

CITY OF NORTHGLENN COLORADO



SALES AND USE TAX HANDBOOK

FINANCE DEPARTMENT
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INTRODUCTION

The purpose of the City of Northglenn Sales and Use Tax Handbook is to be helpful to taxpayers and businesses that operate in the City or conduct business within the City limits. It is the intent of this handbook to state clearly the policies followed by the City of Northglenn.

Northglenn is a home rule city, which in turn makes it a unique city. The City of Northglenn, for the most part, follows the State of Colorado sales tax ordinances. However, the City is not bound by State ordinances or policies nor is it bound by other municipalities' ordinances or policies.

Therefore, the following is provided to assist taxpayers and businesses in complying with the City of Northglenn ordinances regarding sales, use, admissions, and amusement device taxes. This handbook contains an index of topics with referenced page numbers.

If further assistance is needed or if clarification on a specific item is required, please feel free to contact the Sales Tax Division for the City of Northglenn at:

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NORTHGLENN SALES AND USE TAX

SPECIFIC INDUSTRY REGULATIONS

The rules and regulations are prepared and published for the information of the general public and all persons in business pursuits who would be required to make payment of sales tax or use tax under provisions of the Northglenn sales and use tax Code, as well as for the guidance of the City employees whose responsibility it is to collect the taxes imposed by the Tax Code and the enforcement thereof. The sales tax and use tax are parts of a single system of taxation and both involve retail sales and purchases of tangible personal property and the services named in the Code.

It is suggested that the rules and regulations contained in Section III of this handbook (Administration and Taxation Sections) and these set out in this "Specific Industry Regulations" Section be carefully read and studied, to the end that there may be a fair, uniform, and consistent enforcement of the Code. No single rule or regulation or sentence contained in the handbook is intended to interpret all of the Code, but each provision must be read in the light of other provisions contained herein, in order that a correct construction and interpretation may be had of the Code.

Please refer to the specific industry regulations following and to the Handbook Index for any references to your particular business operation. Please also refer to Regulation 5-3-3 of this handbook.

Every effort will be made to provide assist to the taxpayers of this City, retailers, and others who are responsible for the collection of sales taxes.

ADVERTISING AGENCIES, COMMERCIAL ARTISTS, AND DESIGNERS

Nontaxable Services. Tax does not apply to charges by advertising agencies, commercial artists, or designers for services rendered that do not represent services that are a part of a sale of tangible personal property, or a labor or service cost in the production of tangible personal property. Examples of such nontaxable services are: writing original manuscripts and news releases; writing copy for use in newspapers, magazines, or other advertising, or to be broadcast on television or radio; compiling statistical and other information; placing and/or arranging for the placing of advertising in media, such as newspapers, magazines, or other publications; billboards and other forms of outdoor advertising, cards in cars, buses, and other facilities used in public transportation; and delivering or causing the delivery of brochures, pamphlets, cards, etc. Charges for such items as supervision, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expense, if involved in the rendering of such services, are likewise excluded from the taxable charge to the customer.

Agency Fee or Commission. When an amount billed as an agency "fee," "service charge," or "commission" represents a charge or part of the charge for any of the nontaxable services described under paragraph (a) above, the amount so billed is not taxable. Such a charge by a recognized advertising agency will be considered to be made for non-taxable services.

Items Taxable. The tax applies to the entire amount charged to clients for items of tangible personal property such as drawings, paintings, radio and television transcriptions, tapes, films, etc., designs, photographs, lettering, assemblies and printed matter. Whether the items of property are used for reproduction or display purposes is immaterial.

Preliminary Art. “Preliminary Art” as used herein means roughs, visualizations, comprehensives, and layouts prepared for acceptance by clients before a contract is entered into or approval is given for finished art. (“Finished art” as used herein means the final art used for actual reproduction by photomechanical or other process.) Tax does not apply to separate charges for preliminary art except where the preliminary art becomes physically incorporated into the finished art, as for example, when the finished art is made by inking directly over a pencil sketch or drawing, or the approved layout is used as camera copy for reproduction.

The charge for preliminary art must be billed separately to the client, either on a separate billing or separately charged for on the billing for the finished art. It must be clearly identified on the billing as preliminary art, of one or more of the types mentioned in the preceding paragraph. Proof of ordering or producing the preliminary art prior to date of contract or approval for finished art, shall be evidenced by purchase orders of the buyer, or by work orders or other records of the seller. No other proof shall be required.

Retouching. Retouching ordinarily constitutes a step in the process of preparing photographs or other artwork for reproduction, and is done to improve the quality of the reproductions. Tax applies to charges for photo retouching.

Items Purchased by Agency, Artist, or Designer. An advertising agency, artist, or designer is the consumer of tangible personal property used in the operations of its business, such as stationery, ink, paint, tools, drawing tables, T-squares, pens, pencils, and other office supplies. Tax applies to the sale of such property to the agency, artist, or designer. The agency, artist, or designer is the seller of, and, may purchase for resale, any item that he/she resells before use, or that becomes physically an ingredient or component part of tangible personal property sold by him, as, for example, illustration board, paint, ink, rubber cement, flap paper, wrapping paper, photographs, photostats, or art purchased from other artists.

Billboards and Other Outdoor Advertising, Signs, Show Cards, and Posters. Both the charge made for advertising display material utilized on billboards and other forms of outdoor advertising, cards in cars, buses, and other facilities, and the charge made for the lease and rental use of the billboards and public transportation display facilities are taxable to the full extent of such charges made to the customer.

Tax applies to retail sales of signs, show cards and posters, and to charges for painting signs, show cards, and posters whether the materials are furnished by the painter or by the customer.

Tax does not apply to charges for painting or lettering on real property. The painter or letterer is the consumer of the materials used in such work, and tax applies with respect to the sale of such property to the painter or letterer.

AGRICULTURAL PRODUCERS

“Agricultural producer” means a person regularly engaged in the business of using land for the production of crops or livestock. The term includes farmers, market gardeners, commercial fruit growers, livestock breeders, feeders, dairymen, poultry men, and other persons similarly engaged.

“Agricultural producer” does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows, or harvests plants or plant products exclusively for his/her own consumption.

Sales to agricultural producers of insecticides, chemicals used for destroying weeds, pests, or insects, medicines, veterinary supplies, machinery, equipment, and general supplies are taxable.

ANIMAL LIFE

Tax does not apply to “wholesale sales” of animal life of a kind the products of which ultimately constitute food for retail consumption, as for example, cattle, sheep, swine, baby chicks, hatching eggs, fish, and bees. Tax does apply, however, to retail sales (except horses for breeding purposes) of any form of animal life not of such a kind, as for example, cats, dogs, horses, mink, and canaries, additionally the rental of animals such as horses at riding stables is taxable.

ALCOHOLIC BEVERAGE SALE

Sales of fermented malt beverages, malt, vinous, or spirituous liquors by the package and by the drink are subject to the Northglenn sales and use tax. A special accounting basis is allowed when the above items are sold by the drink. On retail sales by the drink, the tax may be included in the sales price according to the bracket schedule of the tax. Once having made the election he/she must continue to impose and collect the tax in the manner elected. In the case of package sales the tax must be added to the total selling price. Vendors dispensing liquor, wine, or beer by the drink who purchase ingredients which they use in mixing the drinks are not required to pay sales tax on the purchase of such ingredients.

AUCTIONEERS

Persons engaged in the business of making retail sales at auction of tangible personal property owned by such person or others are retailers, and are therefore, required to hold a City Sales Tax License, except if acting for a known or disclosed principal licensed to sell such tangible personal property. The tax is measured by the gross receipts from such sales. Tax is calculated on the total amount charged for merchandise returned by a customer at an auction sale, if the sale is made under an agreement or understanding at the time of sale that the property will not be delivered or that any amount paid will be returned to the bidder.

AUTOMOBILE DEALERS AND DEMONSTRATION VEHICLES

Taxability of motor vehicles used by automobile dealers for demonstration and other company purposes is explained by the following rules:

- (a) A vehicle actually sold to a salesperson, partner, or other official of the dealer's company is subject to the sales tax on the selling price or, if there is a trade-in allowance, on the net selling price of the vehicle.
- (b) A motor vehicle dealer who uses a vehicle for other than promotion of business, as defined in (3)(c) below, shall pay a use tax upon the dealer's net invoice price.
- (c) The dealer's use of an inventory or stock vehicle is not subject to a use tax if this vehicle is available for and in fact used for the promotion of business. Definitions of terms used in this rule:
 - (1) “Available for use in the promotion of the business of selling vehicles by the dealership” means that the vehicle is on the dealership premises during a substantial portion of the normal business hours. “On the dealership premises” includes: (1) displaying vehicles that have advertising for the dealership in the public areas of malls, arenas, theaters, etc., and any off-premise licensed location, provided the vehicles are driven or moved directly from the dealership to the display and returned directly from the display locations to the dealership by employees; (2) the use of a demonstrator vehicle by a full time salesperson permanently assigned a sales territory away from the dealership location; and, (3) the use of the vehicle by a bona fide customer for temporary demonstration.
 - (2) “In fact used” means that the vehicle not only must be available but actually must be used by the dealership in the promotion of its business.

- (3) "Promotion of business" means any effort to sell motor vehicles, but does not include vehicles used in the dealer's service or repair business.
- (4) Any vehicle removed from the dealer's inventory and listed as a capital asset, which is later depreciated or expensed, shall be declared as purchased by the dealer and is subject to the sales and use tax.

Sales tax is imposed upon every sale or trade involving payment of money, evidence of indebtedness, or other consideration, of new or used motor vehicles within Northglenn, whether the seller is engaged in business or is making isolated sale or trade.

Aircraft and other classes of automotive vehicles are taxable. (Refer to Section 5-3-5(c)(14).

The exchange of three or more vehicles of the same type by any person in any calendar year in transactions subject to the provisions of this Code shall be prima facie evidence that such person is engaged in the business of selling vehicles and is hereby required to license to engage in such activity.

AUTOMOTIVE REPAIRS

Parts and accessories for automotive vehicles are considered to be of the same nature as other tangible personal property delivered and accordingly are taxable. The taxable amount is the total charge made to the customer, with deductions therefrom allowed for service or labor charges if separately stated.

If the repair of an automobile is subcontracted to another repairperson by the customer's repairperson, the sub-repairperson will charge sales tax to the customer's repairperson on the retail price of the parts used in the repair job unless specifically instructed that the job is for resale, in which case the tax will be billed to the customer by the customer's repairperson. In either case, an itemized bill from the sub-repairperson must be available to the customer to show that tax was charged by one or the other repairperson.

Automobile dealers, garages, repair people, etc., may purchase tax free only tangible personal property for resale. This exemption does not apply to service vehicles, machinery, equipment, supplies, tools, etc., which they purchase for their own use or consumption and not for resale. Supplies consumed in the performance of a job, such as sandpaper, masking tape, etc., are taxable to the repairperson.

BARBERS AND BEAUTY SHOP OPERATORS

Barbers, beauty shop operators, and other personal service proprietors, are the consumers of the supplies and other property used in performing their services. They are retailers, however, of any such supplies or of used articles or other tangible personal property that they sell to consumers in the regular course of business. Barbershops and beauty parlors are primarily engaged in rendering services and their sales of services are usually not considered subject to the sales tax. Sales of tonics, skin preparations, and other cosmetics when made by the bottle, jar or package are sales of tangible personal property and subject to the tax.

BOWLING ALLEYS

The amount charged for the utilization, lease or rental of bowling alleys and pinsetters for bowling balls and for bowling shoes rented, sold, etc., at such places is taxable on the full amount charged to any customer. Bowling by the "Line" is taxable in full as a rental. The tax is to be charged to the customer on such "Line" charges.

BUILDING AND FIXTURES

The transfer of buildings affixed to land is taxable as a sale of personal property only if the transferee at the time of acquiring the buildings intends to sever them from the land. Accordingly, unless the purchaser intends to sever the buildings from the land, the sale of buildings in place will not be considered taxable, even though at the time of sale the owner of the buildings is the lessee of the land on which they are affixed and has the present right to remove the buildings from the land.

On the other hand, the transfer “in place” of such items as fixtures, and machinery and equipment, is considered a sale of tangible personal property, even though at the time of sale the owner is a lessee of the land or buildings to which the items are affixed and has the present right to remove the items either as trade or other fixtures, furniture, machinery and equipment or under the express terms of the lease. Also refer the Special Regulation on Construction and Contractors.

The measure of tax with respect to the sale of fixtures in place does not include any value attributable to the fact that the fixtures are attached in a particular location, even though such value might be included in the agreed sale price of the fixtures. The value for sales tax purposes is that portion of the consideration attributable to the items without regard to the fact of their physical attachment to real property.

BUILDING OPERATORS

Owners or operators of buildings who purchase construction materials for alterations and repairs, shelving, janitor's supplies and other tangible personal property for use by their tenants are the users or consumers of such articles and must pay the sales tax on such purchases, regardless of whether such articles are separately billed to and paid for by the tenants.

BURGLAR ALARM AND FIRE ALARM SYSTEMS

Leased or rented burglar or fire alarms systems monitored, silent or audible are taxable to the full amount charged for such rental or lease service rendered. As per Sections 5-3-4(a)(53) and 5-3-5(c)(8), this type of service shall be considered a “telecommunication service”. Telecommunication services are taxable according to Section 5-3-5(c)(2) of this Code, and therefore monitoring services are taxable. Section 5-3-5(c)(8) specifically states that security system services are taxable. Burglar and fire alarm systems sold outright and installed by the vendor are retail sales and taxable on the full amount of such total charged to the customer.

CATALOGUES AND DISTRIBUTORS

When business is solicited within the City of Northglenn by catalogues or by other advertising media, the resulting sales made to Northglenn residents are taxable. If such catalogues are given away, the cost of the catalogues must be reported and use tax paid to the City based on this cost.

Catalogues, brochures, etc. that are mailed from the City of Northglenn to customers outside the City are subject to the Northglenn sales and use tax for their use and storage in the City of Northglenn based on the cost of such brochures, catalogues, etc. In the event the owner of such materials does not have a place of business within the City and does not assume responsibility to pay such use tax due on such materials which are mailed to the recipient from this City, then the person so mailing such materials from this City, whether acting as a mailing service, printing service, etc., will be held liable for such tax remittance.

When advertising gifts, shoppers' guides, catalogues, directories, or other personal property, including discount or coupon redemption books, are given away as prizes, premiums or for goodwill purposes and there is no charge to the recipient, such items are taxable at the cost price to the distributor. When there is a charge made to the recipient upon the distribution of such items, the tax shall be paid by such recipient to the distributor for remittance to the City as a retailer of tangible personal property.

CATERERS AND TRUCK VENDING OF PREPARED FOODS

All sales of prepared foods from trucks in this City are taxable.

In the event that adequate tax accounting (city liability) controls are not maintained by a vendor making sales of prepared foods through mobile (vehicular) food catering service; or

In the absence of agreement to report such city tax liability on a percentage basis (reflecting in-city and outside-city percentage of sales) between such vendor and the director;

Then the Director shall levy the tax on the total gross receipts for all catering trucks being used in-city as shown by the vendor's records or on the best information available to the director.

CLEANERS/DRY CLEANERS/LAUNDRIES (NON COIN-OPERATED)

The sales or use tax applies to all tangible personal property purchased by the owner or operator of non-coin operated laundries and non-coin operated cleaners, dry cleaners to be used in the furnishing of services, including machinery, equipment, repair parts, materials and supplies. Services rendered by such persons are not subject to the sales tax.

CLEANERS/DRY CLEANERS/LAUNDRIES (COIN-OPERATED)

The sales or use tax shall apply to the purchase of coin-operated laundry, dry cleaning and cleaning machinery and equipment. All gross receipts collected from the coin-operated machines are taxable. Additionally, gross receipts received from any vending machines on the premises, including but not limited to soaps, bleaches, beverages, candy, etc., are subject to sales tax. The sales tax may be paid in accordance with the special accounting rule as stated in Section 5-3-17(a) of this Code. Sales tax may be included in the sales price of all coin-operated vending as follows:

(a) For coin-operated laundry equipment:

Gross Sales divided by 1.04 equals Taxable Sales

(b) For other vending sales:

Gross Sales divided by 1.084 equals Taxable Sales

COINS AND BULLION

Where any coin or currency is exchanged in the open market at the current exchange rate, the transaction is not subject to the sales tax. However, where coins are commemorative or otherwise, and the coins, although legal tender in the issuing country and also acceptable as legal tender in other countries, are purchased at rates not reflecting actual currency value (as for numismatic or coin collecting purposes or where the precious metal content of the coins determine their value), the transaction is the sale of tangible personal property subject to the sales tax.

Sales of bullion are subject to sales tax. Bullion sold within the City and physically or constructively transferred into the City is subject to the sales tax. However, where the purchaser paid a sales tax in the City or state in which he/she took delivery, he/she is liable to the City for the difference between the tax paid and the City sales tax. Sales of gold and silver commodity contracts are not subject to sales tax unless delivery of the commodity is taken in the City.

COMMON, CONTRACT, AND COMMERCIAL CARRIERS, ETC.

Resident and non-resident Common, Contract, and Commercial Carriers for hire, including but not limited to the package delivery service companies, trash pickup and hauling service companies, freight and materials hauling and freighting service companies, storage, express and transfer service companies and all other trucking companies, and also including companies hauling and freighting their own products and not for hire, must pay the tax on all their purchases, rentals and leases of tangible personal property delivered in this city, and on their use, storage, distribution and consumption of tangible personal property not exempted under the Code. Non-resident and resident Common, Contract, and Commercial Carriers are subject to the tax on all their purchases of tangible personal property which is delivered in this city, except non-resident businesses, above, are exempted from the tax for outright purchases of automotive vehicles. Resident and non-resident Common, Contract, and Commercial Carriers are subject to the tax on all their rentals and leases of tangible personal property, including automotive vehicles, when delivered in this city, to the full term and to the full amount of any original or renewed lease or rental contract or agreement, when original delivery of the tangible personal property, under question, was given in this city.

COMPUTER SOFTWARE

The internalized instruction code that controls the basic operations (i.e., arithmetic and logic) of the computer causing it to execute instructions contained in system programs is an integral part of the computer. It is not normally accessible or modifiable by the user. Such internal code systems are considered part of the hardware and are taxable. The fact that the vendor does or does not charge separately for it is immaterial.

A software program is one in which instructions and routines (programs) are determined necessary to program the customer's electronic data processing equipment to enable the customer to accomplish specific functions with his/her EDP system. For the purposes of this regulation and the Northglenn sales tax, the license of a computer program for use on a computer leased or owned and controlled by the licensee is equivalent to the sale of a computer program or software.

The software may be in the form of:

- (1) Systems programs (except for the instruction codes that are considered tangible property in paragraph 1 above): programs that control the hardware itself and allow it to compile, assemble, and process application programs.
- (2) Application programs: programs that are created to perform business functions, or control, or monitor processes.

And either type of program may be:

- (1) Pre-written programs (canned) - programs that are either systems programs or application programs and are not written specifically for the user. The transaction for these programs is frequently labeled a license to use. The license to use is a taxable sale. Charges for installation of such software on to a computer owned by the licensee, or charges made for labor hours creating user specific applications from the licensed software are services and not subject to sales tax. If the services are performed on a computer that is sold to the licensee, before or immediately after the installation, the services are taxable, as the buyer's true object is the purchase of an operational computer and software.
- (2) Custom programs - programs created specifically for the user. These programs are frequently created for the user to own, in other cases they are provided to the user under an agreement specifying an exclusive license to the user (but a non-exclusive license would indicate a canned, generic program). The buyer is obtaining the programming labor and the software is created as a result of the labor and services performed. Modifications to an existing prewritten program to meet the customer's needs is custom programming only to the extent of the value of the labor and services that make the modifications and changes. Custom, user specific program labor or services are exempt when one of the following elements is also present:
 - (a) Preparation or selection of the program for the customer's use requires an analysis of the customer's requirements by the vendor, and when separately billed as an independent consulting charge, or

- (b) The program requires adaptation, by the vendor, to be used in a specific device. For example, a software vendor offers for sale a pre-written sort program that can be used in several computer models. The source code of the program is standardized and not changed, and that program is tangible personal property. Prior to operation, custom instructions unique to the customer must be added by the vendor which optimize to the particular operating system and the capacities of the computer model in which the program will be utilized. Those custom changes are services. A software routine built into the program that performs this same computer environment analysis automatically (programmatically) during installation is merely a part of a canned program's "custom installation" and the software routine used in the installation is canned and tangible personal property.

Custom software is tangible property, and if resold by the original buyer is a commodity and subject to sales tax. However the true object of a customer for custom software programming is the programming service, the program software is the means of transferring the ideas that the customer desires to develop. Therefore custom software contracts are contracts where the true object is a service of creating new, original intellectual property that is owned by the buyer/user. Software or programs that do not meet the criteria of being created as a service are subject to tax as acquisition of tangible personal property.

The tangible personal property that is transferred to the customer in connection with an exempt service is subject to payment of the tax on the tangible personal property at the time the tangible personal property is acquired.

A company that leases a computer with exempt custom software and does not segregate in its billing the charge for the software lease is subject to tax on the entire charge.

A software retailer or supplier that sells prepackaged programs for use with computer equipment, when such programs are fully usable by the customers, is considered to be a vendor of tangible personal property and subject to sales tax on the purchase price of such property.

Charges for computer program maintenance furnished for a computer program are taxable if the customer is entitled to receive or receives computer software upgrade versions or enhancements that are or would be marketed at an additional cost to customers who do not elect maintenance contracts. Support service contracts are exempt from sales tax.

CONSTRUCTION AND CONTRACTORS

Construction within the City limits is taxable for State, Federal, County, religious, charitable, eleemosynary, or any private owners or organizations. Contractors working on such construction projects are subject to the tax on all purchases of tangible personal property, which property is used, stored, or consumed on those projects. Construction for the City of Northglenn is not taxable.

A. General Definitions

- (1) The term "contractor" as used herein includes both general contractors and sub-contractors and includes contractors engaged in such building trades as carpentry, bricklaying, cement work, steel work, plastering, sheet metal work, roofing, tile and terrazzo work, plumbing, heating, air conditioning, painting and interior decorating. Someone working for a salary or wages is not considered a contractor. A business working on or making personal property under a contract is not a real property contractor.
- (2) The term "construction contract" as used herein means a contract for erecting, remodeling, or repairing a building or other structures on land and includes lump-sum, cost-plus, and time-and-material contracts. The term "construction contract" does not include a contract for the sale and installation of furniture, business machinery, and equipment.
- (3) The term "materials" as used herein means tangible personal property which when combined with other tangible personal property loses its identity to become an integral and inseparable part of the completed structure.

Note: After completion of construction of any structure and in the event of any subsequent sale of such structure, City sales or use tax shall not apply to such transfer on the "materials" incorporated into such structure because of the inseparable nature of the "materials" in the real property.

- (4) The term "fixtures" as used herein means things which are accessory to a building and which do not lose their identity as accessories when placed or installed. "Fixtures" includes such things as:

Air conditioning units	Lighting fixtures
Awnings and Venetian blinds	Plumbing fixtures
Burglar and fire alarm systems	Refrigeration units
Cabinets, counters & lockers (prefabricated)	Signs
Elevators, hoists & conveying	Telephone equipment
Furnaces, boilers & heating units	Vault doors and equipment

Note: After completion of construction of any structure and in the event of any subsequent sale of such structure, City sales and use tax shall apply to such transfer on the "fixtures" included at such structure that do not lose their identity as accessories when placed or installed including the above, regardless that if such fixtures were removed from the real property incidental but repairable damage would occur to the real property.

The tax shall also apply to the sale, rental or lease, in place, of such fixtures to any person.

- (5) The term "furniture and business machinery and equipment" as used herein means property to which each of the following conditions apply:

- (a) It is not used by the contractor in making the improvements (as distinguished from construction machinery, equipment, tools and supplies, such as backhoes, cranes, trucks, and hand or power tools, actually used to perform construction work).
- (b) It is either not attached to the realty or, if attached, is readily removable as a unit (as distinguished from "fixtures").
- (c) It is installed for the purpose of performing a manufacturing operation or some other function not essential to the structure itself.

Examples of "Furniture and Business Machinery and Equipment" are:

- Lathes, drills, presses, cranes, and other machines and apparatus which may be fastened to the realty but which can be removed without damage to the structure or without substantially impairing its use.
- Portable equipment, machines, and tools
- Furniture, appliances, carpets, and drapes, etc.
- Vehicles

Note: After completion of construction of any structure and in the event of any subsequent sale of such structure, City sales and use tax shall apply to such transfer on the "furniture and business machinery and equipment" (including trade fixtures) included at such structure as either not "attached" to the realty or, if "attached" is readily removable as a unit.

