation fuel upon which no City sales tax was in fact collected and retained prior to July 1, 1963, shall be exempt from taxation under this Chapter and the storage, use or consumption of such aviation fuel shall additionally be exempt from taxation under this Chapter.

(5) All sales of food as defined in Section 14-4-21(14) herein, but not including food or drink taxable under Section 14-4-61(5) herein.

(6) All sales of medical supplies as defined in Section 14-4-21 above.

(7) Sales to the United States government; to the State, its departments or institutions and the political subdivisions thereof, in their governmental capacities only, and provided that where delivery is to be made within the City at the time of sale or purchase, present satisfactory evidence of being issued a current sales tax license for the City to the vendor or retailer, and he or she shall record such license number in documents relating to the transaction in support of the exemption claimed.

(8) Sales to charitable organizations as defined in Section 14-4-21 above, in the conduct of their regular religious or charitable functions and activities, which organizations, at the time of sale or purchase, present satisfactory evidence of being issued a current tax exempt license for the City to the vendor or retailer, and he or she shall record such license number in documents relating to the transaction in support of the exemption claimed.

(9) Sales which the City is prohibited from taxing under the Constitution or laws of the United States or the State.

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

(11) Sales and purchases of feed for livestock or poultry, all sales and purchases of seeds, and all sales and purchases of orchard trees.

(12) Sales of cigarettes.

(13) Sales of newspapers as defined in Section 14-4-21 above, excluding preprinted newspaper supplements as defined in Section 14-4-21 above.

(14) All sales and purchases of straw and other bedding for use in the care of livestock shall be exempt from taxation under this Chapter, and the storage, use or consumption of straw and other bedding for use in the care of livestock shall be exempt from taxation under this Chapter.

(15) All sales of lodging services, as defined in Section 14-4-21 above, to any occupant who is a permanent resident of any establishment listed therein, under a written agreement for occupancy for a period of at least thirty (30) consecutive days.

(16) All sales of aircraft used or purchased for use in interstate commerce by a commercial airline.

a. *Commercial airline* means an airline carrying freight or passengers on regularly scheduled flights for a fee, but does not include a charter air carrier providing charter air transportation.

(17) Sales of tangible personal property purchased for use in the initial construction and equipping of a new six-hundred-or-more-megawatt electric power generation facility constructed on or after January 1, 2005 ("electric power generation facility"). This exemption shall also apply for a period of ten (10) years after such an electric power generation facility becomes operational for sales of tangible personal property purchased for use in the maintenance, repair, refurbishing, remodeling, substitution, relocation or replacement of such an electric power generation facility, or any part thereof.

a. *Operational* means the date the electric power generation facility is deemed by its owner or any regulatory agency with appropriate jurisdiction to be placed into commercial operation pursuant to standards published by the Federal Energy Regulatory Commission and Financial Accounting Standards Board applicable to electric power generation facilities.

(18) Sales and purchases of dyed diesel fuel, as that term is defined in Section 39-27-101(8), C.R.S., for use in the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, dwellings, structures, roads, highways or other changes or improvements to real property. (1957 Code, §25-11; Ord. No. 3450 §1, 5-24-71; Ord. No. 4235, 9-27-76; Ord. No. 4734, 4-28-80; Ord. No. 5667, 3-25-91; Ord. No. 5717, 12-9-91; Ord. No. 7101 §2, 1-26-04; Ord. No. 7347 §2, 9-12-05; Ord. No. 7840 §1, 7-28-2008)

Sec. 14-4-77. Items exempt from use tax.

This tax or excise of the storage, consumption and use of tangible personal property is hereby declared to be supplementary to the City tax on retail sales as provided in this Chapter and shall not apply:

(1) To the storage, use or consumption of any tangible personal property the sale of which is subject to the City retail sales tax as provided herein.

(2) To the storage, use or consumption of any tangible personal property purchased for resale in this City, either in its original form or compounded product, in the regular course of a business.

(3) To the storage, use or consumption of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933, C.R.S. 138, Article 2.

(4) To the storage, use or consumption of tangible personal property brought into this City by a nonresident thereof for his or her own storage, use or consumption while temporarily within this City, or to the personal property of a resident if such personal property was purchased prior to becoming a resident of this City.

(5) To the storage, use or consumption of tangible personal property of the United States government, or of the State or its institutions or political subdivisions in their governmental capacities only; or by charitable organizations as defined in Section 14-4-21 above in the conduct of their regular religious or charitable functions.

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

(7) To the storage, use or consumption of electricity, coal, coke, fuel oil, steam, water or gas for use in processing, manufacturing, mining, refining, irrigation, telegraph, telephone and radio communication, street and railroad transportation services, electric power generation and all industrial uses; except that electricity, gas, coal, fuel oil, steam, water or coke used for lighting or space heating in these operations shall not be exempt.

(8) To the storage and use of neat cattle, sheep, lambs, swine and goats within this City; or to the storage and use within this City of mares and stallions kept, held and used for breeding purposes only.

(9) To the storage, use or consumption of printers ink and newsprint.

(10) A credit shall be granted against the use tax imposed by Section 14-4-63 of this Chapter on any article of tangible personal property the sale of which has already been subjected to a retail sales tax. The amount of the credit shall be equal to: (a) if purchased within the State, the retail sales tax imposed, collected and remitted to a Colorado municipality, city or county, or (b) if purchased outside the State, the amount by which the retail sales tax imposed, collected and remitted to another state or political subdivision thereof, or both, exceeds the sales tax imposed by Section 39-26-106(1), C.R.S. The amount of the credit shall not exceed the use tax imposed by Section 14-4-63 of this Chapter. The credit will be denied if such retail sales tax was not legally due under the laws of such other taxing authority, or such laws are not compatible with those of the City as to specific taxation or exemption of the transaction in question. The credit shall not be granted for subsequent transactions within the City relating to such article of tangible personal property, including but not limited to rentals or leases thereof.

(11) To the storage or use of an automobile or other vehicle required to be registered under the Colorado Uniform Motor Vehicle Law by a purchaser who was not a resident of the City at the time of purchase and who purchased such vehicle outside of the City for use outside of the City and actually so used such vehicle for a substantial and primary purpose for which it was acquired, and who lawfully registered, titled and licensed such vehicle outside the City.

(12) To the storage, use or consumption of aircraft used or purchased for use in interstate commerce by a commercial airline.

a. *Commercial airline* means an airline carrying freight or passengers on regularly scheduled flights for a fee, but does not include a charter air carrier providing charter air transportation.

(13) To the storage, use or consumption of tangible personal property used in the initial construction and equipping of a new six-hundred-or-more-megawatt electric power generation facility constructed on or after January 1, 2005 ("electric power generation facility"). This exemption shall also apply for a period of ten (10) years after such an electric power generation facility becomes operational to tangible personal property stored, used or consumed in the maintenance, repair, refurbishing, remodeling, substitution, relocation or replacement of such an electric power generation facility, or any part thereof.

a. *Operational* means the date the electric power generation facility is deemed by its owner or any regulatory agency with appropriate jurisdiction to be placed into commercial operation pursuant to standards published by the Federal Energy Regulatory Commission and Financial Accounting Standards Board applicable to electric power generation facilities.

(14) To the storage, use or consumption of dyed diesel fuel, as that term is defined in Section 39-27-101(8), C.R.S., for use in the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, dwellings, structures, roads, highways or other changes or improvements to real property. (1957 Code, §25-21; Ord. No. 3450 §1, 5-24-71; Ord. No. 3474, 11-2-71; Ord. No. 4734, 4-28-80; Ord. No. 5170, 11-6-84; Ord. No. 5717, 12-9-91; Ord. 7101 §3, 1-26-04; Ord. No. 7347 §§3, 4, 9-12-05; Ord. No. 7840 §2, 7-28-2008)

Editor's Note: Ord. No. 5170 was passed and approved by the people of the City at an election held 11-6-84 and became effective 1-1-85.

Secs. 14-4-78—14-4-80. Reserved.

Article V
Vendor/Consumer Liability License

Sec. 14-4-81. Sales and use tax licenses; application; renewal; fees; exceptions.

(a) License required.

(1) It is unlawful for any person to engage in a contracting, service or any other business which engages in any transaction giving rise to liability for the tax imposed on the use, storage or

consumption of tangible personal property, as defined in this Chapter, without first having obtained a use tax license therefor, which license shall be granted and issued by the Director of Finance and shall be in force and effect until December 31 of the year for which it is issued, unless sooner cancelled or revoked.

(2) It is unlawful for any person to engage in the business of selling at retail without first having obtained a sales tax license therefor, which license shall be granted and issued by the Director of Finance and shall be in force and effect until December 31 of the year for which it is issued, unless sooner cancelled or revoked.

(3) Such licenses shall be granted or renewed only upon payment of the required fee and application stating the name and address of the person desiring such license, the name of such business and the location including the street number of such business and such other facts as may be required by the Director of Finance.

(4) In case business is transacted at two (2) or more separate places by one (1) person, as defined in this Chapter, a separate license for each place of business shall be required.

(5) It is the duty of each sales tax licensee and each use tax licensee on or before January 1 of each year after the year for which his or her license was issued, to obtain a renewal thereof if the licensee remains in business in the City or liable to account for the tax imposed by this Chapter, but nothing contained in this Section shall be construed to empower the Director of Finance to refuse such renewal except upon revocation for cause of the licensee's prior license or upon failure to submit a completed application or payment of the renewal fee.

(6) A fee of fifty dollars (\$50.00) shall be paid with each application for issuance or renewal of a sales tax license and use tax license. All revenues derived from such license fees shall be appropriated by the City Council to the Department of Finance for the purpose of defraying the overall cost, both direct and indirect, of issuing the licenses and regulating compliance with the City's sales and use tax ordinances.

(7) At the time of issuance of any new license hereunder, the Director of Finance shall notify the County Treasurer of the name and address of the licensee.

(b) No license hereunder shall be required of a person holding a casual sale or rummage sale under a permit issued pursuant to Section 9-10-72 of this Code, provided that nothing contained herein or in Section 9-10-72 shall be construed to relieve any such person from the duty to file a return and remit all taxes due or owing from such sale to the Director of Finance, or from any other requirement of law.

(c) When in the opinion of the Director of Finance it is necessary for the efficient administration of this Chapter to treat any salesperson, representative, peddler or canvasser as the agent of the vendor, distributor, supervisor or employer under whom he or she operates or from whom he or she obtains tangible personal property sold by him or her or for whom he or she solicits business, the Director may, in his or her discretion, treat such agent as the vendor jointly responsible with his or her principal, distributor, supervisor or employer for the collection and payment of the tax. (1957 Code, §25-4; Ord. No. 3450 §1, 5-24-71; Ord. No. 5264, 10-28-85; Ord. No. 6757 §3, 11-26-01; Ord. No. 6915 §2, 11-25-02)

Sec. 14-4-82. Form; transferability.

Each license shall be numbered and shall show the name, residence and place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. (1957 Code, §25-5)

Sec. 14-4-83. Sale without.

Any person engaged in business in the City, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Code and shall be punished accordingly. (1957 Code, §25-6; Ord. No. 6757 §3, 11-26-01)

Sec. 14-4-84. When not required.

No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Chapter. (1957 Code, §25-8)

Sec. 14-4-85. Schedule; tax added to price.

(a) There is imposed upon all sales of commodities and services specified in Section 14-4-61 a tax at the rate of three percent (3%) of the amount of the sale, to be computed in accordance with schedules or systems approved by the Director of Finance. Said schedules or systems shall be designed so that no such tax is charged on any sale of seventeen cents (\$0.17) or less.

(b) Notwithstanding the three-percent rate provisions of paragraph (a) of this Section for the period of January 1, 1987, through December 31, 1991, the rate of tax imposed pursuant to this Section shall be three and one-half percent (3.5%).

(c) Retailers shall add the tax imposed hereby, or the average equivalent thereof, to the sale price or charge, showing such tax as a separate and distinct item, and when added such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts; except that any retailer selling malt, vinous or spirituous liquors by the drink may include in his or her sales price the tax levied under this Section, but no such retailer shall advertise or hold out to the public in any manner, directly or indirectly, that such tax is not included as part of the sales price to the consumer.