The tax shall also apply to the sale, rental, or lease, in place, of such furniture and business machinery and equipment to any person.

- (6) The term "construction machinery, equipment, supplies, and tools" means any tangible personal property sold, leased or rented and used by the contractor or any person in making improvements or performing services. This would include such property as:

Backhoes	Compressors	Power tools
Bulldozers	Graders	Trucks
Cranes	Fork lifts	

Materials Used by Contractors: Lump-Sum Contractors. Lump-Sum Contractors are the end consumers of materials used in fulfilling all construction contracts except for contracts with the City of Northglenn. The tax applies to the sale of such materials to the contractors. If a Northglenn contractor performs work outside of the City and does not bring purchased items into the City or does not have items delivered into the City of Northglenn, no Northglenn City use tax is due. City of Northglenn use tax is charged to Northglenn lump-sum contractors when a vendor delivers the purchased item into Northglenn and does not charge the Northglenn City sales tax. However, if the job for which materials are delivered into Northglenn requires a permit and use tax is paid on the permit, then Northglenn City use tax is not due.

Note: See "Methods of Collection of Construction Sales and Use Tax - Building Permit Issued" below.
Note: Some cities may not collect use tax on building permits, such as Denver.

Materials Used by Contractors: Time-and-Materials Contractors. Time-and-Materials Contractors bill customers separately for labor, materials, and sales tax computed upon the marked-up billing for materials. It will be assumed, in the absence of convincing evidence to the contrary, that a contractor regards themselves as selling the material so billed at retail if the invoice shows any two of the three before-mentioned items on an invoice. The contractor is liable for use tax on the cost of supplies not separately billed to the customer (such as small miscellaneous parts). A time and materials agreement cannot be treated as a lump sum contract for sales/use tax purposes. Time-and-Materials Contractors may bill customers in installments as long as the bid documents or original sales invoice shows labor, materials and sales tax as separate items.

Retailer-contractors entering into lump sum contracts with tax-exempt entities cannot treat the agreement as a time and material contract. (refer to Sales to Governments)

Fixtures Furnished and Installed by Contractors: Retailer-Contractors. Contractors are retailers of "fixtures" which they furnish and install and tax applies to the retail-selling price thereof. In the case of lump-sum construction contracts, the fixture-selling price is regarded as the cost price of the fixtures to the contractors. If the contractor is the manufacturer of the fixtures, the retail-selling price thereof is the prevailing price at which similar fixtures in similar quantities ready for installation would be sold to contractors. Retailer-Contractors will report such tax due on the Northglenn Sales and Use Tax Return.

Note: According to the State of Colorado, a Time-and-Materials Contractor is not automatically considered to be a Retailer-Contractor. A Retailer-Contractor is a contractor who also sells items over the counter at the place of their business.

Other Sales by Contractors. Tax applies to all retail sales by contractors, including the furnishing and installation of fixtures (see above), over-the-counter sales, and "jobbing sales." "Jobbing sales" are repair and replacement jobs in which the materials and fixtures are billed at retail.

Supplies and Tools. Contractors are the consumers of supplies such as oxygen, acetylene, gasoline, acid, thread-cutting oil, tools, and parts for tools, which they use in their business. Tax applies to the sale of such supplies and tools to all contractors.

Construction Machinery and Equipment Rentals. The total purchase or sales price charged to, or by, any contractor for the rental or use of any construction machinery and equipment are taxable.

This would include the total charge made to any person for the providing of the following equipment, any materials, fixtures, etc., supplied in conjunction therewith.

- Asphalt and concrete paving machines and materials
- Backhoe and materials
- Crane and materials
- Compressors, power tools, fork lifts, etc. and rentals
- Pile drivers, caissons, forms and materials

Application of the Tax to Individual Building Contractors. This section explains the provisions of the sales and use tax law to the operation of construction contractors. Building contractors come within the definition of construction contractors.

The operations of building contractors may be considered under three classes of contracts: Lump-Sum, Cost-Plus, and Time-and-Material (in each case the contractor is regarded as the consumer of "materials and the retailer of "fixtures" as these items are defined in 5-SI-17(A) (3) and (4)); and five operational categories:

1. The contracting for the erection and installation of buildings on land.
2. The repair and/or remodeling of existing buildings.
3. The sale of buildings without installation, i.e., the packaged prefabricated buildings in "knock down" condition.
4. The erection, installation and leasing of buildings.
5. The sales and installation of machinery and equipment.

Lump-Sum and Cost-Plus Construction Contracts. The tax applies to the sale or purchase of tangible personal property used in the above operations as follows:

1. **Contract for the Erection and Installation of Building on Land**

Materials. The tax is due upon the cost of materials to the contractor. The cost to the contractor includes charges for processing or fabricating material furnished by the contractor.

Fixtures. The contractor must pay tax on the retail selling price of the fixtures. The selling price of fixtures is regarded as the cost price so that a contractor having paid tax or reimbursed his vendor for tax, on the cost of the fixtures which he/she purchased would have no further liability in connection therewith, provided he/she did not fabricate them. If fixtures are fabricated in whole or in part by the contractor, the tax is due on the prevailing price at which similar fixtures in similar quantities ready for installation would be sold to other contractors. Where a construction contract provides for a specific price for the fixtures, the tax applies to that price.

It is important to remember that once the building permit is issued, all taxes are legally due to the City where the tangible personal property is to be used. Example: Contractor has been issued a building permit by City A, he/she then purchases tangible personal property (to be used in City A) from a vendor located in City B, even though the contractor takes delivery in City B, contractor should supply the vendor with a copy of the building permit and shall be allowed to purchase such tangible personal property free of City tax. He/she shall then remit the City use tax to City A.

2. **Property Used in the Repair or Remodeling of Existing Buildings.** The tax applies to the cost of the materials used in the remodeling or repair work and to the selling price of the fixtures in the manner described in #1 above.
3. **Sale of Packaged Prefabricated Buildings without Installation.** The tax applies to the total sales price of buildings sold without installation or erection. This represents a sale of tangible personal property and not a contract for the improvement of real property.
4. **The Erection, Installation, and Leasing of Buildings.** Where a contract is taken for the erection and installation of a building on the customer's land and the payment thereof is received on the basis of an agreed number of lease installments, the tax applies to the fixtures and materials in the same manner as a regular construction contract for the erection and installation of a building. (See #1 above.)
5. **Sale and Installation of Machinery and Equipment.** A contract for the sale and installation of machinery and equipment is a sale of tangible personal property and tax applies to the total sales price of machinery and equipment installed in the buildings as a part of the contract. The tax does not apply to installation charges separately stated. As to "machinery and equipment" in Government Contracts, see below.

Materials and Fixtures Sold and Delivered in Northglenn - Used Outside of Northglenn with Building Permit. Where a contractor or any person buys and takes delivery of any materials, fixtures and machinery and equipment in Northglenn, the Northglenn sales or use tax is not due on the purchase if the contractor supplies a copy of the building permit and the addresses of the job site is recorded on the invoice.

Materials and Fixtures Sold and Delivered in Northglenn - Used Outside of Northglenn without Building Permit. Where a contractor or any person buys and takes delivery of any materials, fixtures and machinery and equipment in Northglenn, the Northglenn sales or use tax is due on the purchase unless a copy of a building permit and the addresses of the job site are recorded on the invoice. Time-and-Materials contractors purchase items tax-free as any ordinary retailer.

Freight. In making purchases subject to tax, the freight charges by the seller to the contractor may be subject to tax, even though separately stated from the charges for the property purchased. Refer to Code Section 5-3-4(a)(42) and the Special Industry Regulation on freight charges (page 20).

Completed Unit Sale. An over-the-counter sale of a completed unit not made to order, with an agreement for installation for the unit, is not a building contract. Completed units include sales of stoves, refrigerators, furnaces, air conditioners, washing machines, dryers, carpets, electrical fixtures, ready-made cabinets, storm doors, garage doors, storm windows, screens, sod and similar items. On such sales the retailer-contractor must collect the sales tax from the purchaser. If the installation charges are segregated in the bid proposal or sales invoices, these charges are not taxable. Repairs of such articles are not considered repairs to real property.

If a building permit is required for installation of a completed unit, sales tax should not be collected however.

Sales to Government and Tax-Exempt Organizations (Not including the City of Northglenn). Where a contract with the Government or a tax-exempt organization is for the construction of improvements on or to real property, tax applies to the cost of the tangible personal property purchased for use in the performance of the contract including material used in manufacturing fixtures, and to the cost of fixtures furnished in the performance of the contract. It will be noted that this tax application on fixtures differs from that in the case of contracts for private individuals.

If a building is sold without erection or installation, no tax is due on the sale, it being an exempt sale to the Government or tax-exempt organization.

Either the sales tax or the use tax applies with respect to sales of tangible personal property (including materials, fixtures, supplies and equipment) to contractors or subcontractors for use in the performance of contracts with the Government or tax-exempt organization for the construction of improvements on or to real property in this City. The fact that the contract may provide principally for the manufacture or acquisition of tangible personal property is immaterial.

Tax does not apply to sales of "machinery and equipment" to contractors or subcontractors for installation on Government or tax-exempt organization jobs. As used herein, the term "machinery and equipment" means property to which each of the following conditions apply:

- (1) It is not used by the contractor in making the improvements (as distinguished from construction machinery, equipment and tools, such as backhoes, cranes, trucks, and hand or power tools, actually used to perform construction work).
- (2) It is either not attached to the realty or, if attached, is readily removable as a unit (as distinguished from "fixtures,")
- (3) It is installed for the purpose of performing a manufacturing operation or some other function not essential to the structure itself.
- (4) Title to the property passes to the Government before the contractor makes any use of it.

Methods of Payment of Construction Sales and Use Tax

1. "**Estimated Percentage Basis**" method offered for ease of remittance and to eliminate extensive record keeping.

This prepayment of tax on the "Estimated Percentage Basis" that may be elected by the contractor, and approved by Northglenn (based on the percentage of taxable sales and purchases as that amount bears to the total gross contract for the job site) will apply to and satisfy the tax on only the following inclusions at the job site: a) Materials, b) Fixtures, and c) Construction machinery, equipment, supplies and tools. The total prepayment of tax is due at the time when a permit is pulled with Northglenn Community Development.

2. Alternative "**Actual Basis**" method of reporting tax offered: Submission of monthly returns, job cost report filings, etc.

In the event that tax is not prepaid under "Estimated Percentage Basis", then the general contractor shall license with the City and report on a monthly basis the tax due directly to the City on the Sales and Use Tax Return prescribed, including all sales, purchases, leases and rentals of the following: a) materials, b) fixtures, c) furniture and business machinery and equipment, and d) construction machinery, equipment, supplies and tools.

Reports required will be by specific job site and may not be co-mingled with other reports required of the contractor or retailer. The general contractor shall be held responsible for having on file all invoices from all suppliers and subcontractors for audit. A complete audit will be conducted prior to the City of Northglenn issuing a final Certificate of Occupancy.

Failure to report all tax due as required for any job site will result in the severest enforcement action prescribed under this Code.

Methods of Collection of Construction Sales and Use Tax - Building Permit Issued. Suppliers will not levy City Tax on either materials or fixtures when presented with a valid building permit, regardless that any contractor prepays tax due the City on the "Estimated Percentage Basis" or elects to pay the tax directly to the City on the "Actual Basis".

This exemption applies only when the contractor furnishes to the supplier and the supplier records on the sales invoices (maintaining a copy of such invoice for audit purposes) the job site address.

NOTE: Any purchases made by the contractor or any subcontractor, after the issuance of a building permit or a City License, of any materials or fixtures to be incorporated into the construction job site referenced in the building permit, shall be considered purchased for resale purposes. Failure to supply the supplier or vendor the needed information to exempt the sale shall NOT relieve the contractor of his tax liability to the City of Northglenn.

Any contractor or supplier who shall give, or record a false job-site address within the City in order to evade the tax shall be deemed guilty of fraud and be subject to the severest penalties prescribed under this Code.

Methods of Collection of Construction Sales and Use Tax - No Building Permit Issued.

- 1) **Lump-Sum Contractor:** Northglenn City sales tax must be charged to all contractors unless either a) a valid building permit is presented to the vendor or b) a valid Sales Tax License is presented to the vendor in the case of a time-and-materials contractor.
- 2) **Time-and-Materials Contractor:** Northglenn City sales tax is not charged to contractors working under a time-and-materials contract if a valid Sales Tax License is presented to the vendor. A time-and-materials contractor is considered the retailer of items purchased and such purchased items are sales for resale.

COUPONS

Retailers accept coupons from their customers for a reduction in the regular selling price of an article. These coupons are classified as either manufacturer's coupons or store coupons.

A manufacturer's coupon is issued by the manufacturer of an article and allows the customer a reduction in the sales price of the product upon presentation of the coupon to the retailer. Because the retailer is reimbursed by the manufacturer for the amount of the reduction, sales tax applies to the full selling price before the deduction for the manufacturer's coupon.

A store coupon is issued by the retailer for a reduction in the price of an article when the customer presents the coupon to the retailer. Because there is no reimbursement to the retailer for such reduction, the sales tax applies to the reduced selling price of the article.

DENTISTS AND DENTAL LABORATORIES

A purchase made by a dental laboratory, which becomes a constituent part of a prosthetic device to be resold to a dentist, is exempt from sales and use tax.

Purchases of supplies and materials that do not become constituent parts of a prosthetic device are taxable.

Dentists are consumers of the materials, supplies, products and other tangible personal property that they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dentists are exempt from the tax on prosthetic devices and on prescription drugs that they may administer to their patients in the regular course of the patients treatment.

General business equipment, all hand instruments, items used for patient care, dental equipment and furnishings, and supplies used for patient diagnostic records are taxable.

DISTRIBUTING AND "WELCOMING" SERVICES

Any person who owns the circulars, samples, etc., distributed are required to pay the tax on the cost of printing or on the product distributed.

Any such distributing service or any person who distributes the circulars etc., or products of others, the ownership of which does not reside in the distributor, and who fails to collect and remit any tax due the city from such tangible property owners shall be considered in violation of the code in aiding or abetting another to avoid the tax.

Any such service businesses selling printed matter, products or other tangible personal property to any person for distribution, use, storage or consumption in this city or delivering in this city such property must license, collect, and remit the tax.

FABRICATING, PROCESSING, AND PRODUCTION OF PROPERTY

Tax applies to charges for producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers regardless that those customers may furnish either directly or indirectly the materials used in the, fabricating, processing, producing printing or imprinting. Fabricating, processing, and producing includes any operation that results in the creation or production of an article of tangible personal property, or which is a step in a process or series of operations resulting in the creation or production of tangible personal property.

The sales tax must be paid on the full purchase price of articles made to order for the customer. The customer may select the materials and designate the service desired. The gross value of all the materials and labor together with the profit thereon are included in the taxable sales price. This applies to any article manufactured for sale at retail. For example, if a manufacturer orders a machine part from a machine shop, the tax shall be paid on the total charge for the part, including labor, although charges for labor may be segregated from the cost of the materials. Similarly, the total charges for making drapes are subject to tax.

FLORISTS

All sales at retail by a florist are taxable and all orders taken by florists within Northglenn and telegraphed to florists outside the City are taxable. When a florist within Northglenn receives a telegraphic order from a florist outside Northglenn, the sale is exempt. When a florist has more than one location in the city, inter-office transactions and deliveries are deemed not to be telegraphic orders.

FOUNDATIONS: EDUCATIONAL, PHILANTHROPIC, AND RESEARCH

These organizations are subject to the tax collection provisions for any tangible personal property sold, leased, or rented. The following foundations: philanthropic organizations, research and educational institutions, must also pay the tax on all purchases made by them.

FINANCIAL INSTITUTIONS

Banks, savings and loan associations, and similar financial organizations who offer gifts or premiums of tangible personal property as an inducement for opening an account, making a deposit or adding to an account are, for purposes of the Code, making sales of tangible personal property (see (a) below), or are making taxable purchases (see (b) below).

These gifts and premiums are purchased by the financial institution and given to the customer or offered to the customer at a reduced price when a deposit is made to the customer's account. The purchases of these gifts and premiums or sales thereof are to be reported in the following manner:

- (a) The sales of these premiums and gifts at their reduced price are treated as retail sales and the financial institutions must collect the sales tax from the depositor.
- (b) The difference between the bank's purchase price and the cash price paid by the depositor will be taxable to the financial institutions. If an item is given to the depositor, the item's purchase price (cost) will be taxable to the financial institutions.

FREIGHT, DELIVERY, AND TRANSPORTATION

- (a) Where tangible personal property is sold "F.O.B. shipping point" and the purchaser at that point assumes the risks of ownership, and transportation costs do not appear on the seller's invoice, the cost of transportation paid by the purchaser to the carrier is not subject to the tax.
- (b) Where tangible personal property is sold "F.O.B. shipping point" and the invoice allows a credit for transportation charges paid or to be paid by the purchaser, the tax shall be computed on the total invoice charge.
- (c) Where tangible personal property is sold on a delivered or "F.O.B destination" basis, the tax shall be computed on the total charges, even though the seller bills the purchaser separately for the freight charges.
- (d) Where the seller delivers the shipment and makes a charge that appears separately on the invoice, and in fact the seller assumes responsibility for loss and damage in transit, the tax shall be computed on the total invoice charge.
- (e) Where the seller has prepaid the transportation charges which appear on the seller's invoice as an additional charge, or a separate invoice charge is made, the tax shall be computed on the total charges unless satisfactory showing is made to the Finance Director that the seller was acting as a bona fide agent of the purchaser to effect transportation by the carrier of the purchased goods.

FUND RAISING ORGANIZATIONS

Fund raising organizations are regular business enterprises subject to all the provisions of the City Sales and Use Tax Code and the cost of all materials, equipment, and supplies used by such organization is taxable, and they must collect and remit the tax on any retail sales they may conduct.

GIFT CERTIFICATES

Sales of gift certificates and similar documents, as well as their redemption for cash, are not subject to tax. If the gift certificates, etc are redeemed for merchandise and not cash, sales tax is due on the total selling price of the merchandise.

GIFTS, PREMIUMS, AND PRIZES

Purchases of tangible personal property for use as gifts, premiums, or prizes, for which no valuable consideration is received from the recipient, are subject to tax on the total purchase price; the purchaser is deemed to be the user-consumer of such property. If the property is purchased from a licensed Northglenn vendor, sales tax should be paid to the vendor upon such purchases. If no sales tax is paid upon such purchases, the purchaser should pay the use tax directly to the City of Northglenn. Any person purchasing tangible personal property to give away in any manner without contingencies, is a user or consumer and is liable for the tax thereon; such property includes advertising gifts and articles given as prizes, premiums, or for goodwill.

Where the donor of a tangible personal property gift and the receiver of the gift are involved in other financial dealings and the gift is contingent upon the 'donee' entering into other transactions, the transfer of taxable property is subject to sales tax as a quid pro quo sale. Where the gift receiver's true object is to obtain the tangible personal property 'gift', or the value of the 'gift' exceeds the other values obtained by the 'donee', the 'donor' must remit sales tax on the fair market value of the taxable tangible personal property. Where the gift is secondary to the other transactions, the donor shall be subject to sales tax on their acquisition cost of the property. Examples include a service station giving a case of soda pop to everyone who buys over a minimum amount of gasoline; the soda pop is treated as sold by the service station at the station's cost.

HOTELS AND MOTELS

Such supplies as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, coffee and other items available for guests use are subject to sales or use tax. Linens, furniture, pool equipment and supplies, and similar items are subject to sales or use tax. [(See Colorado Springs v. Inv. Hotel Properties, 806 P2d375 (Colo. 1991)]

Charges made to guests for telephone calls (both local and long distance) and for viewing of certain TV movies (pay TV) are subject to the City's sales and use tax. Credit will be allowed for any city taxes paid by the hotel or motel owner to the supplier of such services. For example, hotel charges a guest \$.50 for a local telephone call, telephone company charges hotel \$.10 plus tax for the same telephone call, hotel owner should charge guest, tax on \$.40.

Deposit forfeits and cancellation charges made by a hotel or entity are taxable when the charge is greater than 50% of the daily reservation room rate, unless the room would be fully exempt for charitable, government, or school use.

INITIAL USE OF PROPERTY

Any item purchased for use or consumption by the purchaser is subject to sales or use tax at the time of purchase, even though the items will be resold later in either its original or altered form. A tax-free purchase is taxable in full at the first time it is used by the purchaser for a nonexempt purpose. Example: a junkyard may not buy a new car tax-free under the theory that the car is going to be junked someday and resold through his/her business for scrap.

INSURANCE COMPANIES

Insurance companies and agencies must pay the City sales or use tax on all tangible personal property purchased for use, storage, distribution, or consumption in the city. This includes fair market value of tangible personal property used, consumed, or stored in Northglenn by inter-company transfers.

Purchases of items by an insurance company to replace insured damaged property are subject to tax. Items purchased by the insured with the proceeds of a damage claim settlement received from an insurance company are subject to tax.

JANITORIAL SERVICES

No sales or use tax is applicable to the charge for service rendered.

Items such as hand soaps, paper towels, toilet tissue, and disinfectants which are furnished under a service contract and which are billed to the customer as a separate and distinct item from the service that is performed, are considered retail sales of tangible personal property. Sales tax shall be collected from the customer and remitted by the janitorial service.

If such consumable items are not separately stated but are included in the janitorial service contract, the janitorial service shall be deemed to be the user or consumer of the products and shall pay sales or use tax at the time of purchase.

LEASED DEPARTMENTS

Leased departments in department stores, for the purpose of licensing under the Colorado chain store license law, are separate and distinct stores, just the same as if the various businesses conducted in such departments were conducted in separate and distinct buildings. The fact that the various departments happen to be in one building or on one floor of a building does not alter the fact that ownership and control of merchandise is different in each leased department. Where a store has leased departments to persons for retail sales of tangible property, each leased department shall make separate monthly returns. The lessee shall keep his/her own books and make his/her own sales tax collections on retail sales.

If the lessor store keeps the books for the lessee departments and makes collections on account of their sales, the lessor store shall make separate returns for such departments and shall pay the taxes due thereon. But the lessee is not relieved of his/her ultimate liability if the lessor store fails to make the proper returns or to remit the taxes to the finance director.

LINEN SERVICES

Persons engaged in the business of furnishing linens and apparel to customers under an agreement which includes a continuous service to be rendered in the periodic cleaning of such articles, are deemed to be engaged in taxable rentals, and as such, must charge the sales tax on such rentals.

Items such as hand soaps, paper towels, toilet tissue, disinfectants, which are furnished under a service contract and are consumed where delivered by the linen servicemen are considered property sold at retail and the tax shall be remitted on the retail price of such property.

MAINTENANCE AND SERVICE AGREEMENTS

Selling tangible personal property together with an agreement or contract to maintain the usefulness of such property is taxable at the full amount charged. Service must be included in the total taxable purchase price of the agreement.

Every retailer or vendor conducting a business in which the transaction between the vendor and the consumer or purchaser consists of the supply of tangible personal property and services in connection with the maintenance or servicing of same, shall be required to pay the tax levied under this Code upon the full contract price, unless application is made to the Director of Finance for permission to use a percentage basis for reporting the tangible personal property sold and the services supplied under such contract. The Director of Finance 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 tax levied pursuant to the provisions of this code. (Section 5-3-17(b) of Northglenn Code)

Examples of such combined sales and services of tangible property and services requiring the express approval of the Director of Finance above would be in contracts for the sale or lease of computers and support equipment, office copying, and other office equipment sales.

MANUFACTURERS

The sale of tangible personal property to a person engaged in the manufacture or compounding of a product or service, where such tangible personal property becomes a physical part of such product or service, is a wholesale sale and exempt from sales tax. Any container, label, or shipping case used to encase or enclose such product may be purchased tax-free by the manufacturer or compounder, if it is not returnable.

Tax applies to the sale of tangible personal property to the manufacturer or compounder that purchases it for use as an aid in manufacturing, producing or processing tangible personal property and not for the purpose of physically incorporating it into the manufactured article to be sold.

Such property consists of (1) items not used directly in the compounding or manufacturing operations; (2) items used in the maintenance, managerial, sales and other non-operational activities such as office equipment, furniture, and supplies; (3) items used by persons who are designated under this Code as being ultimate consumers of materials that they purchase for their business operation, such as equipment, machinery, shelving, signs, supplies, and tools and (4) tangible personal property which may be used or consumed in the production, manufacture, or compounding but do not become an integral or component part of the finished products (such as wastage and chemicals used as catalysts or otherwise to produce a chemical or physical reaction such as the production of heat or the removal of impurities), are taxable to the user or consumer on their proportionate value.