(d) The additional one-half-percent sales and use tax imposed by Section 14-4-63(1) of this Chapter and Subsection (b) above, together with interest and penalties with respect thereof, shall, upon collection and receipt by the City, be deposited and placed in a special fund to be known as the "Sales and Use Tax Capital Improvement Fund," to be used solely for capital improvement purposes at Pueblo Memorial Airport including, without limitation, the aviation, commercial and industrial areas thereof. The City Council may, in anticipation of collection of the revenues from the sales and use tax increase, issue revenue bonds payable solely from the Sales and Use Tax Capital Improvement Fund for the purpose of financing such capital improvements at Pueblo Memorial Airport. The City Council may transfer the income from the investment of moneys in the Sales and Use Tax Capital Improvement Fund to the Capital Improvement Fund created under Section 7-16 of the Charter.

(e) Notwithstanding the three-percent rate provision of Subsection (a) of this Section, for the period of January 1, 1992 through December 31, 2011, the rate of tax imposed pursuant to Subsection (a) of this Section shall be three and one-half percent (3.5%).

(f) The revenues from the additional one-half-percent sales and use tax rate imposed by Subsection 14-4-63(2) and Subsection (e) above, including interest and penalties with respect thereof, shall, upon collection and receipt by the City, be deposited and placed in a special fund hereby created to be known as the "1992 to 2011 Sales and Use Tax Capital Improvement Projects Fund" (the "Fund"). The moneys in the Fund shall be used solely for primary job-creating capital improvement projects within the City and the Pueblo Memorial Airport boundaries and, incidentally, not more than two percent (2%) of such revenues for primary job training programs of not more than eight hundred dollars (\$800.00) for each qualified employee at such times and in such amounts and for such capital improvement projects and incidental job training programs as the City Council shall determine, provided that monies in the Fund representing revenues from the additional one-half-cent sales and use tax rate imposed prior to January 1, 2007, shall not be used for job training programs. The City Council may, in anticipation of the collection of the revenues from the additional one-half-percent sales and use tax rate, and subject to the Colorado Constitution, issue revenue bonds payable solely from the moneys in the Fund for the purpose of financing such capital improvement projects. The City Council may transfer the income from the investment of moneys in the Fund to the Capital Improvement Fund created by Section 7-16 of the Charter. The unappropriated balance of the Fund on December 31, 2015, shall be transferred to said Capital Improvement Fund. (1957 Code, §25-13; Ord. No. 3474 §1, 11-2-71; Ord. No. 4235, 9-27-76, Ord. No. 5170, 11-6-84; Ord. No. 5314, 11-4-86; Ord. No. 5668, 6-11-91; Ord. No. 5978, 11-7-95; Ord. No. 6683 §1, 11-6-01; Ord. No. 7464 §1, 11-7-06)

Editor's Note: Ord. No. 3474 §1 amended Ord. Nos. 2189 and 3160, was passed and approved by the people of the City at an election held 11-2-71 and became effective 1-1-72.

Editor's Note: Ord. No. 5170 was passed and approved by the people of the City at an election held 11-6-84 and became effective 1-1-85.

Editor's Note: Ord. No. 5314 was passed and approved by the people of the City at an election held 11-4-86 and became effective 1-1-87.

Editor's Note: Ord. No. 5668 was passed and approved by the people of the City at an election held 6-11-91 and became effective 1-1-92.

Editor's Note: Ord. No. 5978 was passed and approved by the people of the City at an election held 11-7-95 and became effective 1-1-96.

Editor's Note: Ord. No. 6683 was passed and approved by the people of the City at an election held 11-6-01 and became effective 1-1-02.

Editor's Note: Ord. No. 7464 was passed and approved by the people of the City at an election held 11-7-06 and became effective 11-7-06.

Sec. 14-4-86. Responsibility for payment; return; remittance; allowance.

Every retailer, also herein called vendor, shall, irrespective of the provisions of Section 14-4-85, be liable and responsible for the payment of an amount equivalent to the rate of tax imposed by Section 14-4-85 on all sales made by him or her of commodities or services specified in Section 14-4-61 and shall, before the twentieth day of each month, make a return to the Director of Finance for the preceding calendar month and remit an amount equivalent to the rate of tax imposed by Section 14-4-85 of this Chapter on such sales to the Director of Finance.

(1) Return; Content, Form, Etc. Such returns of the taxpayer, or his or her duly authorized agent, shall contain such information and be made in such manner and upon such forms as the

Director of Finance may prescribe, and the Director of Finance may extend the time for making returns and paying the taxes due under such reasonable rules and regulations as he or she may prescribe, but no such extension shall be for a greater period than is provided in Section 14-4-92.

(2) Exemption; Burden of Proof. The burden of proof that any retailer is exempt from collecting a tax upon any goods sold and paying same to the Director of Finance, or from making such returns, shall be on the retailer or vendor under such reasonable requirements of proof as the Director of Finance may prescribe.

(3) Every retailer or vendor conducting a business in which the transaction between the vendor and the consumer consists of the supplying of tangible personal property and services in connection with the maintenance of servicing of the same, shall be required to pay the taxes levied under this Chapter upon the full contract price unless application is made to the Director for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under such contract. The Director is hereby authorized to determine the percentage based upon the ratio of the tangible personal property included in the consideration as it bears to the total of the consideration paid under said combination contract or sale which shall be subject to the sales tax levied pursuant to the provisions of this Chapter. This Section shall not be construed to include items upon which the sales tax is imposed on the full purchase price as defined in Section 14-4-62 or otherwise in this Chapter.

(4) Every vendor vending individual items of personal property through coin-operated vending machines shall be exempt from the provisions of Sections 14-4-85 and 14-4-86 of this Chapter, but nevertheless such vendor shall pay a sales or use tax at the rate of tax imposed by Section 14-4-85 of this Chapter on the personal property sold in excess of ten cents (\$0.10) so vended in the coin-operated machines unless the sale shall be otherwise exempt under the provisions of this Chapter.

(5) Excess Collections Failure to Remit Collections. If any vendor shall, during the reporting period, collect as a tax an amount in excess of the rate of tax imposed by Section 14-4-85 of this Chapter on his or her total taxable sales, he or she shall remit to the Director of Finance the full net amount of the tax herein imposed and also such excess. If records of City and State sales tax collections are kept separately, the vendor will remit the excess of City tax and state tax collections, and if it is not possible to determine the excess to be remitted to each, the vendor shall remit one-half (1/2) of such excess to the City. The retention by the vendor of any excess of tax collections over the rate of tax imposed by Section 14-4-85 of this Chapter on the total taxable sales of such vendor, or the intentional failure to remit punctually to the Director of Finance the full amount required to be remitted by the provisions of this Chapter, is hereby declared to be a violation of this Chapter. (1957 Code, §25-12; Ord. No. 3450 §1, 5-24-71; Ord. No. 3474, 11-2-71; Ord. No. 5170, 11-6-84; Ord. No. 5810, 11-2-93)

Editor's Note: Ord. No. 5170 was passed and approved by the people of the City at an election held 11-6-84 and became effective 1-1-85.

Editor's Note: Ord. No. 5810 was passed and approved by the people of the City at an election held 11-2-93.

Sec. 14-4-87. Payment; collection.

The following provisions shall apply to the payment and collection of the tax on storage, consumption and use of tangible personal property:

(1) Motor Vehicles.

a. Any resident of the City who shall purchase any automobile or other vehicle required to be registered under the Colorado Uniform Motor Vehicle Law for use within the City, on which purchase City sales tax has not been paid or collected for any reason, including falsification of the affidavit required by Section 14-4-76(1) hereof, shall, prior to registering and obtaining a license therefor, make a return showing such transaction to the Director of Finance and thereupon pay to him or her the use tax applicable thereto as provided for in Sections 14-4-63 and 14-4-77 hereof, and failure to do so shall constitute a violation of this Code. All vehicles purchased by residents of the City shall be registered with the County Clerk and Recorder at the address of the principal place of residence or business of the purchaser within the City.

b. Any person who registers a motor vehicle in violation of the provisions of this Subsection (1) shall be assessed a civil penalty of five hundred dollars (\$500.00) by the Director, which civil penalty shall become due and payable ten (10) days after written notice and demand by the Director, subject only to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure and Sections 14-4-32 and 14-4-33 of this Title.

(2) Contractors; Owners or Lessees of Realty Method of Paying. Every person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or improvement to real property including all work performed on Federal, State, County, City, exempt institution and private construction job sites in this City and who shall purchase fixtures, or construction materials as defined in Section 14-4-21 above and every owner or lessee of realty situate in the City and of improvements and structures located upon realty situate in the City, upon which any article or articles of tangible personal property acquired from sources within or without the City are attached or affixed and which contractor, owner or lessee has not paid the tax imposed by this Chapter thereon, to a vendor required or authorized to collect the same, shall pay the City sales and use tax in either of two (2) ways:

a. Payment on Estimated Basis. By paying the tax on the "Estimated Percentage Basis" based on a percentage of the total valuation of construction contract and paid, either through the owner, lessee or the general contractor or separately, if he or she is a subcontractor electing to do so, at the time a building permit is issued, in the manner prescribed by the Director of Finance.

b. Payment on Actual Basis. Contractors, owners or lessees not electing the first alternative must license with the City and monthly make reports and returns remitting the tax and showing all information as prescribed on the City Consumer Use Tax Return.

(3) Construction Improvements; Liens, etc.

a. Lien for Unpaid Taxes on Personal Property Affixed to Real Property. The full amount of unpaid taxes arising from and required to be reported on personal property affixed to real property under this Chapter, together with interest and penalties as herein provided, shall be and constitute a first and prior lien, which lien shall have precedence over all other liens of whatsoever kind and nature, except as to liens for general taxes created by state law, and except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or

purchaser whose rights shall have attached prior to the filing of the notice of tax lien on the property of the taxpayer, other than on the goods, stocks in trade and business fixtures of such taxpayer.

b. No Final Inspection or Certificate of Occupancy Unless Tax Paid. No final inspection shall be made by the City Building Inspector or no Certificate of Occupancy shall be issued unless all taxes due as provided herein on all fixtures, and any construction materials as defined in Section 14-4-21 above, used in or connected with the construction, reconstruction, alteration, expansion, modification or improvement of any building, dwelling or other structure or improvement to real property within the City have been paid or arrangements therefor made with the Director of Finance. (1957 Code, §25-22; Ord. No. 3450, §1, 5-24-71; Ord. No. 5535, 4-10-89; Ord. No. 5717, 12-9-91)

Sec. 14-4-88. Use tax returns and collections.

(a) Every person subject to the provisions of this Chapter who uses, stores or consumes tangible personal property in the conduct of a business in the City, which property is purchased either inside or outside the City, and who has not paid the sales or use tax imposed by this Chapter to a retailer, shall make a return and remit the tax imposed by this Chapter to the Director of Finance for the preceding period covered by the remittance on forms prescribed by him or her, showing in detail the tangible personal property stored, used or consumed by said person in the conduct of his or her business within the City in the preceding period covered by the remittance and on which property said sales or use tax has not been paid. Every person subject to the provisions of this Chapter shall maintain monthly records of the amount of tax due. At such time as the cumulative tax due at the end of any month is in excess of three hundred dollars (\$300.00), such person shall make a return and remit the tax due before the twentieth day of the following month. If the total tax due in a calendar year is less than three hundred dollars (\$300.00), such person shall make a single return and remittance for such calendar year before January 20 of the following calendar year.

(b) Every person who is subject to the provisions of this Chapter who uses, stores or consumes tangible personal property not in the conduct of a business, which is purchased either inside or outside the City, who has not paid the sales or use tax imposed by this Chapter to a retailer, shall make a return and remit the tax annually, at the time the Colorado income tax of such person is due and payable, on forms prescribed by the Director of Finance, showing in detail the tangible personal property stored, used or consumed by said persons within the City for the preceding taxable year.

(c) All such returns shall be subscribed by the taxpayer or his or her agent and shall contain a written declaration that it is made under the penalties of perjury in the second degree.

(d) Every retailer doing business in the City and making sales of tangible personal property for storage, use or consumption in the City, and not exempted as provided in Section 14-4-77, at the time of making such sales or taking the orders therefor or, if the storage, use or consumption of such tangible personal property is not then taxable under this Chapter, then at the time such storage, use or consumption becomes taxable under this Chapter, shall collect the tax imposed by Section 14-4-63 from the purchaser and give to the purchaser a receipt therefor, which receipt shall identify the property, the date sold or the date ordered, and the tax collected and paid. The tax required to be collected by such retailer from such purchaser shall be displayed separately from the advertised price listed on the forms or advertising matter on all sales checks, orders, sales slips or other proof of sales.

(e) It is unlawful for such retailer or agent to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by such retailer or agent, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof will be refunded. The tax required to be collected by such retailer or agent shall be remitted to the City in like manner as otherwise provided in this Chapter for the remittance of sales taxes collected by retailers, and all such retailers or agents collecting the tax imposed by Section 14-4-63 shall make returns on forms provided by the Director of Finance at such times and in such manner as is provided for the making of returns in the payment of the sales taxes. The procedure for assessing and collecting said taxes from such retailers or agents, or from the user when not paid to a retailer or agent, shall be the same as provided in this Chapter for the collection of sales taxes, including collection by distraint warrant, and said taxes due and owing from any retailer or agent for the storage, use or consumption of tangible personal property shall bear interest and be subject to the same penalties as is provided in this Chapter for nonpayment or delinquencies of sales taxes. (1957 Code, §25-23; Ord. No. 5292, 2-24-86)

Sec. 14-4-89. Failure to remit tax punctually constitutes violation.

Failure to remit punctually to the Director of Finance the full amount required to be remitted by the provisions of this Chapter is hereby declared to be a violation of this Chapter. (1957 Code, §25-19)

Sec. 14-4-90. Dispute over liability; collection and refund.

(a) Should a dispute arise between the purchaser and seller as to whether or not any sale, service or commodity is exempt from taxation under this Chapter, nevertheless the seller shall collect and the purchaser shall pay the tax, and the seller shall thereupon issue to the purchaser a receipt or certificate, on forms prescribed by the Director, showing the name of the seller and the purchaser, the items purchased, the date, price and amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to the Director for a refund of such taxes, and it is then the duty of the Director to determine the question of exemption. The purchaser may request a hearing pursuant to Section 14-4-28, and the final determination of the Director may be appealed to the District Court pursuant to Section 14-4-33.

(b) A refund shall be made, or a credit allowed, for the tax so paid under dispute by any purchaser who has an exemption as provided in this Chapter. Such refund shall be made by the Director after compliance with the following conditions precedent: Applications for refund must be made within sixty (60) days after the purchase of the goods whereon an exemption is claimed, and must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller, and be made upon forms as shall be prescribed and furnished by the Director, which forms shall contain such information as the Director prescribes.

(c) Upon receipt of an application, the Director shall examine the same with due speed and shall give notice to the applicant by order in writing of his or her decision thereon. Aggrieved applicants, within thirty (30) days after such decision is mailed to them, may petition the Director for a hearing on the claim in the manner provided in Section 14-4-28 and may appeal to the District Court in the manner provided in Section 14-4-33.

(d) A refund shall be made or a credit allowed by the Director to any person entitled to an exemption where such person establishes: That a tax was paid by another on or before July 1, 1991, on a purchase made on behalf of such person; or that a tax was paid by an independent contractor on or before July 1, 1991, on tangible personal property incorporated into reality for the sole use, benefit and ownership of any person entitled to an exemption; that a refund has not been granted to the person making the purchase; and that the person entitled to the exemption paid or reimbursed the purchaser for such tax. No such refund shall be made or credit allowed in an amount greater than the tax paid less the expense allowance on such purchase retained by the vendor pursuant to Section 14-4-86.

(e) Such application for refund under Subsection (d) above shall be made within three (3) years after the date of purchase and shall be made on forms prescribed and furnished by the Director, which form shall contain, in addition to the foregoing information, such pertinent data as the Director prescribes. Upon receipt of such application and proof of the matters contained therein, the Director shall give notice to the applicant by order in writing of his or her decision thereon. Aggrieved applicants, within thirty (30) days after such decision is mailed to them, may petition the Director for a hearing on the claim in the manner provided in Section 14-4-28 and may appeal to the District Court in the manner provided in Section 14-4-33.

(f) Claims for tax moneys paid in error or by mistake may be processed for refund in accordance with regulations of the Director under Subsection (b) above; except that proceeds of any such claim for refund shall first be applied by the Director to any tax deficiencies or liabilities existing against the claimant before allowance of such claim by the Director; and further, except that if such excess payment of tax moneys in any period is discovered as a result of audit by the Department of Finance, and deficiencies are discovered and assessed against the taxpayer as a result of such audit, such excess moneys shall first be applied against any deficiencies outstanding to the date of assessment but shall not be applied to any future tax liabilities. (1957 Code, §25-24; Ord. No. 3877, 6-10-74; Ord. No. 5292, 2-24-86; Ord. No. 5666, 3-25-91)

Sec. 14-4-91. Books and records; duty to keep.

It shall be the duty of every person engaged or continuing in business in the City, for the transaction of which a license is required hereunder, to keep and preserve suitable records of all sales made by him or her, and such other books or accounts as may be necessary to determine the amount of tax for the collection of which he or she is liable hereunder. It shall be the duty of every such person to keep and preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale. All such books, invoices and other records shall be open for examination at any time by the Director of Finance or his or her duly authorized agent. (1957 Code, §25-32)

Sec. 14-4-92. Special accounting basis for remittance.

If the accounting methods regularly employed by the vendor in the transaction of his or her business, or other conditions, are such that reports of sales made on a calendar month basis will impose unnecessary hardship, the Director of Finance may, upon request of the vendor, accept reports at such intervals as will, in his or her opinion, better suit the convenience of the taxpayer, and so as not to jeopardize the collection of the tax. (1957 Code, §25-16)

Sec. 14-4-93. Cash basis for credit sales.

In case of a sale upon credit, a contract for sale wherein it is provided that the price shall be paid in installments and title does not pass until a future date, chattel mortgage or conditional sale, there shall be paid upon each payment upon the account of the purchase price, that portion of the total tax which the amount paid bears to the total purchase price. The Director of Finance may authorize a retailer doing business wholly or partly on a credit basis to make returns on the basis of cash actually received. Thereafter, the retailer shall make returns and pay taxes on that basis until further order of the Director. (1957 Code, §25-18)

Sec. 14-4-94. Consolidation of returns.

A retailer doing business in two (2) or more places or locations taxable hereunder may file one (1) return covering all such business activities in the City. (1957 Code, §25-17)

Sec. 14-4-95. Coordinated audit procedure.

(a) Any taxpayer licensed by the City pursuant to this Chapter who is similarly licensed by at least four (4) other Colorado municipalities which administer and collect a sales tax may request a coordinated audit as provided herein.

(b) Within fourteen (14) days of receipt of a notice of audit from any other Colorado municipality which administers and collects a sales tax, a taxpayer may file with the Finance Director by certified mail, return receipt requested, a written request for a coordinated audit. Such request shall include: the name of the municipality and the official issuing the notice of audit; a list of all Colorado municipalities which administer and collect a sales tax in which the taxpayer holds any current sales or use tax license; and a declaration that the taxpayer will sign a waiver of any time limitation upon the right of the City to recover tax owed by the taxpayer for the audit period.

(c) Except as provided in Subsection (g) below, any taxpayer who files such written request and promptly signs a waiver under Subsection 14-4-12(c) herein may be audited by the City during the twelve (12) months after such request is filed only through a coordinated audit involving all municipalities electing to participate therein.

(d) If this City desires to participate in such coordinated audit, the Finance Director, within ten (10) days after receipt of the taxpayer's request, shall so notify the Finance Director of the auditing municipality identified in the taxpayer's request. The Finance Director shall cooperate with other participating municipalities in the development of arrangements for such audit, including the time period within which the audit will be conducted, the period of time to be covered by the audit and a coordinated notice to the taxpayer of those records likely to be required for completion of the audit.

(e) If a coordinated audit results from a notice of audit issued by the City, the Finance Director shall facilitate arrangements between the City and the other auditing municipalities unless and until an official of another auditing municipality assumes this responsibility. The Finance Director shall cooperate with the other auditing municipalities, whenever practicable, to minimize the number of municipal auditors which will conduct the audit on the taxpayer's premises. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) If a coordinated audit results from a notice of audit issued by this City, the Finance Director, after completion of arrangements for the coordinated audit between the City and other participating municipalities, shall give written notice to the taxpayer including: a list of all participating municipalities; the time period to be audited; and a list of records likely to be required for completion of the audit. The Finance Director shall also propose a schedule of times and places for the coordinated audit.

(g) The coordinated audit procedure set forth in this Section shall not apply to:

(1) A jeopardy audit;

(2) An audit for which notice was given prior to January 1, 1992;

(3) An audit of a taxpayer who has not promptly signed a waiver under Subsection 14-4-12(c);
or

(4) An audit of a taxpayer who failed to make a timely and complete written request for a coordinated audit as provided in Subsection (b) above. (Ord. No. 5717, 12-9-91)

Sec. 14-4-96. Inter-city claims for recovery.

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

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

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

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

(4) Within ninety (90) days after receipt of a claim for recovery, the City shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in

part, the City shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

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

(6) The period subject to a claim for recovery shall be limited to the period of thirty-six (36) months prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. No. 5717, 12-9-91)

Sec. 14-4-97. Central register.

(a) To aid in establishing and updating a central register of all sales and use tax ordinances of all municipalities which administer and collect a sales tax, the Finance Director shall file with the Colorado Municipal League a copy of each City sales or use tax ordinance, resolution or any amendment thereto, prior to the effective date thereof. A copy of each City sales or use tax ordinance or resolution in effect during 1991 shall be so filed before January 1, 1992.

(b) Failure of the Finance Director to file a copy of any such ordinance or resolution shall not invalidate any provision thereof. (Ord. No. 5717, 12-9-91)

Sec. 14-4-98. Statewide sales and use tax committee.

The Finance Director shall if requested cooperate with and participate in a Colorado Municipal League permanent statewide sales and use tax committee composed of state and municipal sales and use tax officials and business officials, who will meet to discuss and seek resolution to sales and use tax problems. (Ord. No. 5717, 12-9-91)

Sec. 14-4-99. Credit for charter air carrier aircraft.

(a) The sale, storage, use or consumption of aircraft used, purchased or leased for use by a charter air carrier providing charter air transportation at the aviation area of the airport is subject to sales and use taxes under this Chapter.

(b) In order to provide incentives for charter air carriers providing charter air transportation to expand and to locate at the aviation area of the airport, to encourage the use and development of the aviation area of the airport by charter air carriers and to encourage more employment opportunities for residents of the City, there is hereby created a sales and use tax credit as set forth in Subsection (c) below.

(c) For calendar years commencing on or after January 1, 1999, there shall be allowed a credit against sales and use tax on the sale, use storage or consumption of aircraft by a charter air carrier providing charter air transportation at the aviation area of the airport in an amount equal to two-thirds ($\frac{2}{3}$) of the sales and use tax levied and imposed upon such aircraft under this Chapter. This exemption shall not apply to parts and accessories when installed on aircraft at the airport. (Ord. No. 7101 §4, 1-26-04)

CHAPTER 5

Community Antenna Television Systems

Sec. 14-5-1. Definitions.

For the purpose of this Chapter the following terms, phrases and abbreviations have the meaning set forth:

(1) *Cable television system* shall mean a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and transmit them to subscribers for a fee. *CTV* shall not mean or include any facility which serves only the residents of one (1) or more apartment dwellings under common ownership, control or management and commercial establishments located on the premises of such an apartment house.

(2) *CTV* shall mean cable television system or community antenna television system. For the purposes of this Chapter, the two (2) terms shall be synonymous.