Manufacturers, compounders, and processors must include in their gross taxable sales the sale price of any products produced, processed, compounded, or manufactured by them which are withdrawn from their stock for their own use or consumption and not ultimately sold at retail. (Refer to Regulation 5-3-6(d)(5).) The taxable price shall include the cost of labor, materials, parts and all other charges and fees, including profit.

“For all the reasons we have heretofore mentioned we must conclude that to be exempt from the operation of the acts, tangible personal property purchased by a manufacturer and which enters into the processing of the manufactured product, must be a constituent part thereof, wholly or partially, by either chemical or mechanical means.”

“Applying these definitions to the words under consideration, it would seem certain they mean that to enter into the processing of an article, substance, or commodity, tangible personal property must of necessity become a constituent part of such final product in the series of continuous operations and treatment lending to this result.” *Bedford v. C.F. and I.*, 102 Colo 538, 81 P.2d 752 (1938); position reaffirmed in *Western Electric v. Weed, Jr.*, 185 Colo. 340, 524 P.2d 1369 (1974).

Examples of manufacturing aids include but are not limited to the following:

- (1) Sales of CO₂ gas for use in the sale of draft beer are taxable to the vendor of the beer, since the vendor buys the gas for use in forcing the draft beer through the pipes rather than for the purpose of reselling the gas.

If the gas is purchased for the sole purpose of incorporating it into a product to be sold and is so incorporated into a product to be sold as in soda water or other beverages, the sale of the gas is exempt as a sale for resale.

- (2) Phosphoric and sulfuric acid used in a process known as anodizing aluminum are primarily used as electrolytes, acting as a catalyst, and do not become a component part of the aluminum objects that are processed. The processor is accordingly the consumer of such acids and is taxable at the time of purchase of such items.

- (3) Flux if used as a cleaning agent or as a means of reducing oxidation, is taxable to the manufacturer at the time of purchase. It may also be used for transmitting desirable alloys to the deposited metal. To the extent it is used for the latter purpose, it is not subject to sales tax to the manufacturer at the time of purchase. Since the different functions are not mutually exclusive, exempt and nonexempt purposes may be served simultaneously and in such cases the tax will have to be apportioned between the various uses.
- (4) Sulphur used in drying and curing fruit is regarded as used by the manufacturer, not as incorporated and resold and the tax is to be paid by the manufacturer when he/she purchases the sulphur.
- (5) Forged steel balls are used in a ball mill to grind silica sand to a desired fineness. In the course of the grinding, the balls wear out, and they become incorporated into the finished product that is sold. The steel balls are purchased for the purpose of using them in the manufacturing processes and not primarily for the purpose of incorporating steel into a finished product. Accordingly, the manufacturer must pay sales tax on the steel balls at the time of purchase.
- (6) If ice is in fact used for the sole purpose of becoming an ingredient of the finished product, as where it is used solely to supply all or a part of the water content of the sausage and luncheon meats, the sale of the ice may be regarded as a sale for resale and the processor is not required to pay tax at the time of purchase of the ice. If the ice or dry ice is used for any purpose other than to become an ingredient or component part of the finished product, it is purchased for a purpose other than for resale and is subject to tax to be paid at the time of purchase by the processor.
- (7) A rubber chemical used as a lubricant to facilitate mold release of rubber products, such as tires, and which may remain as a film on the finished rubber product is a manufacturing aid used as a lubricant by the manufacturer who is required to pay the sales tax at the time of purchase.
- (8) Cleaners purchased for use in preparing metal part surfaces prior to rust proofing do not become incorporated in the product and therefore the manufacturer is the user and must pay sales tax at the time of purchase.
- (9) When paint thinner, abrasives, cleaning compounds, masking tape and similar items are used by a person in painting tangible personal property, that person is the user of such items and must pay sales tax at the time of purchase.
- (10) Talc used as an anti-adhesive or lubricant in the manufacture of rubber products is a manufacturing aid and a sales tax is imposed on the manufacturer at the time of purchase.
- (11) Explosives, foundry patterns, designs and drawings

Any other item that does not become an ingredient, component, constituent or part of a manufactured product is not exempt from the tax.

Refiners who make a product instead of merely removing impurities from a product are manufacturers.

MANUFACTURERS AND PREFABRICATORS ACTING AS CONTRACTORS

A manufacturer or prefabricator may contract to build into real property that which he/she manufactures or prefabricates. If the contract provides for the transfer of title to the materials prior to the time the materials are built into the real property, and if the material price is separately stated from the installation price, the manufacturer will be considered to have sold the material, therefore, sales tax must be charged only on the selling price of the material. If not properly segregated, the amount included for installation is also part of the taxable price.

If a manufacturer or prefabricator builds materials into real property and title to the materials does not pass until incorporated in the real property, the manufacturer is a contractor contemplated in the special regulation for retailer-contractors and then must follow those rules and pay use tax based on the acquisition cost of the goods withdrawn from inventory, payable at the time of such withdrawal.

MATS FURNISHED TO NEWSPAPER PRINTERS AND PUBLISHERS

The fabrication or transfer of an impressed mat is regarded as a sale when the fabrication is for, and the transfer is to, a printer or publisher for use in printing. The printer or publisher in such a case is regarded as the consumer of the mat.

Advertising service companies (cut and copy service) companies contract for a fixed sum per month (usually based on population or circulation) to supply to publishers an advertising book service, consisting of a book or books of printed advertising illustrations which the publishers could use. The books are accompanied by a complete set of mats which the publisher may use after he/she has made the selection from the display book. The service also includes suggested ad combination, layouts, copy and fashion information.

The advertising mat service companies are the retailers of the mats and books.

Mats furnished by syndicators of columns and strips, such as comic strip drawings, syndicated columns, syndicated photos and the like, are furnished by these columnists or syndicates to the publisher. The columnist or syndicate is the retailer of the mats.

Advertisers are consumers of mats furnished newspapers for advertising purposes. Tax applies, accordingly, to the sale of the mats furnished to the advertisers or advertising agencies. If the advertiser acts through an advertising agency which acquires the mats for his/her account, tax applies to the sale of the mat to the agency. If the advertising agency acts as principal in obtaining and furnishing mats to advertisers, the sale to the agency is exempt as a sale for resale, and the sale by the agency is taxable. The newspaper printers or publishers selling mats to the advertiser must charge the tax.

OCCASIONAL OR CASUAL SALES

Sales tax is imposed upon all sales and purchases of tangible personal property at retail. If a store, apartment house, hotel, laundry, printing office, or other office or place of business is purchased, the sales tax must be paid on the purchase price paid for the equipment, furniture, fixtures, supplies and all tangible personal property included in the sale except a stock or inventory of goods acquired for resale in the trade or business. There is no exemption in the law of isolated or casual sales. Persons not regularly engaged in business who make occasional sales at retail, such as the sale of produce, farm products, household goods, furniture, farm equipment, machinery, etc., (except a "farm auction close out sale") must collect and remit the sales tax. If the sales tax has not been collected by the vendor, the purchaser is liable for the use tax and should remit the same to the Director of Finance.

All persons regularly engaged in the business of selling tangible personal property, including wholesalers, manufacturers and processors, must collect and remit the tax on all sales made to users or consumers even though they do not ordinarily sell at retail. It is immaterial that the property that sold may be of a kind not ordinarily sold by the vendor such as used fixtures, equipment, tools, machinery, etc.

Anyone who advertises, solicits, or offers tangible personal property for sale with the intention of making repeated sales must have a Sales Tax License and collect the tax on such sales even if they are few and infrequent.

OPTICAL SALES AND SERVICES

Eyeglasses, sunglasses, lenses, frames, contact lenses, and similar articles, together with cases or similar containers used to transfer the property to the customer, when dispensed under a prescription or other written order of a legally qualified member of the healing arts are considered to be prosthetic devices and exempt from tax.

Cases or similar containers used to store or transfer eyeglasses or contact lenses are taxable when sold individually. Sunglasses, reading glasses, binoculars, telescopes, and similar articles not dispensed under a qualified prescription, are subject to tax.

PHOTOGRAPHERS AND PHOTOSTAT PRODUCERS

Tax applies to sales of photographs, whether or not produced to the special order of the customer. This applies in any case when only the possession, but not title of the photographs is transferred, even when the purpose is for one time only use such as might be the case for reproduction in newspapers or magazines, or in any case when title or both title and possession is transferred. Tax applies to sales of photostat copies, whether or not produced to the special order of the customer, and to charges for the making of photographs or photostat copies out of materials furnished by the customer. No deduction is allowable on account of such expenses of the photographer as travel time, rental of equipment, or salaries or wages paid to assistant or models, whether or not such expenses are itemized in billings to customers.

Tax does not apply to sales to photographers and photostat producers of tangible personal property which becomes an ingredient or component part of photographs or photostat copies sold, such as mounts, frames, tinting materials and print paper, but does apply to sales to the photographer or producer of materials used in the process of making the photographs or photostat copies and not becoming an ingredient or component part thereof such as chemicals, trays, films, film developer, plates, proof paper, and cameras.

PHOTO FINISHERS

Tax applies to charges for printing pictures or making enlargements from negatives furnished by the customer, and to charges for developing the negatives. Tax does also apply to charges for tinting or coloring pictures furnished to the finisher by the customer.

Tax does not apply to sales to photo finishers of tangible personal property which becomes an ingredient or component part of the finished product sold, but does not apply to sales to the photo finisher not becoming such an ingredient or component of their end taxable retail sale to the customer.

PRINTERS AND PRINTING

Except as herein stated, a printer may not deduct from the selling price any charge for labor or service in performing the printing, even though the labor or service charges may be billed separately from the charge for stock. The labor or service is expended in the production of the article sold; consequently, it is manufacturing labor incorporated in the product.

If separately stated on the invoice, the services of typesetting, color separation, and design, art, and camera mechanicals performed by a printer or his/her subcontractor for a customer or another printer are not taxable.

When stamped envelopes or governmental portals are purchased and printed for the customer or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the sales tax basis.

Printed matter that is partially printed, invoiced to the customer, held in stock for further imprinting, and finally invoiced for subsequent imprinting, is taxable on the full price charged by the printer for the item. Sales tax must be collected on the selling price of each part of the job. The subsequent imprinting before delivery is deemed to be completion of the initial sale, not a separate transaction.

Imprinting on a customer's product is taxable to the full extent of the purchase price to the customer.

A printer may at times retain a customer's property in his/her place of business. When tangible personal property is retained in the printer's place of business, the department may examine the various records applicable to this property, such as who is liable for the payment of insurance and personal property tax on the property, who is allowed to deduct the depreciation expense on the property, and who benefits from salvage of the item, in making a determination of the ownership of the property.

Sales of catalogues, books, letterheads, bills, envelopes, folders, advertising, circulars, and other printed matter are taxable retail sales if the purchaser does not resell the articles but uses or consumes them as by distributing them free.

In addition, a commercial publisher or printer may purchase tax-free for resale any tangible personal property which may be used or consumed in the printing process and which shall become an ingredient or component part of the printed article to be sold at retail.

Printers who are just performing a service will be subject to those rules given in the Special Regulations for "Service Enterprises". Printers ink and newsprint are exempt under 5-3-6(d)(4), but all other below listed items are subject to use tax when applied to property which is not sold.

Exempt purchases of tangible personal property for resale will be limited to the following:

- (1) Paper:
 - (i) Newsprint
 - (ii) Stock on which finished product is printed and delivered to customers
 - (iii) Wrapping materials for finished product which is sold to customer
- (2) Ink:
 - (i) Printer's ink
 - (ii) Ink additives
 - (iii) Overprint varnish
- (3) Chemicals
 - (i) Anti-offset sprays (liquid or powder)
 - (ii) Fountain etch solution
 - (iii) Gum solution
 - (iv) All component chemicals when used above
- (4) Materials:
 - (i) Padding compound
 - (ii) Stitching wire or staples
 - (iii) Bookbinder's tape
- (5) Pre-press preparation materials: Light sensitive film, plates and proofing materials are exempt when the procedures as stated below are complied with:

Pre-press preparation materials shall qualify as exempt purchases of tangible personal property to the extent such items are utilized for the production of a specific product for a specific customer and title passes to the customer as part of the total sale, and adequate cost records for the particular job showing amount of pre-press preparation material are retained by the printer. In addition, if the final product is tax exempt because it is being shipped out of the City by common carrier or otherwise, it will be necessary for the printer to be responsible for the amount of use tax due on the pre-press preparation materials and remit the amount of such tax to the Director of Finance. The basis for this requirement is that possession was taken in the City by the printer as agent for the customer of the pre-press preparation materials in order to produce the final product which itself is exempt from tax because it is shipped out of City. If separately invoiced as herein provided, pre-press preparation materials used in the production of a product sold and delivered to a tax exempt entity will not be deemed subject to the payment of use tax by the printer.

Except as herein stated with respect to out of City shipments, in order to avoid liability for the payment of use tax on pre-press preparation materials, the printer must maintain adequate records of such materials in detail as to each specific job, so that the indication of pre-press material designation on the ultimate billing can be determined upon audit and segregated from other pre-press materials, manufacturing aids or plant property. There must be an audit trail that clearly reflects the passing on to the customer of a particular item of pre-press preparation material and collection of sales tax on a particular invoice when such sales are subject to tax.

- (6) Commercial printers or publishers may purchase tax-free for resale other materials if both of the following conditions exist:
 - (i) The printer must segregate charges made for such materials to his/her customer and collect the City sales tax on those charges irrespective of the fact that the sales of the printed product may be exempt from the tax for various reasons, such as, deliveries out of the City, sales in interstate commerce, sales for resale, etc.,
 - (ii) The printer must apply for and file with his/her suppliers a letter of exemption from the City listing the specific materials that he/she will segregate and invoice in (6)(a) above.

This list of exempt purchases cannot be increased by implication or similarity. Except for newsprint and printer's ink all listed items are subject to the use tax when applied to property not sold at retail or when applied to the customer's stock.

The term "newsprint," as used in this Subsection, shall be defined as the machine finished paper, chiefly from wood pulp, and used mostly for newspapers.

PRIVATE CLUBS

Private clubs such as country clubs, athletic clubs, fraternal organizations, including those of persons formerly in the armed services of the United States, are required to collect and remit the tax when they sell tangible personal property at retail or do any of the other things subject to the sale and use tax as provided in the Sales and Use Tax Ordinance. This is true even though all transactions are with members.

RAILROADS

"Railroads" are taxable in full in Northglenn on all their purchases of electricity, gas, coal, fuel oil or coke and specifically on diesel fuel for diesel locomotives when delivered to them through railway tank cars and pipelines loaded in Northglenn and highway tanker trucks when such trucks are hired to effect delivery or are owned by the railway.

The "Railroads" are also liable to pay the tax on all equipment (except rolling stock) and other tangible personal property (including railway ties and rails, bridge materials, and signal devices) purchased and delivered or used, stored, distributed, or consumed in Northglenn.

READY-MIX CONCRETE

Ready-mix concrete is taxable on the delivered price, which includes minimum load and transportation charges. Standby charges charged after arrival at the destination are not taxable if segregated on the customer's invoice.

REPAIR SERVICES

Under Section 5-3-4(44) of this Code all sales, leases and rentals of tangible personal property are taxable with no deductions therefrom on account of labor, profit, cost of materials use or any other cost on the sale of such property.

Regardless that some business establishments that convey tangible personal property to the customer may be allowed under the laws or regulations of other taxing jurisdictions to consider themselves consumers (and not retailers) for purposes of payment of tax, any business enterprise conveying tangible personal property in a combined sale of property and service to any customer shall, at the discretion of the Director of Finance, be considered a retailer under the Northglenn Tax Code and shall license and charge the tax to the customer on that combined sale of property and service, IF NOT SEPARATELY STATED. Such retailers should purchase tangible personal property for resale purposes. No credit shall be given for any City tax paid on parts or materials that are later resold to their customers.

If such retailer or vendor neglects or refuses to itemize the materials portion of that combined sale of property and service to the customer and charge the Northglenn tax on the materials portion of the invoice to the customer, regardless that retailer must remit the tax on the total combined sale of property and service to the customer.

An example of such above sales would be in regard to repair services to tangible personal property, as follows:

- | | |
|----------------------------------------------|----------------------------------------|
| Air conditioning, room unit repair | Musical instrument repair |
| Appliance repair | Photo retouching |
| Automobile repair | Piano refinishing, rebuilding & repair |
| Bicycle repair | Plating and electroplating |
| Bookbinding | Racket re-stringing & repair |
| Carpet and rug repair | Radio & television repair |
| Clock repair | Sewing machine repair |
| Clothing alterations & repair | Sharpening services |
| Computer repair | Shoe & leather goods repair |
| Electrical motor repair | Sign maintenance & repair |
| Engine repair | Window & door repair |
| Equipment repair | Tire recapping, retreading & repair |
| Furniture repair, upholstering & refinishing | Tool repair |
| Jewelry repair and renovation | Vacuum cleaner repair |
| Lamp repair | Watch & jewelry repair |
| Locksmith repair & lock replacement | Weaving & mending repair |
| Luggage & leather goods repair | Wheel alignment |
| Motorcycle repair | |

Any other remaking, remanufacturing, reprocessing, reforming, reshaping, refashioning, refabricating, reforging, or other repair of tangible personal property to bring to a state of usefulness, anew, that tangible personal property, regardless the ownership of such property may reside in the purchaser.

The labor and/or service separately sold or rendered or contracted to be rendered at a future date, or upon some contingency, and which value is separately identifiable and stated in all documents relating to the transaction is not taxable.

Nothing contained in this regulation should be construed or is intended to be a limitation on the legislative intent of taxability as stated in Section 5-3-2.

RESTAURANTS AND EATING ESTABLISHMENTS

The sale of meals and beverages is subject to sales tax and any person making such sales must acquire a Sales Tax License and collect sales tax based upon the total consideration paid thereon.

Caterers and other persons similarly engaged are liable for sales tax on the total selling price or items sold and/or charges for service essential to providing meals and beverages and must be licensed to provide such service.

The sale of meals shall be taxable whether paid by money or its equivalent, coupons, or by other consideration, including the consideration of labor. Cover charges, door charges, admission charges or minimum service charges, etc., if any, shall be included in the gross taxable sales amount and are not to be excluded as non-taxable services. Meals furnished by hotels, motels, boarding houses, inns, etc., to guests when sold in combination with other services are taxable as retail sales and the proportionate value of the meal shall be determined and the tax collected and paid thereon. Regular sales of food by any type of organization, including school and company cafeterias, private clubs, and commissaries, are taxable.

Private enterprises, such as commercial and manufacturing companies, and public agencies, such as governmental organizations, regularly serving and charging their employees or the public for meals and beverages, are liable for sales tax based upon the selling price of such meals and beverages.

Boarding houses, Day Care Centers, Nursing Homes, etc., which serve meals only to persons regularly boarding there and not to the public should not collect sales tax on the meals. Such establishments are not considered retailers but are consumers and must remit use tax on the cost of meals and beverages furnished in conjunction with their services. However, if such establishments do sell meals and beverages to the public or visitors, they must collect the sales tax based on the full price charged for such meals and/or beverages.

Lodges, charitable or religious organizations, and other similar organizations, must collect the tax on all meals served. If such organizations sell or serve meals to members of the public who are not members of that organization, the sales tax must be collected on such meals or service based on the total cost of preparation and serving of meals. If meals are served exclusively to members of the lodge, club, charitable or religious organizations, except only on very rare or special occasions, the serving of such meals may not be subject to the sales tax; however, the food purchased to prepare such meals would be taxable.

The tax shall be collected on meal tickets when they are purchased and not when the meals are served.

Fund-raising meals priced in excess of the regular selling price are subject to tax on the regular selling price.

Meals given to customers free of charge are subject to the use tax based on the cost of the food and food preparation. When a customer purchases one dinner and receives another free as a result of presenting a coupon for the free dinner, tax applies only to the actual amount charged.

“Free” or “complimentary” meals given to hotel guests are taxable at the cost of the meal. Example, hotel has a restaurant and gives free complimentary meals to its guests. These meals are subject to the use tax based on the total cost to prepare and serve such meals.

Employee meals sold at a reduced price are taxable at the amount sold to the employee. In the case that meals are not considered to be an employee's salary, wages or income, when the meals or meal service is furnished to any individual in return for the consideration of labor, that meal or service is not taxable for sales or use tax purposes.

Nontaxable gratuities include cash tips (money left by the patrons for use of those providing the service), charge tips (amounts added to sales check by the patrons for use of those providing the service), banquet tips, and tips separately stated and added to the sales check by the vendor at a flat rate where the amount is distributed by the vendor to persons who actually render the service.

The vendor of meals and drinks must pay the tax on purchases of most products used or consumed in the operation of his/her business, including equipment, fixtures, linens, silverware, glassware, and other items not consumed with the meals. (*Carpenter v. Carmen Co.* 111 Colo. 566, 114 P.2d 770, (1943)).

Purchases of products that are to be served as a part of the taxable meal are non-taxable to the vendor. Such non-taxable items include purchases of food and drink and other component parts that become a part of the processed meal. Paper cups, paper napkins, paper plates, paper utensils, plastic straws, paper tablecloths, discardable towelettes, and other products furnished with the meal or refreshment for one-time use only are exempt IF the taxpayer's records indicate that they are in fact a Cost of Goods Sold. However, if the records indicate that purchases of such items are being expensed, they are subject to the Northglenn sales and use tax.

Coupons or certificates tendered for the price of a meal shall be taxable on the regular or normal sale price of that meal. The restaurant, etc., must include in its net taxable sales the sale price of meals paid for by coupons or certificate arrangements.

SAND AND GRAVEL

Tax must be imposed on the delivered price of sand and gravel, including minimum load and transportation charges. Tax on charges for hauling materials to the customer's destination may be avoided only if all of the following conditions are met:

- (a) The retailer has fixed and posted prices both for the material and for hauling. These prices must be completely independent of each other. In other words, the price of the material must be the same to the customer whether the retailer provides the hauling or the customer arranges for his/her own transportation. If the retailer provides the hauling, the charges must be clearly segregated on the customer's invoice;
- (b) The customer must have the option to determine the means of transportation to his/her destination. There must be practical as well as economic alternatives available for the customer in terms of providers of transportation; and
- (c) Regardless of who provides the transportation, the retailer and the customer must agree and acknowledge in writing that the sale of the materials takes place, and title to the goods transfers, at the retailer's place of business. The customer must acknowledge that he/she is the owner of the materials being transported.

Stand-by charges made after arrival at the destination are not taxable if segregated on the customer's invoices.

Sand and gravel removed from the ground become tangible personal property and are subject to the sales or use tax that applies to retail sales of tangible personal property. Sales of sand and gravel are taxable unless sold to a licensed vendor for resale.

The retailer of sand and gravel who removes sand and gravel stocks to fulfill his/her own construction obligations is subject to sales or use tax on the acquisition cost of the products used at the time of conversion to his/her own use or consumption.

The preceding paragraph shall not apply if the retailer uses the sand and gravel as an ingredient to make another product. Example, retailer uses sand and gravel to make ready-mix concrete or asphalt.

Persons who purchase the right to remove sand and gravel from another's land are subject to a use tax on the purchase price of the sand and gravel when removed, unless the same is held for resale.

SERVICE ENTERPRISES

Persons engaged in the business of rendering service are consumers, not retailers, of the tangible personal property which they use incidentally in rendering the service. Tax, accordingly, applies to the sale of the property to them. If in addition to rendering service they regularly sell tangible personal property to consumers, they are retailers with respect to such sales and they must remit tax on such sales.

Example: A film company contracts to make a ski film for a firm owning a resort. The cost to the resort for the original film is \$25,000. Additional reels may be purchased for \$250 each. The \$25,000 charge for the first reel of film is not subject to tax as the film company is charging for their services in producing tangible personal property, the transfer of which is incidental to the performance of the service. The sale of additional reels at \$250 would, however, be subject to tax.