(3) *Gross receipts* shall mean any and all compensation and other considerations in any form whatever and any contributing grant or subsidy received directly or indirectly by a permittee from a subscriber or user in payment for television or radio signals or services received within the City.

(4) *Local TV station* shall mean any television broadcasting station which is designed to and does serve the City as the same shall now and in the future be fixed and determined by applicable rules and regulations and standards of the Federal Communications Commission.

(5) *Permittee* shall mean any person receiving any permit to operate or maintain a CTV system hereunder and shall include any lawful successor in interest to such person.

(6) *Program* shall mean any sign, signal, picture image or sound of any kind or any combination thereof.

(7) *Subscriber* shall mean any person, place or thing within the City receiving for any purpose any CTV service.

(8) *Television* shall mean the process of transmitting scenes, views or sounds by radio or by wire. (1957 Code, §15-131; Ord. No. 4223, 8-9-76)

Sec. 14-5-2. Permit to operate.

(a) It shall be unlawful for any person to install, operate or maintain CTV within all or any part of the City without having first obtained a nonexclusive license or permit from the City Council pursuant to this Chapter. Such permit shall be issued by resolution of the City Council. Any permit issued to any person under this Chapter shall be construed and considered as being an exercise of the police power of this City.

(b) It shall be unlawful for any person to provide to any unlicensed person cable service by means of which CTV signals may be carried for the purpose of operating CTV within the City.

(c) In case any CTV is operated, maintained or used in the City or cable service is provided, maintained or used in violation of this Chapter or any amendment thereto, the City Attorney, in addition to other remedies provided by law, may institute an action in the nature of injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, restrict, correct, abate, enjoin or remove such unlawful act, maintenance, use or service. All remedies described herein shall be cumulative and the exercise of one (1) shall not bar the exercise of any other.

(d) The regulatory and controlling provisions herein shall remain effective unless and until superseded or amended by the City Council or replaced by paramount law. The superseding or other replacement of any specific provision by paramount law or decision of any court shall not affect, nullify or change any other provisions of this Chapter, and all of such provisions shall govern and be effective to the maximum extent allowable by law and until superseded, replaced or nullified.

(e) Prior to the issuance or renewal of a permit hereunder, the City Council shall after notice and public hearing approve the permittee's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements. (1957 Code, §15-132; Ord. No. 4223, 8-9-76)

Sec. 14-5-3. Duty of permittee to provide services.

(a) Within twenty (20) days after a permit to operate a CTV has been issued pursuant to this Chapter and within the City, the permittee shall proceed with due diligence to apply for and obtain all necessary permits, licenses and authorizations which shall be required in the conduct of its business, including, but not limited to, any utilities, joint use attachment agreements, microwave carrier license and any other permits, licenses and authorizations to be granted by persons, firms, corporations, city, county, state or federal government entities or agencies having jurisdiction.

(b) Within sixty (60) days after obtaining the necessary permits, licenses and authorization, the permittee shall commence construction and installation of the CTV.

(c) Within one hundred thirty-five (135) days after the commencement of construction and installation of the CTV, the permittee shall proceed to render services to subscribers, and the completion of the construction and installation shall be pursued diligently thereafter so that services to all areas of the City shall be completed. The entire system shall be substantially complete within nine (9) months after issuance of the permit under this Chapter.

(d) The permittee shall carry all programming of all local television broadcasting stations primarily serving the Pueblo area on the permittee's CTV system and shall arrange means of switching all commercial announcements and items of such local stations when simultaneous broadcasts of network programs by outlying television stations and such local stations are being made.

(e) The services provided by the permittee shall be made available by it to all points within the corporate limits of the City as permitted by contracts negotiated with permitted public utility systems within the City; provided that the permittee shall not be required to make any extensions for the

purpose of providing service when any of the following conditions exist: (1) where service is not desired in the area; or (2) where the extension will require the installation of more than three hundred (300) feet of cable for each potential customer to be served. The permittee shall not, as to rates, charges, services, service facilities, rules, regulations or in any other respect, make or grant any undue preference or advantage to any person, subject any person to any prejudice or disadvantage, or discriminate against any person. (1957 Code, §15-133; Ord. No. 4223, 8-9-76)

Sec. 14-5-4. Future service; modification of conditions.

In accepting a permit pursuant to this Chapter, the permittee agrees to the following conditions:

(1) The permittee shall use existing utility poles and other existing facilities when their use is feasible. The permittee shall be aware that such poles are owned by Mountain States Telephone Company, by the Southern Colorado Power Division of Western Light and Power Company, and by the City, and the permittee will make satisfactory arrangements with these owners for the use of existing poles, cables and other facilities necessary for his or her operation. Where poles or other facilities are owned by the City, the City will allow the permittee to use the facilities under reasonable rules and regulations for installation, repair and maintenance of such cable and facilities as may be prescribed by the Department of Public Works, provided that an annual rental fee per pole shall be four dollars (\$4.00). Prior to commencement of operations, the permittees shall present to the City Manager evidence of a working arrangement with such utility companies, private corporations or agencies owning or controlling facilities the use of which are necessary by the permittee in the performance of his or her duties pursuant to this Chapter. If there are no existing facilities in a specific area to be served, the permittee shall install and operate cables and whatever other facilities are necessary for the operation of its system. However, nothing contained herein shall prevent the complete underground installation of CTV if the permittee shall elect.

(2) Where utilities are presently underground or nonexistent, the permittee shall install and operate all cable and pertinent facilities underground. Where the City Council determines it would not be detrimental to allow poles to be erected, the permittee may be authorized by the City Council to construct and install, operate and maintain, on, under and above the streets and public ways of the City, such poles, lines, cables, wiring, conductors and related appurtenances which are necessary for the purpose of receiving, amplifying and distributing television and radio signals to the inhabitants of this City. All such installation by the permittee, whether underground or aboveground, shall be subject to reasonable rules and regulations of the City Council.

(3) Any poles, wires, cables, lines, conductors, installation or facilities to be constructed or installed in or on any public street or public way by the permittee shall be constructed or installed and operated and maintained in accordance with standards not less than those prescribed by the electrical industry association.

(4) The permittee shall at its own expense protect, support and temporarily disconnect, relocate in the same street or public place, or remove from the street or other public place any property of the permittee where the same is required by reason of traffic conditions, public safety, street vacation, freeway and street construction, change of established street grade, installation of sewers, drains, water pipes, power lines, signal lines, railroad tracks or any other public structure or improvement.

(5) The permittee shall maintain an office in the City and provide a maintenance and repair service readily available through telephone or other means in the City to its subscribers during all hours that signals are being transmitted, and such operation and service of the permittee shall be available twenty-four (24) hours each day. Should a subscriber have an unresolved complaint regarding cable television operations, the subscriber shall be entitled to file his or her complaint with the City Manager, or his or her authorized representative, who has primary responsibility for the continuing administration of the permit and the procedures for resolving complaints, and thereafter to meet jointly with a representative of the City Council and a representative of the permittee within thirty (30) days to fully discuss and resolve such matters. The permittee shall notify each subscriber, at the time of initial subscription to the service of the Permittee of the procedures for reporting and resolving such complaints.

(6) Any permit or privilege authorized within this Chapter is subject to revocation by the City Council at its pleasure or discretion at any time.

(7) In the event of revocation or termination of any permit issued under the provisions of this Chapter, the City shall have the right to purchase all property of the permittee used under and in connection with such permit together with all goodwill and rights to appurtenances of the permittee. Whenever the City Council shall require, the permittee shall, upon sixty (60) days' notice, submit a statement setting forth the fair market value of all its property used under its permit, not including any value of such permit or right-of-way herein granted, and stating the sum which the permittee is willing to accept as the price thereof upon sale to the City. If the City Council determines that the purchase at such a price would be advantageous and just to the citizens of the City, it shall proceed with such purchase. If the City Council deems the price stated by the permittee to be unduly high and disadvantageous, it shall enter into a written agreement with the permittee to refer the question of a just price to a board of arbitrators composed of one (1) person appointed by the City and one (1) by the permittee who shall jointly determine the fair market value of the property to be purchased. If the two (2) arbitrators cannot agree on the fair market value of the property to be purchased, they shall choose a third disinterested arbitrator and the award of any two (2) arbitrators shall be binding. Such board of arbitrators shall inspect and make inventory of the property of the permittee proposed to be purchased by the City, and for such purpose shall have at all times unhindered access to all property, premises, books, records and reports of the permittee. The board of arbitrators shall hear any evidence presented by either the City or the permittee, and shall determine the fair value of the property to be purchased by the City as such property existed at the time when notice was given of the intention of the City to purchase. The board shall make a full detailed report to the City Council recommending a fair price to be paid by the City which shall be based on the fair market value of the property to be purchased. If the City Council determines that the purchase at such price would be advantageous and just to the citizens of the City, it shall proceed with such purchase. If the permittee fails to present said property in as good repair and condition at the time the City assumes control thereof as it was at the time of appraisal, the City shall deduct from the purchase price such sum as the board of arbitrators determines to be a just allowance.

(8) In the event of such revocation or termination, if the City does not elect to purchase the permittee's property, the permittee shall at the request of the City, at its own expense within a reasonable time as determined by the City Manager remove any poles, wires, cables and related appurtenances constructed or installed and shall leave the streets and public ways in as good

condition as they were prior to such installation. The rights of the permittee under this Chapter to the use of streets and public ways of the City and conduct of its business in the City shall be nonexclusive, and the City reserves the right to grant a similar use or uses in the streets and the public ways and authorize additional CTV businesses in the City.

(9) The right is hereby reserved to the City or the City Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(10) The City shall have the right to inspect the books, records, maps, plans, income tax returns and other like materials of the permittee at any time during normal business hours.

(11) The City shall have the right to supervise all construction or installation work performed subject to the provisions of the permit and make such inspections as it shall find necessary to insure compliance with the terms of this Chapter and other pertinent provisions of law. (1957 Code, §15-134; Ord. No. 4223, 8-9-76)

Sec. 14-5-5. Payment to City.

The permittee shall pay to the City, on or before March 31 of each year, a permit fee equal to three percent (3%) of the permittee's annual gross receipts derived from the permittee's cable television operations in the City during the preceding calendar year. The term *gross receipts* does not include sales tax or any subscriber tax imposed by the State or City upon subscribers and collected by the permittee. The payment herein specified shall not exempt the permittee from any lawful taxation, including but not limited to sales and use taxes, upon its property, but shall exempt the permittee from the payment of any other occupation tax or license fee. (1957 Code, §15-135; Ord. No. 4223, 8-9-76)

Sec. 14-5-6. Rates.

(a) The rates and charges for television and radio signals distributed hereunder shall be fair and reasonable and no higher than necessary to meet all costs of service (assuming efficient and economical management), including a fair return on the original cost, less depreciation, of the properties devoted to such service (without regard to any subsequent sale or transfer price or cost of such properties).

(b) The City Council shall have the power, authority and right to cause the permittee's rates and charges to conform to the provisions of Subsection (a) hereof, and for this purpose, it may deny increases or order reductions in such rates and charges when it determines that in the absence of such action on its part, the permittee's rates and charges or proposed increased rates and charges will not conform to Subsection (a). No increase in rates charged to subscribers shall be made without the prior approval of the City Council. From time to time, but in no event more frequently than once in any eighteen (18) calendar months, the permittee may petition the City Council for approval of rate increases. The City Council shall, within ninety (90) days after receipt of such petition, consider the requested increases and, after notice and public hearing thereon, enter its decision either denying or approving, in whole or in part, the requested increases. The decision of the City Council shall be final and binding on all parties. In the event of the imposition of a State or City sales tax or other direct tax upon subscribers, the permittee shall be permitted to surcharge and pass said tax on to the subscribers.

(c) By its acceptance of any permit under this Chapter, the permittee specifically grants and agrees that its rates and charges to its subscribers for television and radio signals shall be fair and reasonable and no higher than necessary to meet all its necessary costs of service (assuming efficient and economical management), including a fair return on the original cost, less depreciation, of its properties devoted to such service (without regard to any subsequent sale or transfer price or cost of such properties).

(d) By its acceptance of such permit, the permittee further specifically grants and agrees that the City Council shall have the power, authority and right to cause the permittee's rates and charges to conform to the provisions of Subsection (c) hereof, and for this purpose the City Council may deny increases or order reductions in such rates and charges when it determines that, in the absence of such action on its part, the permittee's rates and charges or proposed increased rates and charges will not conform to Subsection (c).

(e) However, no action shall be taken by the City Council with respect to the permittee's rates under this Section until the permittee has been given reasonable notice thereof and an opportunity to be heard by the City Council with regard thereto.

(f) The following maximum rates and charges are hereby authorized for cable services by a permittee under this Chapter and shall not be changed by the permittee without prior approval of the City Council.

(1) <u>Single Dwelling Units</u>	<u>Connection Charge</u>	<u>Basic Cable Service*</u>
Connection Charge	\$25.00	\$10.00
Additional TV Outlet	15.00	2.00
Relocation of Outlet	15.00	
Reconnection on Nonpayment	15.00	

(2) Multiple Dwelling Units (Contained within one structure or group, where all service is billed to one subscriber)

- a. Apartments: Dwelling Units Served:
8 or more, 70% of single dwelling rate per unit
- b. Hotels and Motels: Rooms Served
\$3.00 per unit without converter

* Basic Cable Service shall not be offered in multiple tiers and shall consist of at least twenty-one (21) cable channels. Charges for less than one (1) full calendar month may be prorated.

(g) The permittee shall receive no deposit or penalty from any subscriber or potential subscriber, but the permittee may charge the subscriber monthly in advance.

(h) The permittee shall receive no consideration whatsoever for or in connection with its service to its subscribers other than in accordance with this Section.

(i) If in the future the State regulates the rates of the permittee for the service provided for in this permit, this Section shall be of no effect during such state regulation to the extent of any conflict

therewith. (1957 Code, §15-136; Ord. No. 3540, 4-10-72; Ord. No. 4223, 8-9-76; Ord. No. 5221, 5-13-85)

Sec. 14-5-7. Flow through of refunds.

(a) If during the term of any permit issued under this Chapter the permittee receives refunds of any payments made for television or radio signals, it shall without delay notify the City Council, suggest a plan for flow-through of the refunds to its subscribers, and retain such refunds pending order of the City Council. After considering the plan submitted by the permittee, the City Council shall order the flow-through of the refunds to the permittee's subscribers in a fair and equitable manner.

(b) By its acceptance of such permit, the permittee specifically grants and agrees that, if during the term thereof it receives refunds of any payments made for television or radio signals, it shall without delay notify the City Council, suggest a plan for flow-through of the refunds to its subscribers, retain the refunds pending order of the City Council, and flow-through such refunds in accordance with the order of the City Council.

(c) The permittee shall be entitled to receive rebates or credits in an amount equal to the excess of any sums paid by the permittee to the City during such twelve-month period as exceeds the fixed percentage of the gross receipts of the permittee payable to the City hereunder. (1957 Code, §15-137)

Sec. 14-5-8. Maps, plats and reports.

(a) The permittee shall file with the City Clerk true and accurate maps or plats of all existing and proposed installations.

(b) The permittee shall file annually with the City Clerk, not later than sixty (60) days after the end of the permittee's fiscal year, a copy of its report to its stockholders (if it prepares such a report), an income statement applicable to its operations during the preceding twelve-month period, a balance sheet and a statement of its properties devoted to CTV operations, by categories, giving its investment in such properties on the basis of original cost, less applicable depreciation. These reports shall be prepared or approved by a certified public accountant and there shall be submitted along with them such other reasonable information as the City Council shall request with respect to the permittee's properties and expenses related to its CTV operations within the City.

(c) The permittee shall keep on file with the City Clerk a current list of its shareholders and bondholders. (1957 Code, §15-138)

Sec. 14-5-9. Indemnification of the City and hold harmless.

The permittee shall indemnify and hold harmless the City, its officers, boards, commissions, agents and employees against and from any and all claims, demands, causes of action, suits, proceedings, damages, including damages to City property, costs or liabilities of every kind and nature whatsoever, regardless of the merits of the same against all liability to others and against any loss, costs and expenses resulting or arising out of the same, including attorney fees, accountant fees, expert witness fees, court costs, per diem expenses, travel and transportation expenses, or other costs or expenses arising out of or pertaining to the exercise or enjoyment of any permit hereunder granted.

Specifically, the permittee shall hold the City harmless from any alleged or actual copyright or patent infringement, action or proceedings for which the permittee or the City may be jointly or severally liable by reason of the permittee's actions. The permittee shall at its sole risk and expense, upon demand of the City made by or through the City Attorney, appear in and defend any and all suits, actions or legal proceedings, judicial, quasi-judicial, administrative, legislative or otherwise brought or instituted by any third person against or affecting the City, its officers, boards, commissions, agents or employees and arising out of or pertaining To the exercise or enjoyment of this permit. The permittee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against the permittee, the City, its officers, boards, commissions, agents or employees. Such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy or insurance deposited, undertaking or other assurance required here or otherwise. (1957 Code, §15-139)

Sec. 14-5-10. Public liability insurance.

Prior to doing business under any permit granted pursuant to this Chapter, the permittee shall file with the City Clerk a public liability insurance policy and shall maintain such policy in full force and effect at its own cost and expense at all times during the life of this permit. The policy shall be with an insurance company licensed to do business in the State and shall be in a form approved by the City Attorney. The policy so furnished shall insure both permittee and the City against claims, demands or losses for injury to persons or damage to property resulting from or connected with the construction, operation or maintenance of said system and business within the City. Said insurance shall have limitations of not less than five hundred thousand dollars (\$500,000.00) injury to one (1) person in one (1) occurrence and not less than one million dollars (\$1,000,000.00) for injury to more than one (1) person in the same occurrence and not less than two hundred fifty thousand dollars (\$250,000.00) for damage to property in one (1) occurrence. (1957 Code, §15-140)

Sec. 14-5-11. Corporate surety bond.

After a permit has been granted and prior to doing business under this Chapter, the permittee shall file with the office of the City Manager and shall maintain in full force and effect so long as he or she does business pursuant to this Chapter a corporate surety bond or corporate guarantee in lieu of bond in such amount and kind as shall be approved by the City Manager and conditioned that in the event permittee shall fail to comply with any one (1) or more of the provisions of this permit, there shall be recoverable jointly and severally from the principal and surety any damages suffered or incurred by the City as a result thereof, including attorney's fees and costs of any actions or proceedings and including the full amount of any compensation or indemnification, cost of removal of abandoned property or other cost which may be in default up to the full principal amount of such bond, and said condition shall be a continuing obligation during the entire term of any permit issued under this Chapter and thereafter until the permittee shall have satisfied in full any and all obligations to the City. (1957 Code, §15-141; Ord. No. 4223, 8-9-76)

Sec. 14-5-12. Duties and responsibilities of permittee.

(a) The CTV system installed and operated by the permittee shall be capable of simultaneous transmission of at least twelve (12) television signals, including color, for delivery at each subscriber's premises, and shall initially deliver satisfactory television signals from at least the following TV stations:

<u>Air Channel Station</u>	<u>City</u>	<u>Network Service</u>
2 KWGN-TV Close Circuit	Denver	Independent News Service
4 KOA-TV Close Circuit	Denver	NBC
5 KOAA-TV	Pueblo	NBC
7 KLZ-TV	Denver	CBS
9 KBTW	Denver	ABC
11 KKTW	Colorado Springs	CBS
13 KRDO	Colorado Springs	ABC

Changes in the above requirements shall be permitted only by resolution of the City Council. Changes relating to nonlocal TV stations may be initiated by the City Council or upon request of the permittee. Programs of all existing and future local TV stations shall be carried and directed without derogation of quality.

(b) The permittee shall install its entire system in accordance with the highest accepted engineering practices. The entire engineering responsibility for construction, installation, design and maintenance shall be the sole responsibility of the permittee who shall conform to all applicable codes, rules, regulations and the terms and conditions of any joint-use agreements, leases or licenses with any person.

(c) All equipment, component parts and supplies used by the permittee throughout his or her entire system shall be of the highest available quality, produced by a manufacturer of established reputation and experience, all to the effect that the subscriber shall receive the best possible service. In determining satisfactory performance, the following standards shall apply:

(1) The system shall be installed using all band equipment capable of passing the entire VHF television and FM spectrum. The system as installed shall be capable of passing standard color TV signals without the introduction of noticeable effects on color fidelity and intelligence. The system shall provide a signal level of five hundred (500) microvolts at the input terminal of each of the TV receivers.

(2) The system and all equipment shall be designed and rated for twenty-four (24) hours per day continuous operation.

(3) The system signal-to-noise ratio shall not be less than forty-two (42) decibels. Hum modulation of picture signals shall be less than five percent (5%). The system shall use components having VSWR of 1.4 or less. Methods of measuring the above standards, where necessary, will be established by the City Council.

(d) When installing cable and pertinent facilities on, under or above any utility easement, public road or right-of-way, the permittee shall complete such installation in a manner which causes the least disturbance or damage to concrete flatwork, asphalt, fences, trees, shrubs, landscaping or other improvements of a nonpermanent nature located on the surface thereof, and the Permittee shall immediately after such installation repair all damage to any such improvement and restore the surface of such utility easement, public road or right-of-way to the same or similar condition existing before such installation. (1957 Code, §15-142; Ord. No. 4972, 5-24-82)

Sec. 14-5-13. Service to schools and public facilities.

(a) The permittee shall provide without charge at least one (1) service outlet in each elementary and secondary school, City police and fire station, City recreation center and such other buildings owned or controlled by the City which shall from time to time be designated by the City Council in the service area, and in the two (2) television distribution centers of the University of Southern Colorado, for the reception of all channels operating in the system. There shall be no charge for the use of these channels.

(b) The permittee shall provide, for the cost of time and materials, any individual room outlets requested by the elementary and secondary schools in the service area.

(c) The permittee shall initially provide one (1) fully equipped and operating channel for the exclusive use of the schools and the college, for the distribution of local or other programming at the schools' option.

(d) The permittee shall maintain at least one (1) specially designated channel for each of the following: use by local educational authorities; local government uses; and noncommercial public access available on a first-come, nondiscriminatory basis.

(e) The permittee shall be responsible for the maintenance and replacement of all transmission equipment used between the head end of the system and the interior of each school building.

(f) The permittee at its expense shall provide and install the necessary receiving equipment which will reasonably enable the television center at the University of Southern Colorado to transmit a signal from its Orman Campus facility to the head end of the CTV system. Necessary receiving equipment shall be provided by the permittee for any main television facility which might be established by the Pueblo public schools.

(g) The permittee shall, at the request of the University of Southern Colorado, implement nonduplication procedures for programs of KRMA-TV (Denver) or other distant ETV systems.

(h) The permittee shall provide its own studio and control room facility equipped for live, film and tape program origination, and shall make the studio available to any educational or public service agency in the City.

(i) The permittee shall actively seek the cooperation of qualified representatives of local educational institutions in the development of educational programming for the system. (1957 Code, §15-143; Ord. No. 4223, 8-9-76)

Sec. 14-5-14. Transfer.

The permit or privileges provided for hereunder shall be personal to the permittee and shall not be sold, transferred, leased, assigned or disposed of in whole or in part by voluntary or involuntary proceedings without the consent of the City expressed by resolution of the City Council upon such conditions as it may prescribe, except such consent shall not be unreasonably withheld. The permittee, in accepting a permit under this Chapter, agrees that such permit or privilege is a revocable and nonexclusive use of structures or facilities lawfully placed in streets and ways of the City and the

nonexclusive use of poles or structures to be placed upon or under City streets and ways by the permittee and which the permittee agrees may be used by the City, the telephone company and similar entities by payment of a reasonable use fee; provided that nothing contained in this sentence shall be construed to require the permittee to allow the use of its facilities to a competing CTV operator or system. (1957 Code, §15-144)

Sec. 14-5-15. Transactions affecting ownership of facilities.