The basic distinction in determining whether a particular transaction involves a sale of tangible personal property or the transfer of tangible personal property is incidental to the performance of a service is one of the true objects of the contract; that is, if the real object sought by the buyer is the service per se, the transaction is not subject to tax even though some tangible personal property is transferred. For example, a firm which performs business advisory, record keeping, payroll and tax services for small businesses and furnishes forms, binders, and other property to its clients, as an incident to the rendition of its services, is the consumer and not the retailer of such tangible personal property. The true object of the contract between the firm and its client is the performance of a service and not the furnishing of tangible personal property. Similarly, an idea may be expressed in the form of tangible personal property and that property may be transferred for a consideration from one person to another, however, the person transferring the property may still be regarded as the consumer of the property. Thus, the transfer to a publisher of an original manuscript by the author thereof for the purpose of publication is not subject to taxation. The author is the consumer of the paper on which he/she has recorded the text of his/her creation. However, the tax would apply to the sale of artistic expressions in the form of paintings and sculptures even though the work of art may express an original idea since the purchaser desires the tangible object itself; that is, since the true object of the contract is the work of art in its physical form.

When a transaction is regarded as a sale of tangible personal property, tax applies to the gross receipts from the furnishing thereof, without any deductions on account of the work labor, skill, thought, time spent, or other expense of producing the property.

A research and development contract is distinguished from a contract for the manufacture of a custom made item. In the latter, the research, design, etc., although necessary to the manufacture of the item, is incidental to the primary purpose of the contract. Generally, custom-made items are for consumption or resale. The buyer wants the item for its intrinsic value as an item, and is not interested in the data developed in the course of its manufacture. In such contracts, the entire contract price is subject to tax if the tax applies. A person contracting for research and development is primarily contracting for information, which is intangible. Generally, the person contracting for information is going to use it to manufacture and sell some item of tangible personal property.

The development of the information in a research and development contract is not a sale of tangible personal property. It is a service. Since the information such as plans, design, and parts lists, etc., cannot ordinarily be conveyed orally, the information is conveyed on paper. The transfer of information on paper is not a sale of tangible personal property and the transfer is incidental to the service of developing information. In certain instances, the information cannot be conveyed without the transfer of a prototype. In these cases, the transfer of the prototype is incidental to the transfer of the information and is not a sale of the prototype.

In a true research and development contract where a prototype is manufactured, the researcher (taxpayer) owes use tax on the materials used to construct the prototype since it was used to compile data, design, drawings, etc. The measure of the tax is the cost of the materials going into the manufacture of the prototype as well as all other materials consumed.

Contracts for research work which require only the development of ideas, plans, engineering data, etc., do not constitute sales of tangible personal property although models and drawings are furnished to convey such ideas.

If thereafter an entirely separate contract is entered into for the production of the finished product, tax applies to the gross receipts received from the sale of that finished product which gross receipts will not be deemed to include the charges for the drawings, visualizations, etc., performed under a separate agreement.

Example: Original construction plans - A \$50 charge for original plans made according to the desires of each person interested in converting existing buses or van trucks into "house cars" would not be subject to tax. The total charge would be subject to tax if the plan sold was merely a duplicate of a plan drawn for a preceding customer. The planner is the consumer of the paper and other material used to present the plan.

Persons engaged in the business of rendering service are consumers of tangible personal property that might or might not be subject to the Northglenn use tax. Because a use tax liability could arise and in accordance with the Northglenn Sales and Use Tax Code, these businesses MUST license with the City and file returns based on their particular filing status as set up by the Sales Tax Division.

STAMPS

Stamp companies are required to pay the sales or use tax upon the cost of all trading stamps, stamp books, etc., which are stored, used and distributed or otherwise consumed in Northglenn which are not held for taxable resale.

The sale of trading stamps to vendors who later give the stamps to customers as a premium for their trade, and which stamps may later be "traded in" for articles of tangible personal property, is taxable to the vendor so purchasing such stamps. Upon redemption or "trading in", the sales tax shall be collected on the fair market value of the item for which the stamps are redeemed or traded.

SUCCESSORS LIABILITY

When Duty to Withhold Purchase Price Arises. The requirements that a successor or purchaser of a business or stock of goods withhold sufficient of the purchase price to cover the tax liability of the seller, arises in the case of the purchase and sale of a business or stock of goods under a contract, providing for the payment to the seller or person designated by him of a purchase price in money or property or providing for the assumption of liabilities.

Amounts to Which Liability Extends. The liability of the successor or purchaser of a stock of goods extends to taxes incurred with reference to the operation of the business by the predecessor or any former owner, including the sale thereof, even though not then determined against him, to interest thereon to the date of payment of the taxes, to penalties for non-payment of taxes, and to penalties for negligence or intentional disregard of the Sales and Use Tax Code or authorized rules and regulations, or for fraud or any intent to evade the tax determined and unpaid at the time of sale.

Release from Obligation. The purchaser of the business or stock of goods will be released from further obligation to withhold the purchase price if he/she obtains a certificate from the Director of Finance stating that no taxes, interest, or penalties are due from a predecessor. He/She will also be released if he/she makes a written request to the director for a certificate and if the director does not within sixty days thereafter, or within sixty days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety days after receiving the request, issue the certificate or mail to the purchaser a notice of the amount of the tax, interest, and penalties that must be paid as a condition of issuing the certificate.

Separate Business Location. Where one person operates several business establishments, each at a separate location, each establishment is a separate "business" and has a separate "stock of goods" for purposes of determining the liability of a successor. A purchaser of the business or stock of any such establishment is subject to liability as a successor with respect to that establishment even if he/she does not purchase the business or stock of goods of all the establishments.

Purchase of a Portion of a Business. A person who purchases a portion of a business or stock of goods may become liable as a successor as, for example, where he/she purchases substantially all of the business or stock of goods or where the business or stock of goods is purchased by two or more persons. In cases of doubt as to possible liability, the purchaser should obtain a certificate as provided in "Release from Obligation" above.

TOOLS, JIGS, DIES, PATTERNS, MOLDS, ETC.

A person who makes and sells tools, jigs, patterns, molds and similar items to a customer for use in his/her manufacturing or processing, is making a retail sale of the articles and is required to collect (if licensed with the City) and remit the sales tax. If the retailer collected no tax, the consumer must remit the use tax directly to the City of Northglenn.

After using such items the purchaser may resell them to the customer for whom he/she is manufacturing articles. Such resale, however, does not exempt the first sale described above because that customer purchased the article primarily for use and not for resale. If an article is sold to a customer after any use by the seller, the sale is taxable.

TRUSTEES, MORTGAGEES, RECEIVERS, EXECUTORS, AND ADMINISTRATORS

When trustees, receivers, executors, or administrators, by virtue of their appointment, (whether appointed by a state or federal court) continue to operate, manage, or control a business engaged in the sale of tangible personal property at retail, they must collect and remit the sales tax. In addition, they must report all items subject to the Northglenn sales and use tax and remit payment therefore.

The taxes apply notwithstanding that such trustee, receivers, executors, or administrators may be engaged in liquidating the assets of a bankrupt, or insolvent, or a decedent.

Tax does apply to sales of tangible personal property at public auction pursuant to the provisions of a chattel mortgage, regardless that:

- (1) The sale is made pursuant to a court decree of foreclosure by an officer appointed by the court for that purpose, or
- (2) The property is bid in by the mortgagee, or
- (3) The sale is made as result of a tax warrant action.

Tax applies to other foreclosure sales and to sales by a person who has bid in the property, to the same extent as to other sales.

UPHOLSTERERS

An upholsterer who is engaged in the repair, recovering, reupholstering or similar work on a customer's property is engaged in the sale of tangible personal property and accordingly, will charge his customers sales tax on the tangible personal property used in this service. The upholsterer must separately state the tangible personal property and the service or labor charges on his billing to his customer.

A sale by the upholsterer of upholstery material, manufactured articles, or other tangible personal property to a retail customer, without service rendered in connection with the sale, is taxable on the full selling price of the property.

An upholsterer who purchases property that he/she upholsters and then offers for sale is required to charge sales tax on the full selling price of such property. The labor to process and prepare for sale to a customer is a taxable part of the transaction of sale. The labor to reupholster furniture previously owned by a customer is a service when the customer owns the furniture and the only property transferred is the upholstery fabric, staples, and glue.

Upholstery material and other items of tangible personal property that become a part of the upholstered item may be purchased tax-free, but he must pay sales or use tax on those items used or consumed that do not become a part of the completed upholstered property.

Charges for fabrication labor are taxable.

Labor charges for repairing furniture are not taxable if separately stated on the invoice from materials used.

WARRANTIES

When an item of tangible personal property is rented with a warranty for the maintenance or servicing of the property, for a given period of time, the sales tax will be imposed, collected, and paid upon the rentals payable, including the value of the warranty, if the rental is subject to the sales tax. Lessors of tangible personal property providing a warranty for the maintenance or servicing of the rental property may apply to the executive director to exclude from the rental price the average value of the cost of service included within the warranty. If written permission is granted by the Finance Director, the sales tax will apply to the rental price of such article of tangible personal property, exclusive of that part of the rental price which is assignable to the anticipated cost of repair labor included within the warranty.

According to Section 5-3-17(b), if a separate warranty or service contract is purchased, the full contract or sales price of the warranty or service contract is subject to a sales or use tax, unless application is made to the Director of Finance for permission to use a percentage basis for reporting the tangible personal property sold and the services supplies under such contract.

X-RAY LABS

Producers of X-ray film for the purpose of diagnosis are the consumers of materials and supplies used in the production thereof. Thus, the tax applies to the sale of such materials and supplies to laboratories producing X-ray film for the purpose of diagnosis. Whether the laboratory is a "lay laboratory" or is operated by a physician, surgeon, dentist, or hospital is immaterial.

CHAPTER 5

FINANCES

ARTICLE 2: TAX ADMINISTRATION CODE

TITLE 5-2-1

The provisions of this Article 2 of Chapter 5 of the Municipal Code of the City of Northglenn shall be known and cited as the Tax Administration Code.

APPLICATION – CONSTRUCTION 5-2-2

- (a) The provisions of this Article shall apply to the administration, enforcement and collection of sales and use taxes by the City of Northglenn, including taxes levied and imposed by Article 3 of this Chapter and any tax provided by ordinance to be administered, enforced or collected pursuant to the provisions of this Article.
- (b) As used in this Article, unless the context otherwise provides, the term “Code” means and includes the provisions of this Article and the provisions of each and every ordinance or Code administered under the provisions of this Article.
- (c) The provisions of this Article shall be construed to effect uniformity of administration, enforcement and collection of taxes, and to establish uniform procedures, but shall not be construed to extend or increase the application, rate or amount of any tax levied or imposed by ordinance; provided, however, that the imposition of a penalty, interest, or both penalty and interest shall be lawful and shall not be construed as an extension or increase of the application, rate or amount of tax.
- (d) The purpose of this Code is to provide the power necessary to exercise effectively the right to raise revenue that is essential to home rule and self-government. Any similarities to state law herein are adopted for the purpose of promoting efficiency in the collection of revenue. Regardless of any such similarities, the provisions contained herein are matters of solely local concern.

DEFINITIONS 5-2-3

- (a) **Collection Proceedings** 5-2-3(a)
“Collection Proceedings” shall include the mailing of a notice of audit, an audit, and all remedies exercised by the Director pursuant to this Code to collect any unpaid taxes, penalties, and interest.
- (b) **Collection Costs** 5-2-3(b)
“Collection Costs” shall include all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraints, litigation, prosecution and attorney’s fees.
- (c) **Director** 5-2-3(c)
“Director” means the Finance Director of the City of Northglenn or such other person designated by the City in the enacting ordinance; Director shall also include such person’s designee.
- (d) **Taxpayer** 5-2-3(d)
“Taxpayer” means any person obligated to collect and/or pay tax under the terms of this chapter.
- (e) **Jeopardy Audit** 5-2-3(e)
“Jeopardy Audit” means an audit conducted pursuant to a determination by the Director that collection of the tax would be jeopardized by delay.

DUTIES AND POWERS OF DIRECTOR 5-2-4

The administration of the licensing provisions of this Code is hereby vested in the Director subject to the duties of the City Clerk; and the administration of all other provisions of the Code and of the City of Northglenn sales and use tax is hereby vested in and shall be exercised by the Director, who shall prescribe forms and formulate and promulgate, with the approval of the City Manager, appropriate rules and regulations to effectuate the purpose of this Code, in conformity with this Code and subject to other provisions of law relating thereto, for the making of returns, for the ascertainment, assessment, and collection of the taxes imposed and for the proper administration and enforcement thereof, and to provide uniform methods of adding the tax, or the average equivalent thereof, to the purchase price. The Director shall have power and authority to amend or rescind such rules and regulations not consistent with the provisions of this Code as to the promulgation of regulations. Regulations adopted, amended, or rescinded by the Director shall be effective in the manner and at the time prescribed by the Director, subject to the provisions of the Code. The Director is authorized to delegate any duty or power to a subordinate unless otherwise provided herein.

DIRECTOR TO EXAMINE RETURNS 5-2-5

For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax due from any taxpayer, the Director shall have power to examine or cause to be examined by an employee, agent, or representative designated by him for that purpose, any books, papers, records, or memoranda bearing upon the matters required to be included in the return. Subject to the provisions of the Code, the Director is authorized to prescribe the duties and powers of such officers, accountants, experts, and other persons as may be necessary in the performance of his/her duty. The Director may delegate to any employee of the City such power and authority as deemed reasonable and proper for the effective administration of this Code.

RETENTION OF RECORDS – AUDITS 5-2-6

(a) **Taxpayer's Retention of Records 5-2-6(a)**

It shall be the duty of every person, firm, or corporation liable to the City of Northglenn for any tax to keep and preserve for a period of three years such books, accounts, and records as may be necessary to determine the amount of such tax liability.

(b) **Records to be Made Available for Audit 5-2-6(b)**

All such books, accounts, and records shall be open for examination at any reasonable time by the Director or his/her duly authorized agents. In the case of a person, firm, or corporation which does not keep the necessary books, accounts, and records within the City, it shall be sufficient if such person, firm, or corporation produces within this City such books, accounts and records, or such information as shall be reasonably required by the Director for examination by the Director or an agent duly authorized by him, or in lieu thereof, said person, firm, or corporation shall pay in advance, or as approved by the Director, such travel, lodging, meal, and related expenses as shall reasonably be incurred by the Director or his/her duly authorized agent in examination of said books, accounts, and records at such place where said books, accounts, and records are kept.

(c) **Coordinated Audit 5-2-6(c)**

(1) Any taxpayer licensed in the City pursuant to Section 5-3-8 and holding a similar Sales Tax License in at least four other Colorado municipalities that administer their own sales tax collection may request a coordinated audit as provided herein.

- (2) Within 14 days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Finance Director of the City, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current Sales Tax License and a declaration that the taxpayer will sign a waiver of the City's statute of limitations.
- (3) Except as provided in paragraph (7), any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of limitation, may be audited by the City during the twelve months after request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.
- (4) If the City desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to paragraph (3), the City's Finance Director shall so notify the Finance Director of the municipality whose notice of audit prompted the taxpayer's request within ten days after receipt of the taxpayer's request for a coordinated audit. The Finance Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.
- (5) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the City, the City's Finance Director shall facilitate arrangements between this City and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Finance Director shall cooperate with other participating municipalities to, whenever feasible, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.
- (6) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the City, the City's Finance Director shall, once arrangements for the coordinated audit between the City and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Finance Director shall also propose a schedule for the coordinated audit.
- (7) The coordinated audit procedure set forth in this Section shall not apply:
 - (i) When the proposed audit is a jeopardy audit;
 - (ii) To audits for which a notice of audit was given prior to the effective date of this Section;
 - (iii) When a taxpayer refuses to promptly sign a waiver of limitation; or
 - (iv) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in paragraph (2).

TAX REPORTS AND RETURNS – PRESERVATION 5-2-7

- (a) **City's Preservation of Records 5-2-7(a)**
All reports and returns of taxes received by the Department of Finance covered by this Code shall be preserved until the City Clerk orders them to be destroyed.
- (b) **Confidential Nature of Returns 5-2-7(b)**
Except in accordance with judicial order, consent of the taxpayer, or as otherwise provided by law, the Director, his/her agents, clerks and employees shall not divulge, or make known in any way information disclosed in any document, report, or return filed in connection with any of the taxes covered by this Code. The officials charged with the custody of such documents, reports, and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Director in an action or proceeding under the provisions of any such taxing or open record statutes when the report of facts shown thereby are directly involved in such action or proceeding, in either of which events the Court may require the production of, and may admit in evidence, so much of said reports, or of the facts shown thereby, as are pertinent to the action or proceeding, and no more.
- (c) **Taxpayer Request for Records 5-2-7(c)**
Nothing contained in this Section shall be construed to prohibit the delivery to a person or his/her duly authorized representative of a copy of any return or report filed in connection with his/her tax, and such copies may be certified by the Director, or his/her deputy or agent, and when so certified shall be evidence equally with and in like manner as the originals and may be received by the courts of this State as evidence of the contents.
- (d) **Publication of Statistics - Returns Available To City Attorney 5-2-7(d)**
Nothing in this Section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection of returns by the City Attorney or the City Manager or their authorized representative.
- (e) **Records Available to Authorized Jurisdictions 5-2-7(e)**
Notwithstanding the provisions of this Section, the Director in his/her discretion may furnish to the taxing official 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 Code, or in the 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 only for tax purposes.

ASSESSMENT – PENALTIES AND INTEREST 5-2-8

- (a) **Assessment 5-2-8(a)**
If the Director determines, pursuant to an audit or estimated assessment, that any person, taxpayer or vendor has failed, neglected, or refused:
 - (1) To collect all taxes due, or
 - (2) To make a return and pay all taxes due, or
 - (3) To remit the proper amount of tax due, or

- (4) To pay in full all taxes due because of negligence, fraud, or on a regular basis, then penalties and interest shall also be assessed and the Director shall give to the delinquent person, taxpayer or vendor a written Notice of Final Determination--Assessment and Demand for Payment which notice shall state the full amount of taxes, penalties and interest due and shall be served personally or by certified or registered mail, which assessment of deficiency amount will be due and payable twenty (20) days after receipt of such notice.
- (b) **Estimated Assessment** 5-2-8(b)
If the Director is unable to audit the records of a taxpayer, either due to the taxpayer's refusal or lack of cooperation, due to time constraints, or due to other reasons which the Director may reasonably determine, the Director shall make an estimate based upon such information as may be available and shall issue an assessment as provided herein.
- (c) **Mathematical Error on Tax Returns** 5-2-8(c)
In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the Director shall notify the taxpayer by written Notice of Final Determination-- Assessment and Demand for Payment of the amount of tax in excess of that shown in the return which is due and has been assessed. The taxpayer shall have no right of protest or appeal as in the matter of other assessments but shall pay the tax due and assessed or file an amended return to show the true amount of tax due within twenty (20) days from receipt of such assessment.
- (d) **Penalty and Interest** 5-2-8(d)
Unless the taxpayer shows that its failure to comply fully with this Code is due to reasonable cause, which the taxpayer may prove in a hearing requested pursuant to this Code, there shall be added to all assessments a penalty of fifteen percent (15%) of the deficiency. Interest on the deficiency amount shall accrue per month at the rate of interest fixed annually by the State Commissioner of Banking in accordance with C.R.S. § 39-21-110.5, as it may be amended from time to time, which rate is currently the prime rate as reported by the "Wall Street Journal" plus three (3) points, rounded to the nearest full percent. The rate for 2008 shall be set by the City on October 1, 2007. The rate for each subsequent year shall be set annually on July 1, or the first business day thereafter, the rate to become effective on January 1 of the next succeeding year. Interest shall be collected from the time the return was due.
- (e) **Late Payment Prior to Assessment** 5-2-8(e)
If any amount of tax due is paid late pursuant to an extension of time, after an audit, after correction of an erroneous return, or for another cause, but is paid prior to issuance of a Notice of Final Determination-- Assessment and Demand for Payment, no penalty shall be due and interest on such amount shall be paid at the rate of nine percent (9%) per annum from the date due until the date paid. In the case of taxes in which the last date for payment is not otherwise prescribed, the last date of payment shall be deemed to be the date the liability for tax rises.
- (f) **Penalty for Fraud or Failure to File Return** 5-2-8(f)
If any deficiency in taxes paid is due to fraud with the intent to evade the tax or due to the taxpayer's failure to file a return, there shall be added, instead of the penalty prescribed in subsection (d) above, a penalty of fifty percent (50%) of the total amount of the deficiency to the assessment required by subsection (a) above. Interest on such deficiency shall accrue and be collected at a rate of one and one-half percent (1 1/2%) per month on the amount of such deficiency from the time the return was due.
- (g) **Special Penalty for Repeated Enforcement** 5-2-8(g)
In any assessment issued to a person or taxpayer against whom enforcement proceedings have been commenced in the past, a special penalty, in addition to all others provided in this Code, shall also be assessed. This special penalty shall be equal to the greater of one hundred dollars (\$100.00) or twenty-five percent (25%) of the tax deficiency. For purposes of this subsection, "enforcement proceedings" shall mean
- (1) Issuance of a distraint warrant; or

- (2) Filing of a lawsuit in the district or county court; or
- (3) Three occurrences of the revocation of the person's or taxpayer's license(s) by the City Clerk or issuance of a summons to municipal court for the nonpayment of taxes or a combination of revocations and summonses.

(h) **Director May Waive Penalty** 5-2-8(h)

The Director is hereby authorized to waive, for good cause shown, any penalty assessed as provided in this Code. Interest imposed in excess of nine percent (9%) per annum shall be deemed a penalty. If the Director finds that a taxpayer has, in good faith, paid tax to a vendor, then the Director is hereby authorized to abate the interest and penalty in its entirety.

(i) **Interest and Penalty Assessment** 5-2-8(i)

Interest and penalties prescribed under this Article 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. If any portion of a tax is satisfied by credit of an overpayment, then no interest or penalty shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit has not been made, interest and penalty would have been allowed with respect to such overpayment.

JEOPARDY ASSESSMENT 5-2-9

(a) **Jeopardy Enforcement** 5-2-9(a)

If the Director finds that collection of the tax will be jeopardized by delay, in his/her discretion, he/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 subsection 5- 2-17 (Distraint).

(b) **Immediate Enforcement Action** 5-2-9(b)

In any other case wherein it appears that the revenue is in jeopardy, the Director may immediately issue demand for payment; and, regardless of the provisions of Section 5-2-11 (Hearing) and 5-2-12 (Appeals) of the Code, the tax shall be due and payable forthwith and, in his/her discretion, the Director may proceed immediately to collect said tax as provided in subsection 5-2-17 (Distraint).

(c) **Security for Payment** 5-2-9(c)

Collection under either subsection (a) or (b) of this Section 5-2-9 may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Director.

NOTICE BY MAIL 5-2-10

The taxpayer shall at all times have the burden of ensuring that his/her correct address is on file with the Director. In the event that a notice is sent to the taxpayer pursuant to this Code and said notice is not received by the taxpayer through no fault of the City of Northglenn, or the notice is returned by the post office as undeliverable or rejected by the taxpayer, such notice shall be deemed given on the date mailed and the City of Northglenn shall have no further obligation to complete service of the notice.

HEARINGS 5-2-11

(a) **Request for Hearing** 5-2-11(a)

Any taxpayer may request a formal or informal hearing on any proposed tax by reason of Notice of Final Determination--Assessment and Demand for Payment or by reason of denial of his/her claim for refund by application to the Director within twenty (20) days of the receipt of a notice of deficiency, assessment or denial of refund. The request for hearing shall set forth the taxpayer's reasons for and the amount of the requested

changes in the deficiency, assessment or denial of refund.

(b) **Hearing Time and Place** 5-2-11(b)

The Director shall notify the taxpayer in writing of the time and place for such hearing thirty (30) days prior thereto, unless the taxpayer requests shorter notice or an extension of time. In no event shall the hearing be held more than sixty (60) days after the Director's receipt of request for a hearing. In all cases, the hearing shall be held in Northglenn, Colorado, at the office of the Director.

(c) **Informal Hearing** 5-2-11(c)

If the taxpayer elects to participate in an informal hearing, which hearing must be held within thirty (30) days of the Director's receipt of the taxpayer's request for a hearing, additional informal hearings shall not be permitted except at the discretion of the Director. Informal hearings shall be conducted in any manner acceptable to the taxpayer and the Director with the purpose of settling the outstanding issues between the parties. If no settlement is reached, the taxpayer must request in writing a formal hearing on the record within twenty (20) days after the informal hearing and the Director shall give notice of the informal hearing pursuant to subsection (b) above. If the taxpayer fails to request a formal hearing, all further rights to a hearing and appeal are waived and the taxpayer shall be bound by the Notice of Final Determination--Assessment and Demand for Payment or Final Denial of Refund.