(a) In order that the City may exercise its option to take over the facilities and property of the CTV system authorized herein upon expiration or forfeiture of the rights and privileges of the permittee, as is provided herein, the permittee shall not make, execute or enter into any deed, deed of trust, mortgage, conditional sales contract or any loan, lease, pledge, sale, gift or similar agreement concerning any of the facilities and property, real or personal, of the CTV business without prior approval of the City Council upon its determination that the transaction proposed by the permittee will not be inimical to the rights of the City under this permit. However, this Section shall not apply to the disposition of worn-out or obsolete facilities or personal property in the normal course of carrying on the CTV business.

(b) Except as provided for in Subsection (a) above, the permittee shall at all times be the full and complete owner of all facilities and property, real and personal, of the CTV business. (1957 Code, §15-145)

Sec. 14-5-16. Change of control of permittee.

Prior approval of the City Council shall be required where ownership or control of more than thirty percent (30%) of the right of control of the permittee is acquired by a person or group of persons acting in concert, none of whom already own or control thirty percent (30%) or more of such right of control, singularly or collectively. By its acceptance of any permit issued under this Chapter, the permittee specifically grants and agrees that any such acquisition occurring without prior approval of the City Council shall constitute a violation of this Chapter by the permittee. (1957 Code, §15-146)

Sec. 14-5-17. Default.

Failure, refusal or neglect by the permittee to duly comply with any of the requirements of this Chapter shall be sufficient cause for termination of this permit by the City, and any such failure, refusal or neglect which shall continue for a period of thirty (30) days next following a written demand by the City Manager, that the permittee duly comply with any such requirements, shall operate to terminate and forfeit such permit immediately upon the passing of a resolution of the City Council. Upon written request of the permittee, a public hearing shall be held before the City Council before any resolution terminating such permit shall be considered by the City Council. The same shall be terminated and forfeited without any further notice to the permittee, and upon the happening of any such termination and forfeiture and by operation of law, all the properties, facilities, records, files, rights, privileges, powers and authority of the permittee shall become the property of the City and shall belong to the City, and the permittee shall cause to be executed, acknowledged and delivered to the City upon demand thereof such instruments as the City Attorney shall prescribe and approve evidencing or affecting the ownership of any of the same to the City. The permittee shall have no recourse or remedy whatsoever against the City for any loss, cost, expense or damage arising

with respect to any permit issued under this Chapter or to the enforcement of this Chapter resulting in the termination and forfeiture of such permit as hereinabove set forth. (1957 Code, §15-147)

Sec. 14-5-18. Prohibitions and incidental duties.

(a) The permittee shall not engage in the business of renting, repairing, selling or installing television sets, radios, antennas or other electronic devices for the reception of electronic signals except those required by this system.

(b) The permittee shall operate its system so as not to interfere with the direct broadcast or reception of other signals, whether television, radio or like signals, or transmission of telephone or telegraph signals.

(c) In delivery of programs, the permittee shall not delete the commercials of the program sponsor nor shall it interrupt any programs or parts thereof and substitute commercials or advertisements for those of such program sponsor.

(d) The permittee agrees not to oppose intervention by the City in any suit or proceeding to which the permittee is a party.

(e) The permittee agrees to abide by all provisions of this permit, and further agrees that it will not at any future time set up as against the City or the City Council the claim that the provisions of this Chapter or any permit issued hereunder are unreasonable, arbitrary or void. (1957 Code, §15-148; Ord. No. 4223, 8-9-76)

Sec. 14-5-19. Filings and communications with regulatory agencies.

Copies of all petitions, applications and communications submitted by the permittee to the Federal Communications Commission, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting CTV operations authorized pursuant to any permit issued under this Chapter, shall also be submitted simultaneously to the City Council. (1957 Code, §15-149)

Sec. 14-5-20. New developments.

(a) It shall be the policy of the City liberally to amend this Chapter upon application of the permittee, when necessary to enable the permittee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers. However, this Section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

(b) Any modification of the provisions of Section 76.31 (Franchise Standards) of the Rules and Regulations of the Federal Communications Commission (FCC) resulting from amendment by the FCC shall be automatically incorporated into any permit granted hereunder as of the date such modification become obligatory under FCC regulations, or in the event no obligatory date is established, within one (1) year of adoption or at the time of permit renewal, whichever occurs first. (1957 Code, §15-150; Ord. No. 4223, 8-9-76)

Sec. 14-5-21. Permit expiration.

Unless sooner terminated or revoked as herein provided and without limiting the power of the City Council to do so, all permits approved and issued under this Chapter, whether initial or renewal permits, shall expire fifteen (15) years after the date of issuance or renewal. The City Council may renew any permit after notice and public hearing thereon. (Ord. No. 4223, 8-9-76)

CHAPTER 6

Special Funds

Sec. 14-6-1. Levy; purpose; limit; reduction.

For the purpose of paying for general benefits to be conferred on the City at large from the construction or installation of improvements in special or local improvement districts in the City, and for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any special or local improvement district hereafter created in the City, there shall be levied an annual tax on all of the taxable property in the City of one-fourth of one (0.25) mill for each one million dollars (\$1,000,000.00) or fraction thereof of bonds issued for special or local improvement district in the City. Such levy shall be made each year, and it shall continue to be levied so long as any of such bonds remain outstanding or until other available funds are on hand to pay such outstanding bonds and interest thereon; provided, however, that the total tax levied shall never exceed two (2) mills in any one (1) year, and provided further that, when bonds of a particular special or local improvement district have been paid or redeemed, such annual tax levies may be reduced to provide only for funds sufficient to maintain current payments of interest and equal annual payments of the principal amount of bonds then outstanding of special or local improvement districts of the City. (1957 Code, §25-65)

Sec. 14-6-2. Special fund; deposit.

The proceeds of such taxes levied shall be deposited in a special fund, separate and apart from all other funds of the City, and shall be disbursed only for the purposes designated herein. (1957 Code, §25-66)

Sec. 14-6-3. Transfer in lieu of tax; limit.

In lieu of tax levies hereinbefore authorized or any portion thereof, the City Council may annually transfer to such special fund any available money of the City, but in no event shall the amount transferred in any one (1) year exceed the amount which would result from a two-mill tax levied in such year. (1957 Code, §25-67)

Sec. 14-6-4. Diminishing fund; when permitted.

Except as provided herein, so long as any bonds issued for special or local improvement districts hereafter organized remain outstanding, the tax levies or transfers of money to such special fund shall not be diminished until all of such bonds and interest thereon shall be paid in full or available funds are on hand therefor. (1957 Code, §25-68)

Sec. 14-6-5. End of necessity; disbursing funds.

When all bonds issued for special or local improvement districts in the City and interest on such bonds have been paid in full or available funds are on hand therefor, no further tax levies shall be made hereunder, and any remaining monies in such special fund shall be disbursed or applied for such purposes as may be determined by the City Council. (1957 Code, §25-69)

Sec. 14-6-6. Limitation of Chapter.

This Chapter shall be applicable to all bonds issued for special or local improvement districts created by the City in the years 1955 to 1960, inclusive, and the provisions of Section 14-6-5 hereof shall be operative when all the bonds of said districts and the interest thereon shall have been paid in full or provision made therefor. Provision for bonds of special or local improvement districts created after January 1, 1961, shall be made coincident with the issuance thereof. (1957 Code, §25-70)

Sec. 14-6-7. Use of funds.

As provided in Section 14-6-1 hereof, the City Council may for the fiscal year 1961, and each fiscal year thereafter, appropriate an amount equal to one-half ($1/2$) of the tax levy, established under the provisions of said Section 14-6-1, for the purpose of paying for general benefits to the City from the construction or installation of improvements in special or local improvement districts of the City created in 1961 and thereafter, but no such appropriation shall reduce the balance of such special fund established by Section 14-6-2 hereof below the amount credited to such fund on December 31, 1960, provided, however, that when said special fund shall accumulate to the sum of two hundred fifty thousand dollars (\$250,000.00), the City Council may thereafter appropriate any portion of said tax levy for the purpose prescribed in this Section, and provided further that no such appropriation shall reduce the balance in said fund below the sum of two hundred fifty thousand dollars (\$250,000.00) or an amount equal to the total outstanding bonds issued for the districts defined in Section 14-6-6 hereof and the remaining interest liability thereon, whichever sum may be the smaller. (1957 Code, §25-71; Ord. No. 2587, §1, 10-24-60)

CHAPTER 7

Special Assessments

Sec. 14-7-1. Purpose.

Unless otherwise specifically provided for in this Code, whenever any charge or assessment is to be made against specific land by reason of any work performed or improvements made upon such land or upon adjoining public property which benefits or improves the land to be so charged or assessed, or by reason of the elimination of a nuisance thereon under any power granted by law to the City or any officer or employee thereof, the following procedures shall be observed in order that such assessment shall become a lien upon the land.

Sec. 14-7-2. Notice.

The head of the department charged with making the improvement or benefit for which assessment is to be made shall notify the owner of the property that such work or improvements have been completed, specifying:

- (1) The nature of the work performed.
- (2) The cost of such work or improvements.
- (3) That any complaints or objections made in writing by the owners to the City Council and filed in the office of the City Clerk within twenty (20) days after the mailing of such notice, will be heard and determined by the City Council before the passage of any ordinance assessing the cost of such work or improvements; and
- (4) The date and place such complaints and objections will be heard.

Such notice may be by certified mail addressed to the last known address of the record owner of the property, or by any other means of service as provided in Section 1-1-11 of this Code. complete upon mailing. If service is by mail, such service shall be complete upon mailing.

Sec. 14-7-3. Hearing; surcharge.

At the time and place specified in such notice, or at some adjourned time, the City Council shall hear and determine all such complaints and objections and may thereupon make such modifications and changes as may seem equitable and just, or may confirm the cost. Such cost of work or improvements, together with a surcharge not to exceed twenty-five percent (25%) of the cost of such work or improvement to defray administrative expenses, shall thereupon be levied, assessed and charged by ordinance against the property upon which such work or improvement is made and shall become a perpetual lien thereon and shall be collected in the same manner as provided for special assessments for public improvements. Such surcharge shall be computed as follows:

<u>Cost</u>	<u>Surcharge</u>
\$ 50.00 or less	25%, but not to exceed \$ 7.50
\$ 50.01 to \$100.00	15%, but not to exceed \$10.00
\$100.01 and over	10%

Sec. 14-7-4. Assessment roll.

The department head shall prepare an assessment ordinance showing each piece of land assessed and the total amount, including penalties assessed, against each piece of land.

Sec. 14-7-5. Validation; reassessment.

No delays, mistakes, errors or irregularities in any act or proceeding herein authorized shall prejudice or invalidate any assessment, but the same may be remedied by subsequent amending acts or proceedings, as the case may require. When so remedied, the same shall take effect as of the date

of the original act or proceeding. If in any court of competent jurisdiction any final assessment made pursuant hereto is set aside, the City Council, upon notice as required in the making of any original assessment, may make a new assessment in accordance with the provisions hereof.

Sec. 14-7-6. Due date.

All assessments for work or improvements made shall be due and payable within thirty (30) days after final approval of the assessing ordinance without demand.

Sec. 14-7-7. Assessment roll to County Treasurer.

At the expiration of such thirty-day period, a copy of the assessing ordinance, certified by the City Clerk, shall be delivered to the County Treasurer, for the collection of the same. The County Treasurer shall receipt for the same. All such rolls shall be named and numbered for convenient reference.

Sec. 14-7-8. Collection.

The County Treasurer shall receive the payment of all assessments appearing upon the assessing ordinance, with interest at the legal rate from the date of receipt of such assessing ordinance by the County Treasurer. In case of default in the payment of such assessment, the County Treasurer shall advertise and sell any and all property concerning which such default has suffered, for the payment of the whole thereon. Such advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as is provided by general law for sales of real estate in default of payment of general taxes.

Sec. 14-7-9. Payment of prorated interests.

The owner of any divided or undivided interest in the property assessed may pay his or her share of any assessment upon producing evidence of the extent of his or her interest satisfactory to the Treasurer having the roll in charge.