(d) **Director to Conduct Hearing** 5-2-11(d)

The hearing shall be held before the Director, or a hearing officer designated by the Director. At the hearing, the taxpayer may assert any facts, make any arguments and file any briefs and affidavits he/she believes pertinent to his/her case. The taxpayer shall be notified of the name of the hearing officer twenty (20) day before the hearing date and any objection by the taxpayer to the hearing officer shall be filed in writing at least forty- eight (48) hours prior to the hearing.

(e) **Hearing Based on Written Brief** 5-2-11(e)

The taxpayer may also file a written brief and such other written materials or documents as he/she shall deem appropriate and request that the Director reconsider the deficiency without a hearing. The Director shall proceed to 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. The City staff shall be permitted to respond in writing to the submittals of the Taxpayer. Rebuttal submissions may be permitted at the discretion of the Director.

(f) **Request for Hearing - Time Limitation** 5-2-11(f)

After the expiration of twenty (20) days from the receipt of the Notice of Final Determination--Assessment and Demand for Payment or Denial of Refund, if the tax has not been paid, or if no request for hearing has been requested, or no written brief has been filed by the taxpayer, then the Notice of Final Determination--Assessment and Demand for Payment previously mailed, shall constitute a final assessment of the amount of the tax specified, together with interest, additions to tax and penalties or shall constitute a final Denial of Refund, as the case may be. The Director may promptly take necessary steps to collect all amounts owed. The taxpayer shall have no further right to a hearing, trial, or appeal on the facts of its case.

(g) **Director May Adjust Tax Under Question** 5-2-11(g)

Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions, the Director may modify or abate part or in full the tax and the interest and penalty related to such tax questioned at the hearing or may approve a refund.

- (h) **Formal Hearing Determination Notices** 5-2-11(h)
After a formal hearing, upon rejection, in whole or in part, of the claim for refund or upon the finding by the Director that, on hearing the evidence, an assessment in whole or in part has been made against taxpayer validly, the Director shall send a Hearing Determination Notice to the taxpayer setting forth the amount of claim for refund denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection in whole or in part.
- (i) **Tax Due Date** 5-2-11(i)
Unless an appeal be taken as provided in Section 5-2-12 of this Code, the tax, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after receipt of the Hearing Determination Notice by the taxpayer.

APPEALS 5-2-12

The taxpayer may appeal the Hearing Determination Notice of the Director issued pursuant to Section 5-2-11 within thirty (30) days of the receipt of such determination. Such appeal shall be conducted pursuant to the terms of Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

REFUNDS 5-2-13

- (a) **Disputed Sales Tax** 5-2-13(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, the seller shall collect and the purchaser shall pay the tax and the seller shall issue to the purchaser a receipt or certificate, on forms prescribed by the Director, showing the names of the seller and the purchaser, the items purchased, the date, price, amount of tax paid, and a brief statement of the claim of exemption.
- (b) **Refund Allowed if Exempt** 5-2-13(b)
A refund shall be made, or a credit allowed, for the sales tax so paid under dispute by any purchaser who has an exemption under this Code provided 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 such forms as shall be prescribed and furnished by the Director, which forms shall contain such information as the Director shall prescribe.
- (c) **Refund Disallowed** 5-2-13(c)
Upon receipt of such application, the Director shall examine same with all due speed and shall give notice to the applicant by order in writing of his/her decision thereon. Aggrieved applicants, within twenty (20) days after such decision is received, may petition the Director for a hearing on the claim in the manner provided in Section 5-2-11.
- (d) **Refund Of Excess Use Tax** 5-2-13(d)
Whenever the Director discovers from the examination of a return or pursuant to an audit of a taxpayer's records that the taxpayer has overpaid use taxes due the City, the Director shall issue his/her warrant for payment of the excess taxes to the taxpayer, unless the overpayment is applied to offset other tax due. The Director shall keep in his/her files a duplicate of said warrant and also a statement that sets forth the reason why such refund was ordered.

- (e) **Taxpayer's Discovery of Overpayment of Use Tax** 5-2-13(e)
A taxpayer may apply for a refund of payment of excess use taxes within sixty (60) days after discovery of the overpayment. The Director may deny such refund if he/she finds the taxpayer did or reasonably should have discovered the overpayment more than sixty (60) days prior to the date of the application for a refund. The taxpayer may petition the Director for a hearing on the claim in the manner provided in Section 5-2-11 within twenty (20) days after receipt of the Director's Denial of Refund.
- (f) **Statute of Limitation** 5-2-13(f)
No refund shall be allowed or paid under any circumstances more than three (3) years after the City's receipt of sales or use taxes in question.
- (g) **Refund to Offset Previous Tax Due** 5-2-13(g)
Whenever it is established that any taxpayer has, for any period, overpaid a tax imposed by this Code, 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, so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance, shall be credited thereto and any excess of the overpayment shall be refunded.
- (h) **Special Refund - Under Collection-Retailer Overpayment of Taxes** 5-2-13(h)
If any retailer can demonstrate to the reasonable satisfaction of the Director, or his/her authorized agent, that consistent, diligent application and adherence by the retailer of the equivalent bracket system rates results in actual Under Collection of the sales tax by the retailer, then the Director is authorized to allow said retailer either a credit against future tax liability or a refund of such Under Collection as the Director may determine.
- (i) **Special Refund - Estimated Payment Basis-Contractor Overpayment of Taxes** 5-2-13(i)
Application for refund by contractors prepaying on an estimated percentage payment basis, or actual tax basis, shall be made within eighteen (18) months 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 shall prescribe.
- (j) **Special Refund - County and State Highway Department Refund** 5-2-13(j)
The foregoing Section 5-2-13(i) notwithstanding, however, applications for refunds submitted either by the County Commissioners of Adams County, or the Department of Highways of the State of Colorado, shall be submitted within eighteen (18) months after purchase of the tangible personal property purchased by any person, firm or corporation furnishing work and materials under contract, either with the said County Commissioners or the said Department of Highways, for construction or repair of any portion of a legally designated County or State Highway and appurtenances thereunto belonging, located within the corporate limits of the City.
- (k) **Refunds Not Assignable** 5-2-13(k)
The right of any person to a refund under this Code shall not be assignable and 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, except as provided in subsection 5-2-13(j) hereof. The Director may, upon receiving a properly executed release of claim from the taxpayer and evidence to substantiate that his/her tax was remitted in error to another municipality, issue a joint refund check in the name of the taxpayer and the municipality, provided that the municipality has entered into an agreement to grant similar privileges to the City of Northglenn.
- (l) **Burden of Proof of Exemption** 5-2-13(l)
The burden of proving that sales, services, and commodities, on which tax refunds are claimed, are exempt from taxation or were not at retail, shall be on the one making such claim under such reasonable requirements of proof as the Director may prescribe.

(m) **Claims for Recovery** 5-2-13(m)

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 correctly pay, collect and remit sales and use taxes to the City.

- (1) As used herein, "Claim for Recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.
- (2) When it is determined by the Finance Director of the City that sales and use tax owed to the City has been reported and paid to another municipality, the City shall promptly notify the 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 of recovery may only be made for good cause.
- (5) The City may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.
- (6) The period subject to a claim of recovery shall be limited to the thirty-six (36) month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

INTEREST ON OVERPAYMENTS AND REFUNDS 5-2-14

(a) **Interest Allowance Basis** 5-2-14(a)

No interest shall be paid upon any overpayment of sales or use tax unless:

- (1) Such overpayment was made under protest, and
- (2) The taxpayer has requested a refund in writing within sixty (60) days after the tax was paid.

(b) **Payment of Interest** 5-2-14(b)

- (1) No interest shall be allowed on any overpayment which is refunded within ninety (90) days after the actual payment of the tax or the last date prescribed for filing the return of such tax, determined without regard to any extension of time for filing the return, whichever is earlier.

- (2) If the taxpayer applies for an award of interest and otherwise has satisfied the provisions of this Section, interest shall be allowed at the rate of nine percent (9%) per annum.
 - (3) Interest shall accrue only from the date of the taxpayer's application for a refund. If the refund is to be applied against other taxes owed by the taxpayer, interest shall not be paid on the refund for the period after the due date of the amount against which the credit is taken.
- (c) **Refund Erroneously Made to Bear Interest** 5-2-14(c)
 Any portion of a sales or use tax, or any interest, assessable penalty, additional amount, or additional tax, which has been erroneously refunded, shall bear interest at the rate of nine percent (9%) per annum from the date of the payment of the refund.

FALSE OR FRAUDULENT REFUND CLAIM 5-2-15

- (a) **Violation of Code** 5-2-15(a)
 Any applicant for refund under the provisions of this Article, or any other person who shall make any false statement in connection with an application for a refund of any taxes shall be deemed guilty of a violation of this ordinance.
- (b) **Action to Recover Fraudulent Claims** 5-2-15(b)
 If any person is convicted of violation of Section 5-2-15(a) of this 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 is hereby empowered and directed to bring appropriate collection proceedings for recovery of such refunds.

DIRECTOR'S REMEDIES IN CASE OF NONPAYMENT 5-2-16

- (a) So long as a final assessment remains unpaid, the Director may take any of the following enforcement procedures against the defaulting taxpayer:
 - (1) Request the City Clerk to revoke the taxpayer's Sales and Use Tax License.
 - (2) Issue a summons to the person or taxpayer to appear in the Municipal Court of the City of Northglenn on charges of violating this Code.
 - (3) Issue a distraint warrant pursuant to this Code.
 - (4) File a complaint in County or District Court to collect all amounts owed.
- (b) Regardless of the collection or enforcement procedures invoked by the Director, all unpaid taxes, penalties, and interest shall be secured by a lien arising by operation of law as provided by this Code.

ENFORCING COLLECTIONS BY DISTRAINT 5-2-17

- (a) **Warrant** 5-2-17(a)
 The Director may issue a warrant under his/her own hand directed to any representative of the Department of Finance, including the sheriff of any county of the State, commanding him to distraint, seize, and sell the personal property of the taxpayer, except such personal property as is exempt from execution and sale by any provision of this Code, for the payment of the tax due together with penalties and interest accrued thereon and collection costs:

- (1) When any deficiency in tax is not paid within twenty (20) days from the receipt of Notice of Final Determination-Assessment and Demand for Payment and no hearing has been requested and no appeal from such deficiency assessment has been recorded with any district court of this state within said period; or
- (2) When any other amount of tax, penalty, or interest is not paid within twenty (20) days from the receipt of assessment and demand for payment thereof; or
- (3) Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in Section 5-2-9.

(b) **Distrainment Seizure – Advertisement – Sale – Redemption** 5-2-17(b)

- (1) 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 distrainment, shall be left with the owner or possessor, or at his/her usual place of abode with some member of his/her family over the age of eighteen (18) years, or at his/her usual place of business with his/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. If said notice cannot be served on the taxpayer within thirty (30) miles of the City of Northglenn, it shall be mailed to the taxpayer's last known address, return receipt requested.
- (2) The agent 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 distrainment is made, or, in lieu thereof and in the discretion of the Director, the agent or sheriff shall cause such notice to be publicly posted at the Court House of the county wherein such distrainment is made, and copies thereof to be posted in at least two other public places within said county.
- (3) 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 or sheriff if he/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 distrainment as aforesaid, the agent or sheriff 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 or sheriff conducting the sale may declare the same to be purchased by him for the City. The property so purchased may be sold by the agent or sheriff under such regulations as may be prescribed by the Director.

- (4) In any case of distrainment for the payment of taxes, the real property, 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.

(c) **Certificate of Sale - Evidence of Purchase** 5-2-17(c)

In all cases of sale, the agent or sheriff 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 or sheriff to make such sale, and the conclusive evidence of the regularity of his/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 or sheriff, 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 or sheriff,

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.

RECOVERY OF UNPAID TAX BY ACTION AT LAW 5-2-18

(a) **Action at Law 5-2-18(a)**

The Director may also treat any such taxes, penalties, or interest due and unpaid as a debt due the City from the taxpayer personally. In case of failure to pay the tax, or any portion thereof, or any penalty or interest thereon when due, the Director may receive at law the amount of such taxes, penalties, interest, and collection costs in such county or district court of the county wherein venue may be proper under the applicable rule of civil procedure. The return of the taxpayer or the assessment made by the Director as herein provided shall be prima facie proof of the amount due.

(b) **Writs of Attachment 5-2-18(b)**

Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff and in any such proceedings no bond shall be required of the Director nor shall any sheriff require of the Director an indemnifying bond for executing the writ of attachment, or writ of execution, upon any judgment entered in such proceedings; and the Director may prosecute appeals or writs of error in such cases without the necessity of providing bond therefor. It shall be the duty of the City Attorney, when requested by the Director, to commence action for the recovery of taxes due under this Code, and this remedy shall be in addition to all other existing remedies or remedies provided in this Code.

(c) **Civil Action to Enforce Lien against Real Property 5-2-18(c)**

In any case where there has been a refusal or neglect to pay any tax due the City, the Director may cause a civil action to be filed in the district court of the county in which is situated any real property which is subject to said tax, to enforce the lien of the City for such tax upon the real property situated 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. The court shall decree a sale of such real property and distribute the proceeds of such sale, according to the findings of such court in respect to the interest of the parties and of the City; the proceedings in such action and the manner of sale, the period for and manner of redemption from such sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

(d) **Exhaustion of Administrative Remedies 5-2-18(d)**

The City may file no lawsuit until the time for the taxpayer to exercise his/her administrative remedies or to file an appeal has expired. This remedy shall be in addition to all other existing remedies available to the City. No de novo trial of the facts shall be permitted if the taxpayer has had a hearing before the Director or has had the opportunity for such a hearing, but failed to exhaust his/her administrative remedies.

SALES AND USE TAX CONSTITUTES LIEN 5-2-19

(a) Any sales or use tax imposed by this Code, together with the interest and penalties herein provided, and the cost of collection, shall be a first and prior lien upon:

- (1) The goods, stock-in-trade, and business fixtures of or used by any taxpayer under lease, title-retaining contract, or other contractual arrangement; and
- (2) The real and personal property owned or leased by any such taxpayer, including personal property affixed to real property, and shall take precedence on all such property over other claims and mortgages.

This lien shall arise upon the day the tax becomes due and payable and shall be extinguished by operation of law when the tax is paid in full, including any interest, penalty, and collection costs.

- (b) Whenever the business or property of any taxpayer subject to this Code shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for property or other taxes, all taxes, penalties, and interest imposed by this Code and for which said person is in any way liable under the terms of this Code, shall be a prior and preferred lien against all the property of said taxpayer, and no sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this Code under process or order of any court, without first ascertaining from the Director the amount of any taxes due and payable under this Code. If there be any such taxes due, owing or unpaid, it shall be the duty of such officer to first pay the amount of said taxes out of the proceeds of said sale before making payment of any moneys to judgment creditors or other claims of whatsoever nature.
- (c) At any time a tax has accrued but is unpaid, the Director may issue a notice of tax lien, 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. Said notice may be filed in the office of the Clerk and Recorder of any county in the state in which the taxpayer owns real or tangible personal property. Issuance of such notice and filing thereof shall be at the discretion of the Director and shall not affect the priority or validity of the lien provided by this Code, which arises by operation of law when the tax accrues and is payable.
- (d) Any representative of the Director for whom a distraint 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 if not previously recorded with the County Clerk and Recorder. The Director may release said lien as to any part or all of the property or rights to property covered by such lien upon such terms as he/she may deem proper.
- (e) Any lien for taxes as shown on the records of the County Clerks and Recorders as herein provided, upon payment of all taxes, penalties, and interest covered thereby, shall be released by the Director in the same manner as mortgages and judgments are released.

COMPROMISE 5-2-20

- (a) **Compromise Limitation 5-2-20(a)**
After an assessment has become final because the taxpayer has waived its right to a hearing or because the hearing officer has issued his or her final decision, the Director, or City Attorney may compromise to the extent of One Thousand Dollars (\$1,000.00) any collection proceeding arising under this Code.
- (b) **Compromise Record 5-2-20(b)**
Whenever a compromise, in value or valuation, of One Thousand Dollars (\$1,000.00) or less is made by the Director or his/her delegate in any case, there shall be placed on file in the office of the director or his/her delegate the opinion of the Director with his/her reasons therefor, which may include financial inability of the taxpayer to pay a greater amount, with a statement of:
 - (1) The amount of tax assessed;
 - (2) The amount of interest, additional amount, additional 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 terms of the compromise.

SALE OF BUSINESS OR PROPERTY SUBJECT TO LIEN 5-2-21

- (a) Any person or taxpayer who shall sell out his/her business or stock of goods or all the assets of a business to another person or any person or taxpayer who quits business, shall make out the return as required by this Code and remit all taxes due within twenty (20) days after the business or stock of goods is sold or the taxpayer quits business. The purchaser or successor to the business, stock of goods or assets shall withhold sufficient of the purchase money to cover all of said taxes until such time as the former owner produces a receipt from the director showing that all taxes have been paid in full.
- (b) Taxes due upon the sale of a business or stock of goods include all sales taxes which were collected or should have been collected prior to the sale, all use taxes accruing or payable prior to the sale, and all sales taxes due on the personal property sold by the seller to the new owner of the business or stock of goods.
- (c) Until all taxes due under this Section are paid in full, both the former owner and the purchaser shall remain personally liable thereon and subject to all collection proceedings available under this Code. Action by the City against the former owner shall not prevent the exercise by the City of all remedies provided herein against the successor owner.
- (d) Any person who takes or purchases personal or real property 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 taxes owed by the original owner and shall be liable for the payment of all delinquent taxes, interest, penalty, and collection costs of such prior owner, not however, exceeding the value of the property so taken or acquired. Any person who takes title to or possession of any real property upon which a use tax is owed takes said property subject to the lien for said delinquent tax and shall be liable for the payment thereof to the extent of the tax, interest, penalties, and collection costs.

NO FINAL INSPECTION OR CERTIFICATE OF OCCUPANCY UNLESS TAX PAID 5-2-22

No final inspection shall be made by the City Building Inspector, and no Certificate of Occupancy shall be issued unless all taxes due as provided in the City Sales and Use Tax Code have been paid or arrangements therefore made with the Director.

CERTIFICATE OF DISCHARGE – PARTIAL – VALUES DETERMINED 5-2-23

- (a) **Certificate of Discharge Subject to Lien 5-2-23(a)**
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 may issue a certificate of discharge of any part of the property subject to the lien if he/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.
- (b) **Certificate of Discharge to Part of Property 5-2-23(b)**
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 may issue a certificate of discharge of any part of the property subject to the lien if there be paid over to the Director in part satisfaction of the liability in respect to such tax an amount determined by the Director, which shall not be less than the value, as determined by her/him, of the interest of the City in the part to be so discharged.
- (c) **How Values Determined 5-2-23(c)**
In determining such values, the Director 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.
- (d) **Certificate of Release Conclusive 5-2-23(d)**

A certificate of release or of partial discharge issued under subsection 5- 2-23(a) shall be held conclusive that the lien of the City upon the property released therein is extinguished, but shall not extinguish, nor release, any portion of the lien nor property not specified in the release.

CLOSING AGREEMENTS 5-2-24

(a) **Satisfaction of Liability 5-2-24(a)**

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 5-2-24(b)**

Except as provided in subsection 5-2-23(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/her control without having first paid any taxes covered by this Code due from such 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, 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 5-2-24(c)**

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 distribution.

(d) **Limitation of Liability 5-2-24(d)**

(1) In case tax covered by this Article is due from a decedent, or of his/her estate, or by 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:

- (i) Such request notifies the Director that the corporation contemplates dissolution at or before the expiration of such eighteen (18) month period.
- (ii) The dissolution is begun in good faith before the expiration of such eighteen (18) month period; and
- (iii) The dissolution is completed.

(3) Upon the expiration of said eighteen (18) month period, without determination being made and notice and demand being issued, the personal representative or representative of the decedent and the

directors of the corporation no longer will be liable under the provisions of subsection (b) of this Section.

LIMITATIONS 5-2-25

(a) **General Limitations 5-2-25(a)**

(1) **Statute of Limitations 5-2-25(a)(1)**

Except as provided in this Section, the taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this Code shall not be assessed, nor credit taken, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; 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 the case of a failure to make a return or in the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. The commencement of collection proceedings shall toll the running of the statute of limitations.

(2) **Date Fixed 5-2-25(a)(2)**

For purposes of this Section a tax return filed before the last day prescribed by law or by regulation promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(3) **Extension of Period 5-2-25(a)(3)**

Where, before the expiration of the time prescribed in this Section for the assessment of tax, both the Director or his/her delegate and the taxpayer have consented in writing to any assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(4) **Revision Qualification - Periods Covered 5-2-25(a)(4)**

Nothing in this Section shall be construed to limit any right accrued or to revive any liability barred by any statute at the date this Code becomes effective.

(b) **Trust Status of Tax in Possession of Retailer 5-2-25(b)**

All sums of money paid by the purchaser to the retailer as taxes imposed by this Code shall be and remain public money, the property of the City of Northglenn, in the hands of such retailer and he/she shall hold the same in trust for the sole use and benefit of the City of Northglenn, until paid to the Director, and for failure to so pay to the Director, such retailer shall be punished as provided by law. Thus, the statute of limitation provided herein does not apply to collections of public money in the possession of the retailer and such moneys are collectable at any time after their due date upon demand of the Director.

NOTICE OF SALES AND USE TAX ORDINANCE AMENDMENT 5-2-26

(a) In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Finance Director of the City shall file with the Colorado Municipal League prior to the effective date of this Section a copy of the City Sales and Use Tax Ordinance reflecting all provisions in effect on the effective date of this Section.

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

- (c) Failure of the City to file such ordinance or ordinance amendment pursuant to this Section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto.

PARTICIPATION IN SIMPLIFICATION MEETINGS 5-2-27

The Finance Director or his/her designee shall cooperate with and participate on an as needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League which is composed of State and municipal sales and use tax and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise.

SEVERABILITY - SAVING CLAUSE 5-2-28

- (a) As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City; and the term “this ordinance” means and includes the ordinance enacting this Section, together with any and all exhibits and schedules therein incorporated, and each chapter, Article and Section of the Municipal Code in which such ordinance is codified.
- (b) If any provision of this ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council of the City of Northglenn hereby declares that it would have passed this ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid.
- (c) The amendment, repeal, or supersession of any ordinance or provision of any ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, liability, or right which may have been incurred or obtained under such ordinance or provision thereof; and such ordinance or provision thereof so amended, repealed, or superseded shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

ARTICLE 3: NORTHGLENN SALES AND USE TAX CODE

RATE: IMPOSITION, COLLECTION, AND DISTRIBUTION 5-3-3

Sales Tax 5-3-3(a)

A sales tax rate of four percent (4%) is hereby levied upon all sales of tangible personal property and services specified in Section 5-3-5, with the exception of food for domestic home consumption as defined in Section 5-3-4(a)(27). A sales tax rate of three and one-half percent (3.5%) is levied upon all sales of food for domestic home consumption. All sales from retail, unless otherwise exempt, are subject to the sales tax. The vendor must collect the tax from the purchaser.

For accommodation services less than thirty consecutive (30) days, the tax rate levied shall be five percent (5%).

Use Tax 5-3-3(b)

There is hereby imposed and shall be collected from every person in the City a use tax for the privilege of storing, using, distribution, or consuming in the City any articles of tangible personal property or taxable services purchased, leased, or rented from sources inside or outside the City, on which the City sales tax has not been paid. Except as provided in this subparagraph, a use tax rate of four percent (4%) is levied upon all tangible personal property items or taxable services, other than food for domestic home consumption as defined in Section 5-3-24(a)(27), on which the City sales tax was not paid. A use tax rate of three and one-half percent (3.5%) is levied upon food for domestic home consumption.

Imposition and Collection 5-3-3(c)

The taxes specified in this Section are imposed upon the purchaser. Any seller engaged in business in the City of Northglenn shall collect the tax and remit it to the City pursuant to the tax rates set forth in Sections 5-3-3(a) and 5-3-3(b).

5-3-3(d)

The tax imposed in this Section shall continue to be levied and collected until amended or repealed by ordinance.

5-3-3(e)

The tax imposed in this Code shall be in addition to all other taxes imposed by law.

Tax as a Separate and Distinct Item 5-3-3(f)

Except as provided in Section 5-3-3(g), retailers shall add the tax imposed hereby, or the average equivalent thereof, to the purchase price or charge of the item or service, and provide the customer with a receipt that shows the tax charged as a separate and distinct charge, 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.

Tax Included in Selling Price 5-3-3(g)

Only retailers selling malt, vinous, or spirituous liquors by the drink, may include in the sales price or charge the tax levied. No retailer shall advertise or hold out to the public in any manner, directly or indirectly, that tax is not included as a part of the sales price to the consumer. No retailer shall gain any benefit from the collection or payment of such tax, nor shall the use of rates set forth in subsections 5-3-3 (a) & (b) of this section release such retailer from liability for payment of the full amount of the tax levied by this ordinance.