Sec. 14-7-10. Collections paid to City.

All collections made by the County Treasurer upon such assessment roll in any calendar month shall be accounted for and paid over to the Director of Finance on or before the tenth day of the next succeeding calendar month.

Sec. 14-7-11. Certificates of purchase to City.

At any sale by the County Treasurer of any property for the purpose of paying any assessment made hereunder, the City may purchase any such property without paying for the same in cash; and shall receive certificates of purchase therefor in the name of the City. The certificates shall be received and credited at their face value, with all interest and penalties accrued, on account of the assessments pursuant to which the same were made. The certificates may thereafter be sold by the Director of Finance at their face value, with all interest and penalties accrued, and assigned by him or her to the purchaser in the name of the City, and the proceeds credited to the fund from which the costs were paid giving rise to the assessment.

Sec. 14-7-12. Tax deeds to City.

The City shall have the right to apply for tax deeds on such certificates of purchase at any time after three (3) years from the date of issuance of such certificates.

Sec. 14-7-13. Sale of lands acquired by tax deed.

Cumulatively with all other remedies, the City, being the owner of property by virtue of a tax deed, in satisfaction or discharge of the lien represented by such certificate of sale, may sell such property for the best price obtainable at public sale, at auction or by sealed bids. Such sale shall be after public notice by publication one (1) time in a daily newspaper of wide circulation published in the City, describing the property and stating the time, place and manner of receiving bids. The time fixed for the sale shall not be less than ten (10) days after such publication. The City may reject any and all bids.

Sec. 14-7-14. Protests.

Any interested party, at any time within ten (10) days after the receipt of bids for the sale of property, may file with the City a written protest as to the sufficiency of the amount of any bid made or the validity of the proceedings for the sale. If the protest is denied, and no action to enjoin or restrain the City from completing the sale is instituted within ten (10) days thereafter, all protests or objections to the sale shall be deemed to have been waived and the City shall then convey the property to the successful bidder by quit claim deed.

Sec. 14-7-15. Sale proceeds; disposition of.

The proceeds of any such sales of property shall be credited to the appropriate fund from which the cost of such work or improvement was made. The City shall deduct therefrom the necessary expenses in securing deeds and taking proceedings for such sale.

Sec. 14-7-16. Multiple certificates; disposition of.

In the event there shall be more than one (1) assessment outstanding upon any property sold under the preceding paragraph at the time of sale, all outstanding assessments may be cancelled and all outstanding certificates of purchase evidencing delinquent assessments may be assigned to the purchaser at the sale or surrendered to the County Treasurer for cancellation; provided, always, that no outstanding assessment of any special improvement district in which there remains any outstanding bonded indebtedness may be cancelled or certificate of purchase assigned in such manner. The proceeds of such sale, less all expenses, shall be prorated among the funds from which the cost of the work or improvements were made.

Sec. 14-7-17. Recovery at law.

(a) In case of failure to pay any assessment or any portion thereof, or any penalty or interest thereon, when due, the City may recover at law from the owner of the property assessed the amount of such assessment, penalties and interest in any county or district court of the county wherein the owner resides or has his or her principal place of business having jurisdiction of the amounts sought to be collected.

(b) The statement of costs made by the City Manager as herein provided shall be prima facie proof of the amount due.

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

(d) It shall be the duty of the City Attorney, when requested by the City Manager, to commence action for the recovery of costs due under this Chapter, and this remedy shall be in addition to all other existing remedies or remedies provided in this Chapter. (1957 Code, §13-27)

CHAPTER 8

Motion Picture Theater Admissions Tax

Sec. 14-8-1. Definitions.

The following definitions shall apply to words and phrases used in this Chapter:

(1) *Admission charge* shall mean any charge for the right or privilege of attendance at any public performance of a motion picture in the City.

(2) *Admissions tax* shall mean the tax levied hereunder.

Sec. 14-8-2. Levy of tax.

There is hereby imposed and levied upon every person who pays an admission charge for any public performance of a motion picture in this City a tax of three percent (3%) of such admission charge. This tax is in addition to any other tax imposed by law, except as otherwise expressly provided herein.

Sec. 14-8-3. Collection and remittance liability.

Every motion picture theater owner, operator or exhibitor, and any other person who shall conduct or sponsor any public performance of a motion picture in the City for which admission is charged, shall be liable for collection and remittance of the admissions tax. Every person receiving a taxable admission charge, whether directly or through an agent or employee, shall collect the amount of tax imposed from the person paying the admission charge at the time it is paid. Said tax shall be deemed to be held in trust by the person required to collect it, for the use and benefit of the City, until it is remitted to the Director of Finance as provided herein.

Sec. 14-8-4. Exclusions and exemptions.

(a) The admissions tax shall not apply to any admission charge:

(1) For any event sponsored or conducted by the United States, the State, the City or any department, institution or political subdivision thereof; or

(2) Which the City is prohibited from taxing under the Constitution or laws of the United States or the State.

(b) An organization described in Section 501(c) of the Internal Revenue Code which is exempt from taxation under Section 501(a) thereof shall be exempt from the duty to collect and remit, but not the duty to pay, the admissions tax if such organization:

(1) Has obtained a tax-exempt ruling or determination letter from the Internal Revenue Service;

(2) Has been in existence continuously for a period of three (3) years immediately prior to the date of application for exemption hereunder;

(3) Has had during that entire three-year period members engaged in carrying out the objectives of the organization;

(4) Will devote the entire net proceeds of the admission charges received to the organizational purposes upon which its federal tax exemption is dependent; and

(5) Has obtained a determination of exemption from the Director of Finance prior to the event for which admissions tax exemption is requested.

Sec. 14-8-5. Free admissions, reduced charges, refunds.

(a) Free or complimentary admissions, for which no consideration is paid by or to any person, shall not be taxable hereunder.

(b) If a reduced charge for admission is made, the admissions tax shall apply only to the amount of the reduced charge.

(c) If an admission charge is refunded for any reason, the admissions tax collected therewith shall also be refunded.

(d) Admission charges characterized as donations or contributions, or by any other name, shall be taxable unless expressly exempted herein.

Sec. 14-8-6. Exemptions; burden of proof.

(a) The burden of proof that any transaction is excluded or exempted from imposition of admissions tax shall be on the person on whom the duty to collect and remit the tax is imposed hereunder.

(b) The burden of proof that any person is excluded or exempted from the duty to collect or remit the admissions tax shall be on the person claiming exclusion or exemption.

Sec. 14-8-7. Reports and remittances.

(a) The Director of Finance may require any person subject to this Chapter to maintain and furnish such returns, statements and records as the Director deems necessary to a determination of the admissions tax liability of such person. If such records are not maintained or furnished, the Director shall estimate and determine the tax liability of such person from the best information reasonably available to him or her.

(b) Every person required to collect admissions tax hereunder shall remit the full amount of such tax to the City within five (5) calendar days after the date such tax was collected, provided that the Director of Finance may authorize persons collecting admissions tax on a regularly continuing or recurring basis to file monthly reports and remittances, which shall be due on the twentieth day of the month following each month in which admissions taxes were collected.

(c) Every person remitting admissions tax shall be entitled to retain three and three-tenths percent (3.3%) of the amount otherwise payable to defray costs of collection, reporting and remittance.

(d) Persons collecting admissions tax may either add the tax to the admission charge as a separate and distinct item or may include the tax in the admission price without separately identifying it as tax, but no person shall represent directly or indirectly that the tax is not included in the admission price or that it will be assumed, absorbed or refunded, and inclusion of the tax in the admission price shall not relieve any person collecting tax from liability for payment of the full amount of the tax levied hereunder.

Sec. 14-8-8. Penalty and interest for failure to collect or remit tax.

(a) Any person required to collect or remit admissions tax who fails to collect or remit the tax shall be personally liable to the City for the amount of the tax.

(b) Any person required to collect and remit admissions tax who fails to pay the full amount of the tax when due shall be assessed interest on the amount of deficiency from the date due to the date paid at a rate equal to the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended.

(c) If the failure to collect or remit tax when due is attributable in whole or in part to negligence or intentional disregard of authorized rules or regulations but without intent to defraud, there shall be added ten percent (10%) of the amount of the deficiency, and interest on the amount of the deficiency shall be assessed from the date due to the date paid at a rate equal to the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended.

(d) If the failure to collect or remit tax when due is attributable in whole or in part to fraud or intent to evade the tax, there shall be added fifty percent (50%) of the amount of the deficiency, and interest on the amount of the deficiency shall be assessed from the date due to the date paid at a rate equal to twice the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended.

(e) The Director of Finance is hereby authorized to waive, for good cause shown, any penalty assessed, and any interest in excess of the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended, shall be deemed a penalty.

Sec. 14-8-9. License to be obtained.

(a) Every person required to collect or remit admissions tax hereunder shall obtain an admissions tax license from the Director of Finance. Each application for said license shall be accompanied by a cash deposit or bond in such amount and in such form as is determined by the Director of Finance to be sufficient to secure compliance with all provisions of this Chapter. Said license shall be issued without further charge and shall be valid until revoked.

(b) Notwithstanding the provisions of Subsection (a) above, the Director may allow any person holding a valid City sales or use tax license to receive, collect and remit the admissions tax under that licensing and reporting system without further licensing or bonding herein.

Sec. 14-8-10. Credit against other taxes.

Any person remitting admissions tax may credit the amount remitted against that portion of the City sales or use tax liability of such person which is imposed on the price paid by such person for the use of motion picture film prints in public performances which generate admissions tax. No part of the admissions tax remitted may be credited against any other City sales or use tax liability.

Sec. 14-8-11. Rules and regulations.

The Director of Finance is hereby authorized to adopt rules and regulations not inconsistent with the provisions of this Chapter, regarding the payment, collection and remittance of the admissions tax. A copy of all such rules and regulations shall be available for public inspection in the office of the Director or Finance. Failure or refusal to comply with any such rules or regulations shall constitute a violation of this Chapter.

Sec. 14-8-12. Provisions incorporated by reference.

Except where the context otherwise requires, all definitions and provisions contained in Chapter 4 of this Title, as it may be amended, are incorporated into this Chapter 8 by reference as if fully set forth herein, except that any reference therein to sales or use tax shall be deemed to refer to admissions tax. All procedural and enforcement powers and remedies conferred therein on the Director or on the City shall also apply to the enforcement of the provisions of this Chapter, and all rights and remedies granted to taxpayers thereunder shall also apply to persons subject to this Chapter. In case of conflict, the provisions of this Chapter 8 shall control.

Sec. 14-8-13. Judicial review.

Any person aggrieved by a final determination of the Director of Finance under this Chapter may obtain judicial review under the same terms and conditions set out in Sections 14-4-28 and 14-4-33 of this Code.

Sec. 14-8-14. Criminal penalties for violation.

Any person who violates any provision of this Chapter shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding one (1) year, or by both such fine and imprisonment, in addition to any civil penalty provided herein. (Ord. No. 7937 §26, 12-8-08)

Sec. 14-8-15. Severability.

Each of the provisions of this Chapter are severable, and if any provision is held invalid, all remaining provisions shall remain in full force and effect. (Ord. No. 4979, 6-28-82)

CHAPTER 9

Lodger's Tax

Sec. 14-9-1. Definitions.

(a) The following definitions shall apply to words and phrases used in this Chapter:

(1) *Lodging* shall mean the transaction of furnishing rooms or accommodations located in the City by any person, to a person who for a consideration uses, possesses or has the right to use or possess any room or rooms in a hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, under any concession, permit, right of access, license to use or other agreement.

(2) *Lodger's tax* shall mean the tax imposed by this Chapter.

(3) *Person* shall mean an individual, partnership, association, corporation, estate, receiver, trustee, assignee, lessee or any individual acting in a representative capacity or any other combination of individuals by whatever name known.

(4) *Taxpayer* shall mean any person obligated to collect or remit lodger's tax or to account to the Director of Finance for lodger's taxes collected or to be collected under the provisions of this Chapter.

(b) All other words or phrases used in this Chapter shall have the meaning set out in the City Charter, in Chapter 1 of Title I or Chapter 4 of this Title. (Ord. No. 4988, 7-12-82)

Sec. 14-9-2. Legislative intent.

The City Council hereby declares that, on and after the effective date of this Chapter, every person who purchases lodging as above defined is exercising a taxable privilege, and that every person who furnishes lodging as above defined is exercising a privilege for which lodger's tax collection liability may be imposed. (Ord. No. 4988, 7-12-82)

Sec. 14-9-3. Levy of tax.

There is hereby levied upon every person who purchases lodging a tax at the rate of four and three-tenths percent (4.3%) of the price paid or charged for lodging and such person shall be liable to the person providing the lodging for the payment of such tax. This tax shall be in addition to any other tax imposed by law. (Ord. No. 4988, 7-12-82; Ord. No. 5324, 6-9-86; Ord. No. 5371, 12-22-86; Ord. No. 5746, 4-13-92)

Sec. 14-9-4. Collection and remittance liability.

Every person receiving a consideration for providing lodging in this City shall collect the lodger's tax from the person paying for the lodging at the time it is paid. Said tax shall be deemed to be held in trust by the person required to collect it for the use and benefit of the City, until it is remitted to the Director of Finance as herein provided. (Ord. No. 4988, 7-12-82)

Sec. 14-9-5. Exclusions and exemptions.

(a) The lodger's tax shall not apply to any lodging which is exempt from City sales tax under Section 14-4-76(15) of this Code.

(b) The lodger's tax shall not apply to that portion of the price paid or charged for lodging which is paid or charged for the sale of any goods, services and commodities other than rooms or accommodations. (Ord. No. 4988, 7-12-82)

Sec. 14-9-6. Exemptions; burden of proof.

(a) The burden of proof that any transaction is excluded or exempted from imposition of the lodger's tax shall be on the person on whom the duty to collect or remit the tax is imposed by Section 14-9-4 hereunder.

(b) The burden of proof that any person is excluded or exempted from the duty to collect or remit the lodger's tax shall be on the person claiming exclusion or exemption. (Ord. No. 4988, 7-12-82)

Sec. 14-9-7. Reports and remittance.

(a) The Director of Finance may require any person subject to this Chapter to maintain and furnish such returns, statements and records as the Director deems necessary to a determination of the lodger's tax liability of such person. If such records are not maintained or furnished, the Director shall estimate and determine the tax liability of such person from the best information reasonably available to him or her.

(b) Every person required to collect lodger's tax hereunder shall remit the full amount of such tax to the City within five (5) calendar days after the date such tax was collected, provided that the Director of Finance may authorize persons collecting lodger's tax on a regularly continuing or recurring basis to file monthly reports and remittances, which shall be due on the twentieth day of the month following each month in which lodger's taxes were collected.

(c) Persons collecting lodger's tax may either add the tax to the lodging charge as a separate and distinct item or may add the lodger's tax to the sales tax without separately identifying it as lodger's tax, but no person shall represent directly or indirectly that the tax will be assumed, absorbed or refunded, and addition of the lodger's tax to the sales tax shall not relieve any person collecting tax from liability for payment of the full amount of the tax levied hereunder. (Ord. No. 4988, 7-12-82; Ord. No. 5023, 12-27-82; Ord. No. 5864, 5-9-94)

Sec. 14-9-8. Penalty and interest for failure to collect or remit tax.

(a) A taxpayer who fails to collect or remit any lodger's tax shall be personally liable to the City for the amount of the tax and all interest and additions imposed under this Chapter.

(b) A taxpayer who fails to pay the full amount of the lodger's tax when due shall be assessed interest on the amount of the deficiency from the date due to the date paid at a rate equal to the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended.

(c) If any part of the deficiency is due to negligence or intentional disregard of authorized rules and regulations, but without intent to defraud, there shall be added ten percent (10%) of the amount of the deficiency and interest shall be assessed on the total amount of the deficiency at a rate equal to one and one-half (1^{1/2}) times the rate specified in Subsection (b) above. If any part of the deficiency is due to fraud with intent to evade the tax, fifty percent (50%) of the amount of the deficiency and interest shall be assessed on the total amount of the deficiency at a rate equal to twice the rate specified in Subsection (b) above. Interest and additions assessed under this Subsection (c) shall be paid by the taxpayer within ten (10) days after notice and demand.

(d) The Director of Finance is hereby authorized to waive, for good cause shown, all or any part of the additions assessed, or any interest in excess of the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended. (Ord. No. 4988, 7-12-82)

Sec. 14-9-9. License to be obtained.

(a) Every person required to collect or remit lodger's tax hereunder shall obtain a lodger's tax license from the Director of Finance. Each application for said license shall be accompanied by a cash deposit or bond in such amount and in such form as is determined by the Director of Finance to be sufficient to secure compliance with all provisions of this Chapter. Said license shall be issued without further charge and shall be valid until revoked.

(b) Notwithstanding the provisions of Subsection (a) above, the Director may allow any person holding a valid City sales or use tax license to receive, collect and remit the lodger's tax under that licensing and reporting system without further licensing or bonding herein. (Ord. No. 4988, 7-12-82)

Sec. 14-9-10. Rules and regulations.

The Director of Finance is hereby authorized to adopt rules and regulations not inconsistent with the provisions of this Chapter, regarding the payment, collection and remittance of the lodger's tax. A copy of all such rules and regulations shall be available for public inspection in the office of the Director of Finance. Failure or refusal to comply with any such rules or regulations shall constitute a violation of this Chapter. (Ord. No. 4988, 7-12-82)

Sec. 14-9-11. Provisions incorporated by reference.

Except where the context otherwise requires, all definitions and provisions contained in Chapter 4 of this Title are incorporated into this Chapter 9 by reference as if fully set forth herein, except that any reference therein to sales or use tax shall be deemed to refer to lodger's tax. All procedural and enforcement powers and remedies conferred in said Chapter 4 on the Director or on the City shall also apply to and be available for the enforcement of the provisions of this Chapter, and all rights and remedies granted to taxpayers thereunder shall also apply to and be available for persons subject to this Chapter, provided that in case of conflict between this Chapter and said Chapter 4, the provisions of this Chapter shall control. (Ord. No. 4988, 7-12-82)

Sec. 14-9-12. Judicial review.

Any person aggrieved by a final determination of the Director of Finance under this Chapter may obtain judicial review under the same terms and conditions set out in Section 14-4-33 of this Title. (Ord. No. 4988, 7-12-82)

Sec. 14-9-13. Criminal penalties for violation.

Any person who violates any provision of this Chapter shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding one (1) year, or by both such fine and imprisonment, in addition to any civil penalty provided herein. (Ord. No. 4988, 7-12-82; Ord. No. 7937 §27, 12-8-08)

Sec. 14-9-14. Severability.

All of the provisions of this Chapter are severable, and if any provision is held invalid, all remaining provisions shall remain in full force and effect. (Ord. No. 4988, 7-12-82)

Editor's Note: Ord. No. 4988, was passed and approved by the City Council, 7-12-82, and becomes effective 12:00 noon, January 1, 1983.

CHAPTER 10

Unclaimed Funds and Intangible Property

Sec. 14-10-1. Definitions.

The following definitions shall apply to words and phrases used in this Chapter:

(1) *Unclaimed property* shall mean any money, funds, certificates of deposit, negotiable instruments, bonds or intangible personal property, including any income derived therefrom, less any lawful charges or setoffs, that is held by or under the control of the City or any of City's departments, commissions or officials and which has not been claimed by its owner for a period of more than three (3) years after it first became payable or distributable to such owner. The term *unclaimed property* shall not include any real or personal property seized and forfeited to the City pursuant to law, nor any lost, abandoned or stolen property subject to the procedures set forth in

Chapter 7 of Title XI of this Code, nor any abandoned vehicle subject to Chapter 1 of Title XV of this Code and the Model Traffic Code for Colorado Municipalities, as adopted and amended by Title XV of this Code.

(2) *Owner* shall mean a person or other lawful entity, other than the City, which owns unclaimed property held by the City.

(3) *Director* shall mean the Director of Finance or his or her authorized representative. (Ord. No. 5783, 11-23-92)

Sec. 14-10-2. Legislative intent.

The City Council hereby finds and declares: that the City has a local and municipal interest in the fair and orderly disposition of unclaimed property which is held by the City; that there is a need to establish finality concerning the disposition of unclaimed property after reasonable efforts have been undertaken to notify the owner of unclaimed property; that the procedures established in this Chapter are both fair and reasonable based upon the value of the unclaimed property, and are intended to supersede procedures under state law concerning unclaimed property which might otherwise be applicable. (Ord. No. 5783, 11-23-92)

Sec. 14-10-3. Procedures for disposition of unclaimed property.

(a) Prior to disposition of any unclaimed property, other than such property having no value, the Director shall cause a notice to be published at least once in a newspaper of wide distribution and general circulation printed and published daily in the City. The notice shall include a description of the property, a statement of the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall also state where the owner may make inquiry concerning the property or assert a claim to the property. The notice shall further state that if the owner fails to provide the Director with a written claim for return of the property within sixty (60) days of the date of publication of the notice, the property shall become the sole property of the City and any claim of the owner to such property shall be deemed forever extinguished and forfeited. More than one (1) owner or item of property or both may be combined in a single publication.

(b) With respect to any unclaimed property having an estimated value of one hundred dollars (\$100.00) or more, as determined by the Director, where the last known address of the owner or purported owner is available to the City, the Director shall, prior to publication or within ten (10) days thereafter, also send a written notice by certified mail, return receipt requested, to the last known address of the owner of such unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the Department, Commission or official of the City holding the property. The notice mailed to the owner shall contain all of the information required by Subsection (a) of this Section to be published, shall include a statement of the date by which a written claim must be asserted and shall state that failure to submit a claim by such date will result in the property becoming the sole property of City and that any claim of the owner to the property shall thereafter be deemed forever extinguished and forfeited.

(c) In the event the Director receives no written claim for unclaimed property within the period for submission of such claims as provided in Subsections (a) and (b) of this Section, the property shall

become the sole property of the City and any claim of the owner to such property shall be deemed forever extinguished and forfeited.

(d) If the Director receives a written claim within the period for submission of claims as provided in Subsections (a) and (b) of this Section, the Director shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The Director may investigate the validity of the claim and may request further supporting documentation from the claimant prior to determining the validity of the claim.

(e) In the event that there is more than one (1) claim or claimant for the same property, the Director may, in the Director's sole discretion, resolve said claims or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

(f) In the event that all claims filed with respect to an unclaimed property are denied, the property shall thereafter become the sole property of the City and any claim of the owner to such property shall be deemed extinguished and forfeited.

(g) The decisions and determinations of the Director under this Section shall be final and conclusive unless judicial review has been taken pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of the date of the decision or determination sought to be reviewed. (Ord. No. 5783, 11-23-92)

Sec. 14-10-4. Rules and regulations.

The Director is hereby authorized to adopt rules and regulations not inconsistent with the provisions of this Chapter regarding the administration of this Chapter and the disposition of unclaimed property hereunder. A copy of all such rules and regulations shall be available for public inspection in the office of the Director. (Ord. No. 5783, 11-23-92)

Sec. 14-10-5. Property credited to City.

Whenever any unclaimed property has been forfeited to the City hereunder, such property, or the proceeds thereof, shall be credited and deposited to the General Fund; provided however, that if the department, commission or official of the City which had held such property held the same to the credit of or in connection with any local improvement district fund or capital improvement fund, such property, or the proceeds thereof, shall be credited to such local improvement district fund or capital improvement fund. (Ord. No. 5783, 11-23-92)

Sec. 14-10-6. False claims prohibited; penalties.

(a) It shall be unlawful and a municipal offense for any person to make or submit any false claim for property under this Chapter; or in connection with any claim under this Chapter, to knowingly make or submit any false statement or representation.

(b) Any person convicted of violation of this Section shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for a period not to exceed one (1) year, or by both such fine and imprisonment. (Ord. No. 5783, 11-23-92; Ord. No. 7937 §28, 12-8-08)