GENERAL TERMS, DISTINCTION, WORDS, AND PHRASES DEFINED 5-3-4

Definitions 5-3-4(a)

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

- (1) **Access Services** 5-3-4(a)(1)
“Access Services” means the services furnished by a local exchange company to its customers who provide telecommunications services that allow them to provide such telecommunication services.

- (2) **Accommodations** 5-3-4(a)(2)
“Accommodations” means the furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, 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, guest house, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than thirty days under any concession, permit, right of access, license to use, or other agreement, or otherwise.
- (3) **Adjusted Gross Sales and Services** 5-3-4(a)(3)
“Adjusted Gross Sales and Services” means the gross sales and services with the addition of:
- (i) Cost of goods purchased tax-free by taxpayer and taken from his/her stock and used or consumed by him personally or used by him in the rendering of a service; or
 - (ii) Collection, during the current taxable period, of bad debts that had, during a previous taxable period, been deducted from adjusted gross sales and services.
- (4) **Auction Sale** 5-3-4(a)(4)
“Auction Sale” 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 of such property or is in fact the owner thereof.
- (5) **Automotive Vehicle** 5-3-4(a)(5)
“Automotive Vehicle” means any vehicle or device in, upon, or 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 homes, trailers, semi-trailers or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.
- (6) **Business** 5-3-4(a)(6)
“Business” means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.
- (7) **Capital Expenditure** 5-3-4(a)(7)
“Capital Expenditure” as used in this ordinance means an expenditure made by the City of Northglenn for the purpose of providing a permanent addition or improvement to property of the City made with the expectation of existence for an indefinite period. The term furthermore includes those expenditures for that category of items which, when privately owned, are treated as depreciable by the United States Internal Revenue Service for income tax purposes, including but not limited to, the purchase of major equipment and motor vehicles.
- (8) **Charitable Organization** 5-3-4(a)(8)
“Charitable Organization” means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational purposes, to foster national or international amateur sports competitive (but only if no part of its activities involve the provisions of athletic facilities or equipment), for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

- (9) **City or Town** 5-3-4(a)(9)
“City” or “Town” means the municipality of the City of Northglenn.
- (10) **City Council** 5-3-4(a)(10)
“City Council” means the elected legislative body of the City of Northglenn.
- (11) **City Manager or Manager** 5-3-4(a)(11)
“City Manager” or “Manager” means the City Manager of the City of Northglenn or any duly authorized agent or representative acting in his/her stead or behalf.
- (12) **Code** 5-3-4(a)(12)
“Code” means the Sales and Use Tax Code of the City of Northglenn or any of the adopted Codes of the City of Northglenn as the context indicates.
- (13) **Coin-Operated Laundry Equipment** 5-3-4(a)(13)
“Coin-Operated Laundry Equipment” means equipment, operated by use of currency or token, normally used to provide the service of cleaning and drying of clothing and other apparel.
- (14) **Construction Materials** 5-3-4(a)(14)
“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, builder’s hardware, caulking material, cement, concrete, conduit, electric wiring and connections, glass, gravel, insulation, lath, lead, lime, limber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather striping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.
- (15) **Consumer** 5-3-4(a)(15)
“Consumer” means (A) any individual person or (B) persons 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.
- (16) **Consumption** 5-3-4(a)(16)
“Consumption” means the act or process of consuming; it includes waste, destruction or use. Consumption is the normal use of property for the purpose for which it was intended.
- (17) **Department of Finance or Department** 5-3-4(a)(17)
“Department of Finance” or “Department” means the Department of Finance of the City of Northglenn, of which the Sales and Use Tax Division is a part of.
- (18) **Distinction Between Sales and Use Tax** 5-3-4(a)(18)
The primary distinction between sales tax and use tax is that the sales tax is collected by persons engaged in business in the City from the purchaser or consumer and such person pays the tax to the City, while in the absence of that tax charge, then the use tax is levied directly upon the person who purchases the commodities or services and uses the same in Northglenn, which person must make remittance of the tax, together with the returns showing the purchase and the use of articles which are subject to the tax, directly to the City.

In accordance with the Sales and Use Tax Code, any person engaged in business in the City of Northglenn and making sales, even though not maintaining an office in the City, of property or services subject to the sales tax must collect and remit the sales tax on such sales.

The sales and use tax are compliments to each other and together provide a uniform tax on the sales, purchase, use, storage, distribution, or consumption of all tangible personal property and taxable services purchased, leased, or rented at retail as herein defined.

- (19) **Distribution** 5-3-4(a)(19)
“Distribution” means the act of distributing any article of tangible personal property purchased at retail for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shopper’s guides, catalogues, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.
- (20) **Drugs Dispensed in Accordance with a Prescription** 5-3-4(a)(20)
“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 a practitioner, and immediately reduced to writing specifying the name and address of the person for whom the medicine, drug, or poison is offered and directions, if any, to be placed on the label.
- (21) **Engaged in Business in the City** 5-3-4(a)(21)
“Engaged In Business In The City” means performing or providing services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use, or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:
- (i) Directly, indirectly, or by a subsidiary, maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction. See National Geographic Society v. State Board of Equalization, 430 U.S. 551 (1977);
 - (ii) Sends one or more employees, agents, or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products or for demonstration or other reasons. See Scripto, Inc. v. Carson, 362 U.S. 207 (1960);
 - (iii) Directly or indirectly maintains one or more employees, agents, or commissioned sales persons on duty at a location within the taxing jurisdiction. See Standard Pressed Steel Co. V. Washington Dept. Rev., 419 U.S. 560 (1975);
 - (iv) Owns, leases, rents, or otherwise exercises control over real or personal property within the taxing jurisdiction; or
 - (v) Makes more than one delivery into the taxing jurisdiction within a twelve-month period.

REGULATION 5-3-4(a)(21)

The vendors who deliver tangible personal property, or cause to be delivered such property purchased from them at retail to a Northglenn resident are subject to the provisions of the Northglenn Sales and Use Tax Code. Any vendor who delivers or causes such deliveries to be made without first complying with the Northglenn City Sales and Use Tax Code or any other person aiding or abetting the non-complying vendor, including but not limited to, common or contract or commercial carriers so delivering such tangible personal property for the vendor, shall be deemed by the Finance Director as guilty of a violation of this Code pursuant to Section 5-3-24 and shall be prosecuted accordingly. See Good's Furniture v. Iowa State Bd. Tax, 479 U.S. 817 (1986).

When a vendor who delivers tangible personal property into the City has control over the property when delivered into the City, that vendor is considered to be engaged in business in the City. See Walgreen Company v. Charnes, 859P.2d 235 (1992).

Pursuant to State Code Section 39-26-102(3)(b), vendors who regularly or systematically make indirect or direct solicitations in this jurisdiction through representatives, agents, distribution of catalogues, or other advertising, by use of any type communication media, or any other means, are also considered to be engaged in business in the City.

The law provides the following methods for the payment of the sales tax:

- (i) If the vendor maintains a place of business or office in the City or State, such vendor shall be responsible for the collection and remittance of the sales tax on all sales made by such a vendor for use, storage, distribution, or consumption in Northglenn regardless of whether or not the purchaser buys through offices in the City or State, or orders by mail, internet, or otherwise direct from the retailer in another city or state.
- (ii) If the vendor does not have an office or place of business in the City or State, but does have salespersons or other representatives soliciting orders and making sales in Colorado and Northglenn, then such vendor may be responsible for the entire tax on all sales made for use, storage, distribution, or consumption in Northglenn and if such vendor does not assume such responsibility, then such salespersons or agents must collect and remit the Northglenn Tax.
- (iii) At the Director of Finance's discretion a cash deposit may be required of any transient salesperson or vendor subject to refund of such cash deposit upon complete compliance with the licensing and reporting provisions of this Code. The refund time limitations and other provisions set out in Section 5-2-13 of this Code shall apply in cases of such cash deposit. The Director of Finance shall require a deposit in an amount sufficient to pay any tax liability of the transient salesperson or vendor arising under this Code based on the best information available to the Director of Finance.

(22) **Excess Tax** 5-3-4(a)(22)

“Excess Tax” means that amount of tax collected during a reporting period that is in excess of four percent (4%) of City net taxable sales and services other than food for domestic home consumption (which is taxed at three and one-half percent (3.5%)), and which excessive collection must be remitted to the City using the method prescribed in Section 5-3-15.

- (23) **Exemptions** 5-3-4(a)(23)
“Exemptions” means those deductions from adjusted gross sales and services in order to arrive at a taxable base, which exemptions may include exempt transactions (in whole or in part), sales or purchases of exempt commodities, articles or services, or sale to exempt “persons” who may either be exempt on their direct purchases or exempt on the type of commodity, articles or services purchased, all set forth in Section 5-3-6 herein.
- (24) **Exempt Commercial Packaging Materials** 5-3-4(a)(24)
“Exempt Commercial Packaging Materials” means containers, labels, and shipping cases by a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing, or bottling for sale, profit, or use that meets all of the following conditions:
- (i) Is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor, or bottler to contain or label the finished product;
 - (ii) Is transferred by said person along with and as a part of the finished product to the purchaser; and
 - (iii) Is not returnable to said person for reuse.
- (25) **Farm Closeout Sale** 5-3-4(a)(25)
“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.
- (26) **Finance Director or Director** 5-3-4(a)(26)
“Finance Director” or “Director” means the Finance Director of the City of Northglenn or such other person designated by the municipality; “Finance Director” shall also include such person’s designee.
- (27) **Food** 5-3-4(a)(27)
“Food” means food for domestic home consumption as defined in 7 U.S.C. Section 2012(g) as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. Section 2012(h), as amended; except that “food” does not include carbonated water marketed in containers, chewing gum, seeds and plants to grow food, prepared salads and salad bars, cold sandwiches, deli trays, and food or drink vended by or through machines or non coin-operated coin-collecting food and snack devices on behalf of a vendor.
- (28) **Fuel** 5-3-4(a)(28)
“Fuel” means gas, electricity, nuclear, steam, coal, wood, fuel oil, or coke.
- (29) **Gross Sales and Service or Gross Taxable Sales** 5-3-4(a)(29)
“Gross Sales and Service” or “Gross Taxable 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.
- (30) **License** 5-3-4(a)(30)
“License” means a City of Northglenn Sales and Use Tax License.
- (31) **Linen Services** 5-3-4(a)(31)
“Linen Services” means services involving provision and cleaning of linens including, but not limited to, rags, uniforms, coveralls, and diapers.

- (32) **Medical Supplies** 5-3-4(a)(32)
“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 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.
- (33) **Mobile Machinery and Self-Propelled Construction Equipment** 5-3-4(a)(33)
“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 ditches.
- (34) **Newspaper** 5-3-4(a)(34)
“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, journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mail services, listings, publications that include an updating or revision services, or books or pocket editions of books.
- (35) **Net Taxable Sales and Services** 5-3-4(a)(35)
“Net Taxable Sales And Services” means adjusted gross sales and services less authorized “exemptions” therefrom.
- (36) **Notice** 5-3-4(a)(36)
All “Notices” required to be given under the provisions of this Code shall be in writing and given personally or by mail, in which the event notice shall be sufficient for the purpose of this Code, unless context indicates otherwise. If mailed, postpaid by certified or registered mail to the addressee’s last known address as shown on the City’s tax records or the property tax records of any county wherein the taxpayer owns property under the general property tax laws of the State of Colorado.
- (37) **Pay Television** 5-3-4(a)(37)
“Pay Television” shall include, but not limited to, cable, microwave, or other television service for which a charge is imposed.

- (38) **Person** 5-3-4(a)(38)
“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.
- (39) **Prepared Food or Food for Immediate Consumption** 5-3-4(a)(39)
“Prepared Food” or “Food For Immediate Consumption” means food or drink served or furnished in or by restaurants, cafés, lunch counters, cafeterias, hotels, drug stores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carry-out shops, and other places of business at which prepared food or drink, prepared salads in salad bars, cold sandwiches, and deli trays are regularly sold, including sales from grocery stores, delicatessens, pushcarts, motor vehicles, and other mobile facilities and vending machines.
- (40) **Preprinted Newspaper Supplements** 5-3-4(a)(40)
“Preprinted Newspaper Supplements” shall mean inserts, attachments, or supplements circulated in newspapers that:
- (i) Are primarily devoted to advertising;
 - (ii) The distribution, insertion, or attachment of which is commonly paid for by the advertiser.
- (41) **Prescription Drugs for Animals** 5-3-4(a)(41)
“Prescription Drugs For Animals” means drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.
- (42) **Price or Purchase Price** 5-3-4(a)(42)
“Price” or “Purchase Price” means the price to the customer, 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:
- (i) Such exchanged property is to be sold thereafter in the usual course of the retailer’s business;
or
 - (ii) 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 the state, 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:
- (i) The amount of money received or due in cash and credits.
 - (ii) Property at fair market value taken in exchange but not for resale in the usual course of the retailer’s business.
 - (iii) 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 exchanges.

- (iv) The total price charged on credit sales including finance charges that are not separately stated. An amount charged as interest on the unpaid balance 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.
- (v) Installation, delivery, and wheeling-in charges included in the purchase price and not separately stated.
- (vi) Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- (vii) Indirect federal manufacturer's excise taxes, such as taxes on automobiles, tires, and floor stock.
- (viii) The gross purchase price of articles sold after manufacturing or after having been made to order, including gross value of all material used, labor and service performed, and the profit thereon.

"Price" or "Purchase Price" shall not include:

- (i) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
- (ii) 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.
- (iii) Discounts from the original price if such discount and the corresponding decrease in sales tax due are 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.

(43) **Private Communications Service** 5-3-4(a)(43)

"Private Communications Service" means telecommunication services furnished to a subscriber which entitles the subscriber to exclusive or priority use of any communication channel or group of channels, or to the exclusive or priority use of any interstate intercommunication system for the subscriber's stations.

(44) **Prosthetic Devices** 5-3-4(a)(44)

"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, orthopedic devices or appliances, oxygen concentrators, and oxygen with related accessories.

(45) **Purchase or Sale** 5-3-4(a)(45)

"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 leases, installment and credit sales, and property and services acquired by:

- (i) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property.
- (ii) A lease, lease-purchase agreement, rental, or grant of license, including royalty agreements, to use tangible personal property or taxable services.
- (iii) Performance of taxable services.
- (iv) Barter or exchange for other property or services, including coupons.

The terms "Purchase" and "Sale" do not include:

- (i) A division of partnership assets among the partners according to their interests in the partnership.
- (ii) 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.
- (iii) The transfer of assets of shareholders in the formation or dissolution of professional corporations.
- (iv) The dissolution and the pro rata distribution of the corporation's assets to its stockholders.
- (v) A transfer of a partnership interest.
- (vi) The transfer in a reorganization qualifying under Section 368(a)(1) of the Internal Revenue Code of 1954, as amended.
- (vii) 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.
- (viii) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder.
- (ix) 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.
- (x) 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.

- (xi) 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 transfer or 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 of any transfer referred to in this paragraph (xi) shall constitute a sale. For the purpose of this paragraph (xi), 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.

“Purchase” or “sale” or “Sale and Purchase” shall mean any transaction whereby a person, in exchange for a valuable consideration such as money or its equivalent, property, or the rendering of a service, effects any of these things:

- (i) Transfers, or agrees to transfer, either conditionally or absolutely, title or possession or both title and possession, all or part of his/her interest, or the interest of any other for whom he/she is acting as agent, any tangible personal property, as defined, to any other person; or,
- (ii) Leases, rents, or grants a license to use (including royalty agreements), or agrees to lease, rent, or grant a license to use (including royalty agreements), tangible personal property, as defined, for use, storage, distribution, or consumption to any person for any length of time; or
- (iii) Performs or furnishes, or agrees to perform or furnish, or contracts to have another perform or furnish any service taxable under this act for any other person.

Regardless of whether the transaction is absolute or conditional, it shall be considered a “sale” if it results in title or possession, or both, being transferred by the seller to a buyer, for any length of time whatsoever or for any “use” as defined, whatsoever, and shall additionally be considered a “sale” regardless that title or actual possession remains at all times with the owner of the property as set forth in Section 5-3-5(c)(7) and elsewhere herein.

Hourly, daily, weekly, monthly, or any term rentals or leases are considered sales under the Northglenn Sales and Use Tax Code.

- (46) **Purchaser or Consumer** 5-3-4(a)(46)
“Purchaser” or “Consumer” means any person to whom taxable service has been rendered or who shall have leased, rented or purchased at retail, taxable services or tangible personal property which is purchased, delivered, used, stored, distributed, or consumed in the City, upon which a tax is imposed hereby.
- (47) **Recreation Services** 5-3-4(a)(47)
“Recreation Services” means all services relating to athletic or entertainment participation events, including, but not limited to, pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin-operated amusement devices, video games, and video club memberships.

- (48) **Resident** 5-3-4(a)(48)
“Resident” means, for the purpose of taxation provisions herein, a person who resides or maintains his domicile within the City of Northglenn or who maintains one or more places of business within the City at the time of a taxable transaction as defined herein.
- A person may have dual residency, or other places of residence or domicile, or place of business outside the City prior to, during or after the occurrence of the taxable transaction and be a “resident” according to the terms of this definition.
- (49) **Retail Trade** 5-3-4(a)(49)
“Retail Trade” means all sales, except wholesale sales.
- (50) **Retailer or Vendor** 5-3-4(a)(50)
“Retailer” or “Vendor” means any person selling, leasing or renting tangible personal property or services at retail. Retailer shall include, but not limited to, any of the following:
- (i) Auctioneer.
 - (ii) 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.
 - (iii) 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 a gift or donation or that the proceeds are to be used for charitable or governmental purposes.
- (51) **Return** 5-3-4(a)(51)
“Return” means the sales and use tax reporting form used to report sales and use tax.
- (52) **Room** 5-3-4(a)(52)
“Room” means a regular sleeping room or unit which is part of a hotel, apartment hotel, inn, lodging house, guest house, motor hotel, mobile home, dude ranch, or guest ranch for which a charge is made for its use. A regular “meeting room” shall be exempt from taxation under this Section of the ordinance.
- (53) **Sales Tax** 5-3-4(a)(53)
“Sales Tax” means the tax to be collected and remitted by a retailer on sales taxed under this Code.
- (54) **Security System Services** 5-3-4(a)(54)
“Security System Services” means electronic security system services. Such term does not include non-electronic security services, such as consulting or human or guard dog patrol services.
- (55) **Sound System Services** 5-3-4(a)(56)
“Sound System Services” means sound system services involving provision of broadcast or pre-recorded 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.
- (56) **Special Accounting Basis or Estimated Percentage Basis** 5-3-4(a)(57)
“Special Accounting Basis” or “Estimated Percentage Basis” means the permission to pay or satisfy in full City sales or use tax liability on a percentage of gross sales or gross purchases, and which is granted to facilitate tax reporting to qualified consumers or vendors upon petition to the Director of Finance or his/her agent on basis prescribed in 5-3-17 and elsewhere herein.

- (57) **Special Event** 5-3-4(a)(55)
“Special Event” means any sales event, taking place at a single location for a limited period of time not to exceed three (3) days, which includes three (3) or more vendors.
- (58) **Storage** 5-3-4(a)(58)
“Storage” means any keeping or retention of, or exercise or dominion or control over, or possession for any length of time of tangible personal property when leased, rented, or purchased at retail from sources either within or without the City from any person or vendor.
- (59) **Tangible Personal Property or Personal Property** 5-3-4(a)(59)
“Tangible Personal Property” or “Personal Property” means corporal personal property.
- (60) **Tax** 5-3-4(a)(60)
“Tax” means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from the retailer who also consumes.
- (61) **Tax Deficiency** 5-3-4(a)(61)
“Tax Deficiency” means any amount of tax that is not reported or not paid on or before the due date.
- (62) **Taxable Sales** 5-3-4(a)(62)
“Taxable Sales” means gross sales less any exemptions and deductions specified in this Code.
- (63) **Taxable Services** 5-3-4(a)(63)
“Taxable Services” means services subject to tax pursuant to this Code.
- (64) **Taxpayer** 5-3-4(a)(64)
“Taxpayer” means any person obligated to collect and/or pay tax under the terms of this Code.
- (65) **Telecommunications Service** 5-3-4(a)(65)
“Telecommunications Service” means the transmission of any two-way interactive electromagnetic communications, including but not limited to, voice, image, data, and other information, by the use of any means, but not limited to, wire, cable, fiber optical cable, microwave, radio wave, or any combination 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 non-transmission services which constitute computer processing applications used to act on the information to be transmitted.
- (66) **Therapeutic Device** 5-3-4(a)(66)
“Therapeutic Device” means devices, appliances, or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality; if such device, appliance, or related accessory has a retail value of more than one hundred dollars (\$100), then it must be sold in accordance with a written recommendation from a licensed doctor to qualify as a “therapeutic device” for purposes of this Code.

- (67) **Total Tax Liability** 5-3-4(a)(67)
“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.
- (68) **Use** 5-3-4(a)(68)
“Use” means the exercise, for any length of time, by any person within the City of any right, power or dominion over tangible personal property when rented, leased, or purchased at retail from sources either within or without the City from any person or vendor.
- (69) **Use Tax** 5-3-4(a)(69)
“Use Tax” means the tax paid or required to be paid by a consumer for using, storing, distributing, or otherwise consuming tangible personal property or taxable services inside the City.
- (70) **Vendor’s Fee or Retainage** 5-3-4(a)(70)
“Vendor’s Fee” or “Retainage” means the percent of total City sales and use tax collected which is authorized to be retained by the licensed vendor to compensate him for his/her expenses of collecting and remitting the City sales and use tax on his/her sales to the various purchasers or consumers. Consumers are not entitled to the Vendor’s Fee on consumer use tax reported and paid.
- (71) **WATTS/800 Service** 5-3-4(a)(71)
“WATTS/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 telephonic stations in specified areas which are outside the telephone system area in which the subscriber’s station is located.
- (72) **Wholesale Sale** 5-3-4(a)(72)
“Wholesale Sale” means sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to non-licensed retailers are not wholesale sales.
- (73) **Wholesaler** 5-3-4(a)(73)
“Wholesaler” means any person selling to retailers, jobbers, dealers, or other wholesalers for resale and not for storage, use, consumption or distribution.

TAXABLE TRANSACTIONS, COMMODITIES, AND SERVICES 5-3-5

5-3-5(a)

It shall be in violation of this Code for any seller not to collect the tax levied by this Code. It shall also be a violation of this Code for any purchaser not to pay the tax levied by this Code or to pay the tax levied upon a sale where the status of exemption is disputed.

5-3-5(b)

Should a dispute arise between the purchaser and seller as to whether or not the sale is exempt from taxation, the seller shall collect and the purchaser shall pay the City sales tax. The purchaser may thereafter apply to the Director of Finance for a refund of such taxes paid.

5-3-5(c)

The following are taxable transactions, commodities, and services that are subject to the sales tax of the City of Northglenn:

(1) **Tangible Personal Property or Personal Property** 5-3-5(c)(1)

Tangible personal property that is sold, leased, or rented, whether or not such property has been included in a previous taxable transaction.

REGULATION 5-3-5(c)(1)

The tax falls on every separate transaction involving the sale, lease, rental, or grant of right or license to use any article of tangible personal property at retail. If the property is purchased and utilized by the purchaser for their own general business or personal use, other than for customer demonstration, display, or stock inventory purposes, there is due a tax upon the purchase price as specified in the Code. An example of such taxable use would be the use of an automotive vehicle by the owner, salesperson, or employees, etc., of an auto agency for their own personal use. If that purchaser subsequently rents, leases, or sells that property to another person, the tax shall also apply to that lease, rental, or sale as a separate and distinct transaction.

If a purchaser buys property to be used exclusively in the rental or leasing business and does not utilize that property for his/her own general business or personal use, prior to or for any period of time subsequent to the rental or lease, then the tax will fall in the rentals only and not on the initial purchase by the vendor or lessor. However, if he/she does use the property for his/her own use for any period of time whatsoever, either prior or subsequent to any rental or lease term, a tax shall be paid on the original purchase price, or the fair market value of the property in addition to the tax due on the separate transaction of rental or lease to any other person.

(2) **Telecommunication Service** 5-3-5(c)(2)

Telecommunication services, except for carrier access services and interstate or international private communications service, for all international, interstate, and intrastate telecommunications service originating from or received on telecommunications equipment in the City if the charge for the service is billed to an apparatus, telephone, or account in the City, without regard to where the bill for such services is actually received. If a taxpayer presents to the City written proof of double taxation of said telecommunication services, the City shall credit against the tax accruing under this Article the amount of tax actually paid by the taxpayer to the other taxing entity. If the tax accruing under this Article exceeds the amount of the tax actually paid by the taxpayer to the other taxing entity, then the taxpayer shall pay the difference to the City. The credit provided for in this Section shall not be allowed if the tax actually paid by the taxpayer to the other taxing entity was not by law required to be paid.

- (i) Telecommunication services sold for resale to other persons for purposes of providing telecommunication services to the final end user will not be subject to the sales tax.

REGULATION 5-3-5(c)(2)

All telecommunication Services are taxable, whether furnished by or through governmental, public, or private corporations or enterprises. Telecommunication services are taxable when sold by mutual companies.

The sales tax shall be paid on additional listings, joint use of service, non-talking service circuits, leased circuits, and facilities and regardless of whether on a flat or measured basis, service connections, installation or connection charges, and sales of tangible personal property such as telephone directories, etc. The tax attaches to all amounts paid for telecommunication services, irrespective of whether there is actual consumption or not. In the case of discount or penalty, the tax attaches to the amount actually paid. Mobile radio or telecommunication service or other special services rendered are taxable.

Only in the case of exclusively governmental purchases of telecommunication service is the sale of such service exempt pursuant to Section 5-3-6(d)(7) of the Municipal Code. This exemption extends to no other category of business operation or to any other persons purchasing such service within Northglenn.

The full “bundling” price of telecommunications services is fully taxable, unless the taxable charges are separately stated from the non-taxable charges.

- (3) **Telecommunication Equipment** 5-3-5(c)(3)
Installation in the City of equipment required to receive or transmit telecommunication service. The equipment itself is taxable, not the labor involved to install the equipment. However, if the labor is not separately stated on the invoice, then the entire transaction is taxable.
- (4) **Employee Meals** 5-3-5(c)(4)
Meals sold to employees are taxable. However, those meals sold to employees at a reduced charge and which are considered part of the employee’s salary, wages, or income are exempt from taxation under this Section.
- (5) **Fuel** 5-3-5(c)(5)
Fuel furnished for domestic, commercial, or industrial consumption is taxable. The sale of gasoline for automotive purposes is not taxable. See 5-3-6(d)(9)

REGULATION 5-3-5(c)(5)

Gas, electric, etc. services, sold for exclusively governmental use only are exempt.

Governmental organizations purchasing such services in the performance of their proprietary functions and reselling such services to any other persons or individuals, must either pay the tax on the services so purchased or must charge the tax to the individuals or persons purchasing such service for such non-governmental use.

- (6) **Pay Television** 5-3-5(c)(6)
All “pay”, “cable”, and/or subscription television services sold are taxable. Tax is due on the total charge for service connections, installation and connection charges, and on all and any other similar charges made for such services
- (7) **Personal Property Rental** 5-3-5(c)(7)
The furnishing of tangible personal property, together with the services of an operator thereof, for any person, shall be taxable hereunder as a rental of such personal property, irrespective of the fact that during all times that the said property is so furnished, the control of the operation of the same remains in the person so providing the property.

REGULATION 5-3-5-(c)(7)

A deduction is allowed for the service amount charged for the operator furnished if separately stated.

The tax will apply whether or not the customer's "intent" is the purchase, lease, or rental directly of the tangible personal property with the resultant "benefit" to himself or whether or not the "intent" of the purchaser is the purchase, lease, or rental of the "benefit" inuring to him as the result of the use of such personal property and operator thereof by the owner or "vendor" of such property.

Examples of such sales, rentals, and leases of tangible personal property and services thereof, subject to the Northglenn Sales and Use Tax Code, would include, but not be limited, to the following:

- (a) Rental, leases, and sales of machinery and equipment together with any materials sold on any construction projects
- (b) All charges made for any computer or supporting equipment use

All charges in any sale wherein tangible property is conveyed to any degree as part of the sale to the customer and which involves labor and "service" together with the use of other tangible property as an actual, ordinary, or necessary inclusion to convey to or make usable to the customer such property is taxable to the full extent of the "purchase price" as set forth herein.

- (8) **Security and Sound Systems** 5-3-5(c)(8)
Security systems services and sound system services, including monitoring, whether purchased or leased, are taxable.
- (9) **Linen Services** 5-3-5(c)(9)
Linen services are defined as services involving the provision and the cleaning of linens. All linen services are taxable, whether purchased or leased.
- (10) **Accommodation Services** 5-3-5(c)(10)
The furnishing of rooms or accommodations in any hotel, apartment hotel, guesthouse, guest ranch, mobile home, auto camp, trailer court, or park, or any other place furnishing rooms and accommodations is a taxable sale. Governmental and "exempt" organizations shall not transfer their exemption status to any person who rents rooms or accommodations from or through them. The Northglenn Accommodations Tax is imposed upon the transaction of furnishing rooms or accommodations where the rental period is for a term less than thirty (30) consecutive days.

Pursuant to the exemption in Section 5-3-6(d)(8), the exempt institutions noted in Section 5-3-6(d)(7) are immune from the City Accommodation Tax.
- (11) **Vending Machines** 5-3-5(c)(11)
Coin-operated devices that dispense tangible personal property are considered taxable transactions.
- (12) **Prepared Food or Food for Immediate Consumption** 5-3-5(c)(12)
The sale of meals, food for immediate consumption, and/or drink is taxable. All sales of fermented malt beverages, malt, vinous, or spirituous liquors are taxable.

(13) **Food** 5-3-5(c)(13)

All sales and purchases of food are taxable transactions.

(14) **Automotive Vehicles** 5-3-5(c)(14)

Automotive vehicles sold or leased to a resident or business of the City of Northglenn, except any vehicle on which use tax has been paid, is a taxable transaction.

Automotive vehicle dealers who are licensed under the Code may deduct on the sales tax return the value of merchandise taken in trade when such merchandise is to be resold in the usual course of the dealer's business. This provision applies only to licensed dealers within the State of Colorado. If automobiles are exchanged or traded between individuals who are not licensed or engaged in the business of selling automobiles in the City and in the State of Colorado, then the retail value of each automobile is the purchase price on which sales and use tax shall be paid by each owner.

Any resident of Northglenn who purchases a motor vehicle, trailer, semi-trailer, etc., whether new or used, outside of the City for use within the City must pay the City use tax on the purchase price of any vehicle upon registration of the said vehicle in Adams County. Any resident who registers a vehicle at an address other than his/her principal residence or place of business within Northglenn for the purpose of evading the sales or use tax shall be considered in violation of the Code and subject to the penalties set forth herein.

The registration of an automotive vehicle by any resident of the City will be construed as prima facie evidence of use and will constitute a taxable transaction, even though there is no immediate use of that vehicle inside the City, or the claim is made that there will be no use inside the City of such vehicle. Initial registration of the motor vehicle inside of Northglenn will also constitute a taxable use and the tax will be due.

Any resident of Northglenn who registers any automotive vehicle in the City and intends to use that vehicle subsequently in interstate commerce shall be subject to tax to the same extent as any other resident.

Any resident of Northglenn who may or may not have dual residency both within and without the City who registers any automotive vehicle in the City must pay the tax on the full amount of its taxable purchase price. There will not be an allowance or proration made for that vehicle's percentage use within and without the City.

Vehicles purchased by non-residents and legally registered outside of the City are exempt, except that vehicles registered outside of the City and owned by non-exempt persons are subject to the use tax when garaged or used for business in Northglenn.

The exchange of three or more vehicles of the same type by any person in any calendar year in transactions subject to the provisions of this Code shall be prima facie evidence that such person is engaged in the business of selling vehicles and is hereby required to license to engage in such activity.

- (15) **Goods Sold Through a Vending Machine** 5-3-5(c)(15)
Articles of tangible personal property vended through coin-operated vending machines are subject to the Northglenn sales tax. The owner, operator, or person selling tangible personal property through vending machines may elect to pay the sales tax on gross receipts or the sales tax may be incorporated into the selling price. Regardless that a vendor's total gross sales consist of a number of sale transactions, each of which has a retail price of less than the minimum taxable sale, the tax must be computed on the total sale or retail price of all such transactions.
- (16) **Bad Debts Collection** 5-3-5(c)(16)
Any bad debts previously deducted from gross taxable sales on City Sales Tax Return and subsequently collected must be re-reported as taxable sales and the sales tax remitted thereon.
- (17) **Bowling Alleys** 5-3-5(c)(17)
Any amount charged for the utilization, lease, or rental of bowling alleys, pinsetters, and "line" charges for the sport of bowling is subject to the Northglenn sales tax. Furthermore, any charge for shoes rented for the purpose of bowling is subject to Northglenn sales tax.
- (18) **Tax Must be Collected Notwithstanding Sale Made Outside of City** 5-3-5(c)(18)
The sale of tangible personal property by any person or vendor to a Northglenn resident or business is taxable if it is delivered into the City of Northglenn. The vendor is required to collect the tax and remit the tax.

The sale is also taxable if the delivery is to a location outside the City's limits but is intended to be used, stored, distributed, or consumed in the City of Northglenn. The non-exempt consumer is required to pay such tax.
- (19) **Coin-Operated Laundry Equipment** 5-3-5(c)(19)
On the full amount charged for the utilization, lease, or rental of coin-operated laundry equipment used in laundromats, apartments, and other multi-family dwelling units.

Use Tax 5-3-5(d)

The following are taxable transactions, commodities, and services that are subject to the use tax of the City of Northglenn:

- 5-3-5(d)(1)
Tangible personal property for which no previous payment of sales tax has been made. If the tangible personal property is to be used, stored, consumed, sold, leased, or rented inside the City and no sales tax has been paid, then use tax is due to the City.
- 5-3-5(d)(2)
Tangible personal property which is bought at wholesale but is used by the purchaser, either personally or in the business, is taxable.
- 5-3-5(d)(3)
Taxable services purchased without previous payment of the sales tax.
- 5-3-5(d)(4)
The cost of meals given to employees or others without charge, or at a charge less than the cost of the food and its preparation. However, if the meals are part of the employee's salary, wages, or income, meals are not taxable.

5-3-5(d)(5)

Automotive vehicles required to be registered at an address inside the City on which no City sales tax has been paid are subject to use tax. The County Clerk of the county in which the registration occurs is authorized to collect such tax for the City prior to or at the time of registration.

- (i) The determination of vehicle registration requirements for individuals shall be the same as for the determination of residency for voter registration purposes.
- (ii) The determination of vehicle registration requirements for automotive vehicles which are owned by a business and operated primarily for business purposes shall be based on the address from which such motor vehicles are principally operated and maintained.

5-3-5(d)(6)

Construction or building materials which are consumed or used within the City limits and no sales tax has been paid are subject to Northglenn use tax.

5-3-5(d)(7)

In essence, any transaction, situation, and/or item listed in Section 5-3-5(c) for which no sales tax was paid or remitted, the City of Northglenn use tax is due.

EXEMPT TRANSACTIONS, COMMODITIES, AND PERSONS 5-3-6

5-3-6(a)

It shall be a violation of this Code for the failure of any seller not to collect the tax imposed by this Code, for the failure by any purchaser of not paying the tax levied by this Code, or for the failure of not paying any tax upon which the exemption is disputed.

5-3-6(b)

Should a dispute arise between the purchaser and seller as to whether or not the sale is exempt from taxation, the seller shall collect and the purchaser shall pay the City sales tax. The purchaser may thereafter apply to the Director of Finance for a refund of taxes paid.

5-3-6(c)

The purchase and sale of tangible personal property not otherwise exempt are subject to the sales or use tax imposed by this Code. Also, those specific services cited as taxable in Section 5-3-5 are also subject to the Northglenn sales or use tax. The list of exempt commodities or articles cannot be increased by implication or similarity. Therefore, the transaction needs to be clearly stated in Section 5-3-6 in order to be considered exempt. In all cases, the burden of proof is upon the taxpayer to establish that the sale is tax exempt.

5-3-6(d)

The following transactions, commodities, and services are exempt from the Sales, Use, or Accommodations Taxes of the City of Northglenn:

(1) **Non-Taxable Service Sales 5-3-6(d)(1)**

The amount equal to the consideration received for labor or service sold, if the consideration for such services are separately stated from the consideration received for the tangible personal property in the retail sale, or that proportionate percentage approved by the Director of Finance of the City on combined sales of services and tangible personal property, that is deductible as the service labor portion of that sale, or the total amount paid on the sale or purchase of exclusively non-taxable services.

REGULATION 5-3-6(d)(1)

All sales, rentals, and leases of tangible personal property including any services or labor used to effectuate the sale are taxable to the full extent of the purchase price or sale price charged or paid.

However, labor and service may be excluded wholly or in part from the total purchase price as follows:

- (i) The labor and/or service separately sold or rendered or contracted to be rendered at a future date, or upon some contingency, and which value is separately identifiable and stated in all documents relating to the transaction.
- (ii) The labor and/or service for: remake, remanufacture, reprocess, reform, reshape, refashion, refabricate, reforge, or repair to order to bring to a state of usefulness anew, tangible personal property, the ownership of which may reside in the purchaser.
- (iii) The labor and/or service utilized in the conveyance or sale of tangible personal property when installed, attached, or affixed to real property, or otherwise used in the refurbishing, constructing, replacing, or repairing of real property.

(2) **Sales for Taxable Resale (Wholesale) - Component Parts** 5-3-6(d)(2)

The purchase price paid or charged on the sales to and purchase of tangible personal property by a person engaged in manufacturing or compounding for use, profit, or sale, shall be deemed a wholesale sale when it meets all of the following conditions:

- (i) Is actually and factually transformed by the process of manufacture;
- (ii) Becomes by the manufacturing process a necessary and recognizable ingredient, component, and constituent part of the finished product; and
- (iii) Its physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer.

(3) **Commercial Packaging Materials** 5-3-6(d)(3)

Exempt commercial packaging materials as defined herein.

REGULATION 5-3-6(d)(3)

The sale of containers to a person performing a service is taxable. Packaging materials which are returnable to the person who sells and delivers merchandise in them are taxable. Deposits required by the vendor on returnable containers are taxable to the extent of the full amount charged.

(4) **Sales for Taxable Resale (Wholesale) - Newsprint, Printer's Ink** 5-3-6(d)(4)

The sales to and purchases of newsprint and printer's ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales.

REGULATION 5-3-6(d)(4)

This exemption shall in no way limit the tax that may be due from the commercial customers of any newspaper, as defined, or their publishers for taxable sales of advertising matter distributed in the City, separately or in conjunction with the distribution of any "newspaper" as defined, or taxable transactions involved in the make-up of that matter otherwise taxable under this Code.

- (5) **Sales for Taxable Resale (Wholesale) - To Other Licensed Retailers** 5-3-6(d)(5)
The sale by wholesalers or retailers to a licensed retailer, jobber, dealer, or other wholesaler for purposes of taxable resale, and not for the retailer's, jobber's, or wholesaler's own consumption, use, storage, or distribution shall be deemed to be wholesale sales.

REGULATION 5-3-6(d)(5)

A sale will be assumed to be a retail sale if made to anyone not having a Sales and Use Tax License.

Use tax is a complement to sales tax. Since sales tax is imposed only on retail sales, use tax shall not apply to the storage, use, or consumption of tangible personal property purchased by a licensed retailer, jobber, dealer, or other wholesaler for ultimate taxable resale within the regular course of business in this City.

Tangible personal property that was purchased tax-free for resale or as an ingredient or component part of a manufactured or compounded product and is subsequently withdrawn from stock and/or modified prior to use shall be taxed at the full retail value of all materials, labor, and other charges usually included in a work-in-process inventory. The use tax liability attaches at the time the tangible personal property and service is converted from tax-free status to a taxable use. The Code provides that the use tax be paid upon conversion to other than a non-taxable use.

- (6) **Interstate Commerce Sales - Shipments Out of State** 5-3-6(d)(6)
The sales of tangible personal property shall be exempted from the operation of this code if both the following exist:

- (i) The sales are to those who reside or do business outside the state; and
- (ii) The articles purchased are to be delivered to the purchaser outside the state by common, contract, or commercial carrier, who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided however, that the article so purchased and so delivered is to be used, stored, distributed or consumed outside the state.

Where the sale of personal property involves the attachment or installation of such property to personal property owned by the purchaser, delivery shall be deemed to occur at the point of such attachment or installation.

REGULATION 5-3-6(d)(6)

Shipping records, bills of lading, or other proof satisfactory to the Director of Finance must be retained to substantiate any exemption allowed for sales in interstate commerce.

- (7) **Sales to the Federal Government, the State, and its Subdivisions** 5-3-6(d)(7)
The purchase price paid or charged on direct sales to and direct purchases by the United States Government; to the State of Colorado, its departments or institutions and political subdivisions thereof, including the City of Northglenn, in their governmental functions and activities only.

REGULATION 5-3-6(d)(7)

Purchases by the United States Government and its Departments, the State of Colorado and its Departments or institutions and political subdivisions, and Northglenn are considered immune from the operation of the City sales and use tax on their direct purchases of tangible personal property or services for use in their governmental capacities only: provided that, and only when, such purchases are supported by requisition on official government purchase orders and paid for directly to the seller by draft or warrant drawn on the funds of that governmental entity, will the vendor be relieved from assessing the tax. This immunity will extend to no other entity nor under any other set of circumstances except as set out above. For example:

- (i) Sales to officers or employees of such government entities for their personal use are taxable.
- (ii) Purchases by students, faculty, employees, and staff of schools and school districts, colleges and universities for their personal use, are taxable. This would include the sale of such items as class rings, yearbooks, and Christmas cards, and the rental of caps and gowns. The schools, colleges, or universities must assess and collect a tax on items such as uniforms, art and ship materials, book replacement, towels, food service to faculty, staff, pupils, and employees, and like items including meeting and other room accommodations and banquets catered and served by them for which a charge is made.
- (iii) All Federal or state chartered banks, including national, state, and industrial banks, for all of their purchases not for resale and on all of their sales are taxable.

(8) **Sales to Religious, Charitable, and Quasi-Governmental Organizations** 5-3-6(d)(8)

The purchase price paid or charged on direct sales to and direct purchases by religious, charitable, and quasi-governmental corporations, in the conduct of their regular religious, charitable, and quasi-governmental capacities only, provided that the said organizations and corporations have applied for, been assigned and do furnish to the vendor their City of Northglenn Exempt Institute License number. In the event no such City Exempt number is furnished, the vendor is to charge the tax.

REGULATION 5-3-6(d)(8)

Vendors should have a record of Northglenn's Exempt Institution License numbers of every such purchaser to whom he/she sells tax-free. (The vendor may keep these numbers on his/her ledger, in a separate card index, in a suitable book or on each individual invoice.) All City Exempt License Numbers shall start with "90".

The religious and charitable exemption provision contained in this Subsection 5-3-6(d)(8) of the combined code of Ordinances of the City of Northglenn does not grant an exempt status automatically to any organization but, on the contrary, it provides for the City's examination of the nature of each organization's operations and activities before an exemption is granted.

The "religious" or "quasi-governmental" nature of all activities shall be equated, for the purposes of this Code, with the term "charitable" according to our rules of administration, and only to the extent that the items purchased are put to such direct charitable use will the exemption apply, consistent with the prime historical basis for such governmental exemptions.

“Charitable” requires the dispensation of charity and benevolence resulting in the rendition of service to the community. Under the City’s interpretation of “charitable,” any recipient to whom the benefit inures must not have contributed to the source of funds with which the purchase was made, or to the organization or interests of the organizations which made the purchase or claims such exemption, either directly in the form of a donation or contribution, or indirectly in the form of an offering, tithe, “membership fee,” etc.

Sales to ministers, priests, rabbis, or other employees, staff members, faculty, and students of religious or charitable organizations for their personal use are taxable. Internal groups, clubs, and other organizations of charitable or religious organizations are taxable.

Hospitals, Nursing Homes, etc., are subject to the use tax on all of their purchases of tangible personal property that are not resold, or if resold, the tax is not charged.

Only the governmental entities specifically cited in the following are immune from the assessment of the sales and use tax on their purchase and use of tangible personal property and services in their governmental capacities only:

- (i) “United States Government and its Departments” shall mean any constitutional branches of the Federal Government and their constituent departments, offices, bureaus, boards, and commissions established or confirmed by Congressional action, and all components of the armed forces of the United States.
- (ii) “State of Colorado...Department” shall mean the State Department of Agriculture, Auditing, Banking, Civil Air Patrol, Education, Employment, Executive, Game Fish and Parks, Highways, Institutions, Insurance, Judiciary, Law, Public Health, Public Welfare, Rehabilitation, Revenue, Savings and Loan, State, State Patrol, Treasury, and Veterans Affairs.
- (iii) “State of Colorado...Institutions” shall mean the state children’s home, state hospital, community mental health clinics, state reformatories, state penitentiary, University of Colorado, Colorado State University, Colorado State College, School of Mines, and Colorado School for Deaf and Blind.
- (iv) “State of Colorado...political subdivisions” shall mean any county or city and county, city or town, school district or junior college district, local improvement and special district, special district, or any other independent local entity having authority under the general laws of the State of Colorado to levy taxes or impose assessments such as fire, irrigation, drainage or conservancy.

Private schools, accredited by the Colorado State Department of Education, are taxable on all their purchases of tangible personal property or taxable services unless purchased and used for strictly “religious” or charitable purposes. All other “Schools,” not accredited by the Colorado State Department of Education, are taxable on all purchases for use, regardless the ultimate utilization of the property acquired. Schools or educational institutions that levy and are supported by tax revenues are exempt from tax under the government exemption. (But see limitations on such exemption in Regulation 5-3-6(d)(7).)

As a condition of receiving such exempt license number from the City, that quasi-governmental, religious, or charitable organization or institution must agree to make annual specified reports of all purchases, both taxable and non-taxable, for review by the Department of Finance.

Before the vendor may grant an exemption from the tax on the sale of any tangible personal property or taxable service, he/she must be furnished with, and must record the exempt license number of the institution or organization seeking such a tax-free purchase.

- (8.5) **Sales by Religious, Charitable, and Quasi-Governmental Organizations** 5-3-6(d)(8.5)
The purchase price paid or charged by religious, charitable, and quasi-governmental corporations at fund-raising events, providing that said religious, charitable, and quasi-governmental corporations have applied for and have been assigned a City of Northglenn Exempt License. In the event no such City Exempt License has been issued, the religious, charitable and quasi-governmental corporations are to charge the tax. Sales conducted by or for outside vendors where the religious, charitable, and quasi-governmental corporations share in any portion of the purchase price are not exempt, as it is the express intent of this provision that the exemption apply to the occasional bake and craft sales events.
- (9) **Sale of Gasoline** 5-3-6(d)(9)
The purchase price paid or charged on commodities or motor fuel which has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933.
- (10) **Sale of Cigarettes** 5-3-6(d)(10)
The sale or purchase of cigarettes.
- (11) **Bad Debts Charged Off** 5-3-6(d)(11)
The amount of gross sales which are represented by account not secured by conditional sale contract or chattel mortgage and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State of Colorado may be credited upon a subsequent payment of the tax herein. However, if any such accounts are hereafter collected by the taxpayer, the tax shall be paid upon the amount so collected. Provided, such credit shall not be allowed with respect to any account or item therein arising from the sale of any article under a conditional sale contract, other title-retention agreements for all or part of the purchase price or from the retention agreements for all or part of the purchase price or from the sale of any article when the seller takes a chattel mortgage on the tangible personal property to secure all or part of the purchase price.
- (12) **Returned Goods** 5-3-6(d)(12)
The amount equal to the sale price of property returned by the purchaser when the full sale price including tax levied is refunded either in cash or by credit.
- (13) **Discounts and Allowances** 5-3-6(d)(13)
The amount of discount from the original selling price if such discount or decrease in purchase price and the corresponding decrease in sales tax due is actually passed on to the consumer. An anticipated cash discount to be allowed for payment on or before a given date is not an allowable adjustment to the selling price in determining gross taxable sales on any vendor's return prior to the date when the customer actually received the discount. Any adjustments in sale price such as allowable discounts, rebates and credits cannot be anticipated and the tax must be based upon the original price unless such adjustments have actually been made prior to the filing of the return wherein such sale is reported. Provided, if the price upon which the tax was computed and paid to the City by the vendor is subsequently readjusted prior to the payment of the tax by the purchaser, a proper credit may be taken against the tax due on the next subsequent return.

- (14) **Trade-Ins for Taxable Resale** 5-3-6(d)(14)
The amount equal to the fair market value of any exchanged or traded-in property which is to be resold thereafter in the usual course of the retailer's business, if included in the full price of an article sold.

REGULATION 5-3-6(d)(14)

There is no such allowance for trade-in value on the trades or sales between unlicensed individuals. No sales tax exclusion is allowable unless a traded-in property is placed in stock for resale in the retailer's regular course of business. Otherwise, he/she must collect the tax on the full sale price of the goods sold without any deduction for the trade-in.

- (15) **Medical Supplies, Drugs Dispensed in Accordance with a Prescription, and Prosthetic Devices** 5-3-6(d)(15)
The sale or purchase of medical supplies, drugs dispensed in accordance with a prescription, and prosthetic devices as defined herein are exempt.

REGULATION 5-3-6(d)(15)

This list of exempted drugs and prosthetic devices cannot be increased by implication or similarity.

Doctors. Physicians, surgeons, hospitals, clinics, dentists, veterinarians, and other licensed practitioners of the healing arts are the consumers and users of the various items of tangible personal property which they use in the rendition of their usual and ordinary course of professional services. As such, they are required to pay the tax to vendors on purchases of all tools, equipment, instruments, furniture, fixtures, and other medical and surgical supplies other than prescription drugs and prosthetic devices. Taxable medical supplies include but are not limited to items that would be taxable if the patient bought the same item outside of the practice or hospital. This includes items such as diapers, disposable razors, tissues, deodorant, lotion (even if medicated), egg crate mattress pads, denture cleaner and adhesive, mouthwash, toothpaste, toothbrushes, floss, bandages, swabs, skin staples, catheters, and slippers.

Oxygen and hemodialysis products for use by a medical patient, hearing aids and hearing aid batteries, insulin measuring and injecting devices, glucose to be used for the treatment of insulin reactions, human whole blood, blood products and derivatives, and plasma are all exempt from tax.

The sale of wheelchairs and crutches for the direct and personal use of a specific individual are specifically exempt under this Code, even though they are not generally considered prosthetic devices.

Drugs. The sales and purchase of prescription drugs for human consumption are exempted from the imposition of the sales and use tax when prescribed by the prescription of a physician or when purchased by a legally qualified member of the healing arts for use as part of patient treatment. The sale and purchase of drugs for animals are taxable. All sales and purchases of proprietary drugs or patent medicines or non-prescription drugs are taxable.

Prosthetic Devices and Appliances. The sale of prosthetic medical and dental appliances, including 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, optometry, or podiatry, are exempt sales. Standardized or stock devices or appliances, whether or not mass-produced, are not prosthetic devices. A prosthetic device is defined as an artificial part which aids or replaces a body part or function and which is designed, manufactured or adjusted to fit a particular individual, meaning that the prosthetic device must be altered solely for the use of a particular person. Prosthetic devices must be bought or sold under a prescription. Artificial body parts, dental and orthopedic devices or appliances, prescription glasses and contacts, prescription auditory, ophthalmic, ocular and cardiac devices or appliances, oxygen concentrators and oxygen with related accessories are considered to be exempt as prosthetic devices. A one-size-fits-all type of device that can be adjusted by the individual for a better fit is not a prosthetic device. Canes, crutches, splints, and walkers are not considered prosthetic devices.

Therapeutic Devices. All therapeutic devices are taxable.

Veterinarians. All sales and purchases of drugs or medicines for use or consumption by animals are taxable. As veterinary drugs sold at retail are not exempt from sales and use tax, the manner in which the tax obligation must be extinguished is dependent upon whether consumption occurs wither: (a) in the performance of a veterinarian's professional services; or (b) apart from such services.

- (i) Veterinarians are primarily engaged in the business of rendering professional services, the gross receipts from which are not subject sales tax to the owners of domestic animals through care, medication, and treatment of such animals. All items of tangible personal property, such as drugs, medicines, serums, bandages, and dressings, which are used in the rendition of such professional services, are deemed consumed by the veterinarian and thus are taxable to the veterinarian. In order for items to be considered consumed in the rendition of professional services, they must either be applied or administrated directly by the veterinarian or employee of the veterinarian, or dispensed by the veterinarian or employee of the veterinarian upon actual diagnosis of illness or disease of illness or in prevention thereof.
- (ii) Where veterinarians sell tangible personal property to consumers, which sales are separate and apart from the rendition of professional services as heretofore set out, they are required to collect and remit sales tax.

(16) **Permanently Occupied** 5-3-6(d)(16)

The sales and purchases of commodities and services under the provisions of Subsection 5-3-5(c)(10) hereof to any occupant who is a permanent resident of any hotel, apartment-hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, or any other place and who enters into or has entered into a written agreement for occupancy of a room or rooms or accommodations for a period of at least thirty (30) consecutive days during the calendar year or preceding year. This exemption shall not apply to the sale or sales of any goods, services, or commodities other than the furnished rooms and accommodations, unless such goods, services, or commodities are otherwise exempt from the tax as provided herein.

(17) **Finance Charges** 5-3-6(d)(17)

The amount paid by any purchaser as, or in the nature of, interest or finance charges on account of credit extended in connection with the sale of any tangible personal property if the interest if the interest or finance charges are separately stated from the consideration received for the tangible personal property transferred in the retail sale, and if included in report of gross sales and services are deductible therefrom.

(18) **Newspapers** 5-3-6(d)(18)

The amount paid or charged for newspapers published on a daily through weekly basis and admitted to the United States mails as second class matter under the provisions of the Federal Act of March 3, 1897, or any amendments thereof.

This exemption on sale of newspapers may not be extended to include taxable the following publications: Magazines, and magazines included in newspapers usually appearing on Sundays, trade publications or journals, credit bulletins, advertising pamphlets, and circulars in newspapers, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing service or listings, publications that include an updating or revision service, books and pocket editions of books, or other newspapers not otherwise qualifying under the first paragraph above.

Any and all other printed matter of whatsoever nature used or consumed or sold in Northglenn is taxable and if given free of charge to the ultimate consumer, then it is taxable to the distributee and the printer is required to collect and remit the tax. In case the printer is not licensed, the distributee is required to collect and remit the tax directly to the City. In case the distributee is not licensed with, or located within, the City of Northglenn, then the fair market value of such gifts are taxable to the recipient.

(19) **Cattle, Sheep, Etc.** 5-3-6(d)(19)

The sale or purchase of cattle, sheep, lambs, swine, and goats and purchases of mares and stallions for breeding purposes, and all farm action closeout sales.

(20) **Sales to Contractors who have Prepaid the Tax** 5-3-6(d)(20)

The sales to and purchases by contractors of building materials only for installation, use, or consumption on job sites or building construction addresses on which a City Building Permit has been issued, provided that:

- (i) The building materials were included items in determining the valuation of the construction for purposes of issuance of the City Building Permit;
- (ii) The vendor records on the invoice of sale, the job site address and City Building Permit Number; and
- (iii) The contractor has prepaid the tax directly to the City on the estimated basis based on a percentage of the building or construction valuation on the issuance of that permit.

(21) **Automotive Vehicles to Non-Residents** 5-3-6(d)(21)

The sale of automotive vehicles if the sale meets all of the following conditions:

- (i) The purchaser is a bona fide non-resident of the City of Northglenn; and
- (ii) The vehicle is registered or required to be registered outside the City of Northglenn under the laws of the State of Colorado.

The exemption shall not include parts, repair parts, mounted equipment or any other item to be used for, or on, or attached or affixed to the automotive vehicles as hereinafter defined subsequent to the automotive vehicle's initial sale.

- (22) **Deliveries to Non-Resident Outside City** 5-3-6(d)(22)
 The sales of tangible personal property shall be exempted from the operation of this Code if both the following conditions exist:
- (i) The sales are to those who reside or do business outside the City; and
 - (ii) The articles purchased are to be delivered to the purchaser outside the City by common contract or commercial carrier who is employed to effect delivery by the seller or by conveyance of the seller, or by mail, provided, however, that the article so purchased and so delivered is to be used, stored, distributed or consumed outside the City.
- Where the sale of personal property involves the attachment or installation of such property to personal property owned by the purchaser, delivery shall be deemed to occur at the point of such attachment or installation.
- (23) **Payment of Northglenn Sales Tax - No Northglenn Use Tax Due** 5-3-6(d)(23)
 The use, storage, distribution, or consumption in the City of tangible personal property upon the sale of which the Northglenn Retail sales tax has been imposed, collected, and remitted is exempt from the levy of the use tax.
- (24) **Payment of Other Colorado Municipality Tax - No Northglenn Use Tax Due** 5-3-6(d)(24)
 The use, storage, distribution, or consumption in the City of tangible personal property upon the sale of which a retail sales tax has been imposed, collected, and remitted to a municipal corporation organized and existing under the authority of the Constitution of the State of Colorado is exempt from the levy of the Northglenn use tax. If the rate of the retail sales tax is less than the rate imposed by the City of Northglenn, then the City use tax will be due on the net difference. This exemption will be denied if a tax paid another Colorado municipal corporation was not legally due under the laws of such municipal corporation or the laws of Colorado municipal corporation or the laws municipal corporation are not compatible with those of the City of Northglenn as to specific taxation and exemption as applied to the transaction in question. This exemption shall also be denied for subsequent transactions within the City including but not limited to rentals and leases.
- (25) **Payment of Other State's Sales Tax - No Northglenn Use Tax Due** 5-3-6(d)(25)
 The use, storage, distribution, or consumption in the City of tangible personal property and upon the sale of which any other state or any other state in combination with any subdivision thereof has imposed and collected a retail sales tax at a rate equal to or greater than the rate combined retail sales taxes imposed by the State of Colorado, the City of Northglenn, and any political subdivision of the State of Colorado which includes the City of Northglenn is exempt from the levy of the Northglenn use tax. If the rate of retail sales tax paid to such State and/or its political subdivisions thereof is less than the combined retail sales taxes imposed by the State of Colorado, the City of Northglenn, and any political subdivisions of the State of Colorado which includes the City of Northglenn, then the City use tax will be due on the net difference. This exemption will be denied if a tax paid to another State and/or its subdivisions thereof was not legally due under the laws of such other State and its subdivisions, or the laws of that State and/or its subdivisions are not compatible with those of the City of Northglenn as to specific taxation and exemption as applied to the transaction in question. This exemption shall also be denied for subsequent transactions within the City including but not limited to rentals and leases.
- (26) **Transient Not Liable on Prior Purchases** 5-3-6(d)(26)
 The use, storage, distribution, or consumption while temporarily within the City of Northglenn of tangible personal property brought into the City by a non-resident thereof for his/her own personal use is exempt hereunder.

- (27) **Purchases Prior to Residency in City - Not Taxable** 5-3-6(d)(27)
 The use, storage, distribution, or consumption of tangible personal property of a resident is such personal property was purchased and used for a substantial length of time and primary purpose for which it was acquired prior to becoming a resident of the City is exempt hereunder.
- “Substantial length of time” shall be defined in all cases except for motor vehicles, and out-of-state titled mobile homes, as any use wherein the property in question has depreciated by more than one-third (1/3) of the original purchase price of value based on the standards of the industry.
- (28) **Non-Resident Not Liable for Auto Use Tax on Use in City** 5-3-6(d)(28)
 The use or storage in the City of automotive vehicles is exempt hereunder if:
- (i) The owner is or was, at the time of purchase, a non-resident of Northglenn; and
 - (ii) The owner purchased the vehicle outside of the City for use outside the City, and actually so used it for a substantial and primary purpose for which it was acquired; and
 - (iii) The owner registered, titled, and licensed said motor vehicle outside the City of Northglenn.
- (29) **Constitutional Preclusion from Northglenn Sales and Use Tax** 5-3-6(d)(29)
 All the sales, uses, and other transactions which the City is prohibited from taxing under the Constitution and laws of the United States or under the Constitution of the State of Colorado are exempt hereunder.
- (30) **Purchase Price Shall Not Include Other Direct Taxes** 5-3-6(d)(30)
 The Northglenn City sales and use tax shall not apply to any direct tax imposed by this Code, or by the Federal Government, or by the State of Colorado.
- (31) **Food Purchases with Food Stamps or WIC Vouchers or Checks** 5-3-6(d)(31)
 The Northglenn sales tax shall not apply to the sales of any food, as specified in 7 U.S.C. 2012(g) or 42 U.S.C. 1786, as such Sections exist on October 1, 1987, or are thereafter amended, which food is purchased with food stamps pursuant to the federal food stamp program or which is purchased with WIC vouchers or checks pursuant to the Federal Special Supplemental Program for women, infants, and children.
- (32) **Private Communications Services** 5-3-6(d)(32)
 Which mean communication 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 use of any interstate intercommunications system for the subscriber’s stations.

TAXPAYER (VENDOR AND CONSUMER) LIABILITY 5-3-7

- (a) **Exemption - Burden of Proof** 5-3-7(a)
 The burden of proving that any vendor, retailer, consumer, or purchaser is exempt from collecting or paying the tax upon any goods sold or purchased shall be on the vendor, retailer, consumer, or purchaser under such reasonable requirements of proof as the Director of Finance may prescribe.

- (b) **Director May Require Reports, Records** 5-3-7(b)
The Director may require any person, by regulation or notice served on such person, to make such return, render such statement, or keep and furnish such records, or make such information reports as the Director may deem sufficient to show whether or not such person is liable under this Act for payment or collection of the tax imposed herein.
- (c) **Vendor Responsibility for Collection of Tax** 5-3-7(c)
Every retailer or vendor engaged in business and selling at retail shall, irrespective of the provisions of Section 5-3-3(c) of this Code, be liable and responsible for the payment of an amount equivalent to the amount of the tax imposed by Section 5-3-3 computed on the total of all sales made by them of commodities or services as specified in Section 5-3-5 of this Code.
- (d) **Vendor Responsibility for Remittance of Tax** 5-3-7(d)
Every retailer or vendor engaged in business and selling at retail shall file a return as prescribed herein with the Director of Finance on or before the twentieth (20th) day of the month for the preceding month or months under report and remit the amount of tax imposed by Section 5-3-3 computed on the total of such sales and also the amount of any excess tax collections as provided in subsection 5-3-15, less one percent (1%) of the amount of taxes to be paid by him under this Code to cover the retailer's expense of collection and remittance of the tax; but if any vendor is delinquent in remitting said tax other than in unusual circumstances shown to the satisfaction of the Director of Finance, the vendors shall not be allowed to retain any amounts to cover his/her expense in collecting and remitting said tax, and an amount equivalent to the full tax shall be remitted to the Director of Finance by any such delinquent vendor. The retailer shall add the tax as a separate and distinct item and such tax shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts.

LICENSES FOR VENDORS 5-3-8

- (a) It shall be unlawful for any person to engage in the business of selling at retail tangible personal property and services subject to the tax imposed by this Code without first having obtained a license therefor, as provided by Section 5-3-19.
- (b) Every person, retailer, or lessor who comes within the definition of “engaged in business in the City”, as defined, shall obtain a Sales and Use Tax License in order to do business in the City of Northglenn.

SPECIAL EVENTS SALES TAX LICENSE AND COLLECTIONS 5-3-8.5

- (a) No special event shall occur without the issuance of a special events license to the organizer of the event, which license shall cost five dollars (\$5.00). The vendors of a special event need not individually obtain a license if a special events license has been issued to the organizer of the special event. If there is no special events organizer, the vendors at the special event must obtain their own sales tax license and collect and remit the tax to the City pursuant to this Chapter 5. The organizer shall remit all taxes collected by the vendors who do not have a sales tax license for the event and for all vendors who have a license but who elect to have the organizer remit the tax.
- (b) No later than one (1) day before the start of the special event, the special events organizer shall provide the Finance Director or his/her designee with a list of the names and addresses of all vendors of the special event, and a list of all tax license numbers of vendors who have obtained their own licenses for the event and are remitting the tax to the City themselves.
- (c) Vendors or organizers of a special event must remit the sales tax they collect pursuant to Section 5-3-7(c) and complete a tax schedule on a form provided by the Finance Director or his/her designee. Only the organizer will be permitted to take the deduction for the one percent (1%) of taxes remitted.

EXEMPT INSTITUTIONS - LICENSE 5-3-9

- (a) No exempt institution, including quasi-governmental, religious, charitable, or other type institutions may purchase tax-free in Northglenn or use in Northglenn tangible personal property or taxable services tax-free unless:
- (1) **Application for “Exempt” License 5-3-9(a)(1)**
That exempt group applies for City of Northglenn “Exempt Institution License Number,” which license number shall be furnished by the institution to any vendor prior to the allowance of a purchase tax-free.
 - (2) **Conditions to Granting Exempt License 5-3-9(a)(2)**
The institution must agree, as a condition of receipt of that “Exempt Institution License Number,” to make a regular and complete report of all purchases, both those ultimately taxable, including but not limited to those resold to members and others and those used for other than the exempt purpose of the institution, and those also found non-taxable. The institution must, for the reporting period, report completely the information required on Northglenn Sales and Use Tax Return.
 - (3) **Exempt Institution Audit 5-3-9(a)(3)**
Any exempt corporation not securing Exempt License number may be subject to audit as would be any other Northglenn consumer.

CONTRACTORS-BUSINESS CONSUMERS 5-3-10

- (a) **Contractors - Owners or Lessees of Realty - Methods Of Paying 5-3-10(a)**
Every contractor 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, exempt institutions, and private construction job sites in this City, and who shall purchase lumber, fixtures, or any other building materials and supplies used therefore, and every owner or lessee of realty situated 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 Code thereon, to a vendor required or authorized to collect the same, shall pay the Northglenn sales and use tax in either of two ways;
- (1) **Payment on Estimated Basis 5-3-10(a)(1)**
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/she is a subcontractor electing to do so, at the time a building permit is issued.
 - (2) **Payment on Actual Basis 5-3-10(a)(2)**
Contractors, owners, or lessees not electing first alternative, must license with the City of Northglenn and monthly make reports and returns remitting the tax and showing all information as prescribed on Northglenn Sales and Use Tax Returns.
- (b) **Business Consumer - Method of Payment 5-3-10(b)**
Every person who operates or maintains in this City a business as defined in Subsection 5-3-4(a)(6) hereof, and who purchases, leases or rents tangible personal property and taxable services for use, storage, distribution, or consumption in the City in connection with the said business, from sources within or without the City and taxable hereunder, and who has not paid the Northglenn City sales and use tax imposed herein, to a vendor required or authorized to collect the same shall satisfy the Northglenn City sales and use tax in either of two ways:

- (1) **Monthly Consumer Reports** 5-3-10(b)(1)
Monthly make a return and pay the tax due to the Director on or before the twentieth (20th) day of each calendar month for the preceding calendar month; or
- (2) **Annual and Quarterly Consumer Reports** 5-3-10(b)(2)
Secure Northglenn Sales and Use Tax License number and report and remit such use tax due on a reporting basis agreed to by the Director. See Section 5-3-18(c).

NEW BUSINESS PURCHASES - SELLERS AND PURCHASERS 5-3-11

- (a) **Acquisition of Business** 5-3-11(a)
The Northglenn Tax shall be remitted on the purchase price paid for tangible personal property that is acquired with the purchase of a business, and for use in the operation of such business. The tax shall be based on the price paid for such chattels as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great or greater than the fair market value of such merchandise or chattels. Where the transfer of ownership is a package deal made by a lump-sum transaction, the use tax shall be paid on the book value if no determination has been made. When a business is taken over in return for the assumption of outstanding indebtedness owed by former owners, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser.

REGULATION 5-3-11(a)

The “sale” or “sale and purchase” of a business does not include the items under C.R.S. 39-26-102-10. A bona fide gift of tangible personal property is not a “sale”.

- (b) **Purchasers Liable for Prior Owner's Unpaid Tax** 5-3-11(b)
Purchasers of a business are liable for any unpaid tax of a predecessor. Vendors or consumers having outstanding accounts on which sales or use tax has not been remitted must compute and pay the tax at the time of sale.
- (c) **Agent of Seller and Seller Liable for Tax** 5-3-11(c)
The Taxpayer shall report such tax on the City Sales and Use Tax Returns prescribed. The seller or his/her agent will be held liable for sales and use tax remittance on the sale of business in the event the purchaser fails to remit the tax due on the purchase.

INDIVIDUAL CONSUMER USE TAX PAYMENTS 5-3-12

Every resident of the City who purchases, leases, or rents tangible personal property and taxable services for use, storage, distribution, or consumption in the City, from sources within or without the City, and taxable hereunder, and who has not paid the tax imposed by this Code thereon to a vendor required or authorized to collect the same shall file a Northglenn Sales and Use Tax Return and pay the tax due to the Director within thirty (30) days from the purchase, lease, or rental, of such tangible personal property and taxable services.

AUTOMOTIVE VEHICLE PURCHASES 5-3-13

(a) Purchasers of Automotive Vehicles 5-3-13(a)

Any person residing in the City, as specified by C.R.S. 42-6-137, who shall purchase any automotive vehicle as defined in subsection 5-3-4(a)(5) of this Code, whether new or used, from sources within or without this City, for use within the City and who has not paid the tax imposed thereon by this Code to a vendor required or authorized to collect such tax, shall immediately, and prior to registering the vehicle pursuant to C.R.S. 42-6-137, and obtaining the license therefore, shall make a return showing such transaction to the Director and thereupon pay to him the tax applicable thereto as provided in this Code, and failure to do so shall constitute a violation of this Code.

(b) Incorrect Registration of Automotive Vehicles 5-3-13(b)

(1) As used in this Section:

- (i) "Penalty Assessment" means a written notice of the Director's determination that a violation of C.R.S. 42-6-137(2), has occurred and assessment and demand for the payment of the civil penalty provided for in subsection (3) of this Section 5-3-13(b).
- (ii) "Notice of Deficiency" means the notice issued by the Director pursuant to Section 5-2-8 of this Code of failure, neglect, or refusal to pay any sales or use tax due or any penalties or interest thereon.

(2) It is unlawful to register a motor vehicle in violation of the provisions of C.R.S. 42-6-137(2).

(3) Any person who causes a motor vehicle to be registered in violation of the provisions of C.R.S. 42-6-137(2), shall be assessed a five hundred dollar (\$500.00) civil penalty pursuant to the authority granted in C.R.S. 42-6-137(4). The procedure for the assessment of such civil penalty shall be as follows:

- (i) When the Director determines on such information as is available that a person has caused a motor vehicle to be registered in violation of the provisions of C.R.S. 42-6-137(2), the Director shall provide to such person a penalty assessment. If the Director also has determined pursuant to Section 5-2-7 that sales or use taxes are due to the City on the purchase of such motor vehicle, such penalty assessment may be included in a notice of deficiency.
- (ii) Such person shall pay such penalty assessment within the same time period provided pursuant to Section 5-2-8 for payment of any amount due pursuant to a notice of deficiency, unless such person requests a hearing in the manner provided in paragraph (iii) of this subsection (3).
- (iii) If such person desires to protest such penalty assessment, such person shall request in writing a hearing from the Director pursuant to Section 5-2-11(a) for requesting a hearing on a notice of deficiency. The request for hearing shall also set forth the facts which show that a violation of C.R.S. 42-6-137(2), did not occur. The Director shall issue a written decision affirming or withdrawing such penalty assessment within the same time period and in the same manner as provided pursuant to Section 5-2-11(h) after a hearing on a notice of deficiency. If the decision affirms the penalty assessment, such person shall pay such civil penalty within the same time period as provided pursuant to Section 5-2-11(i) for payment of any amount due pursuant to a notice of deficiency.

- (iv) Such person may seek judicial review of the Director's decision pursuant to C.R.C.P. 106(a)(4). No such judicial review shall be available if a request for hearing was not timely made in the manner provided for in paragraph (iii) of this subsection (3).
- (v) The Director may enforce collection of such penalty assessment in the same manner as provided pursuant to Sections 5-2-17 through 5-2-18 for the collection of unpaid sales or use taxes, penalties, or interest.
- (vi) Nothing in this Section 5-3-13 shall preclude the collection of any tax or fee provided by law, the collection of any penalties or interest thereon provided by law, or the imposition of any other civil or criminal penalty provided by law.

TAX ON CREDIT SALES, ETC. 5-3-14

Whenever tangible personal property is sold, including that sold in conjunction with the sale of a business, which is taxable hereunder, under a conditional sales contract or rental purchase contract whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a chattel mortgage on such tangible personal property to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. The tax shall be charged, or collected and remitted by the vendor. No refund or credit shall be allowed to either party to the transaction in case of repossession.

EXCESS COLLECTIONS - FAILURE TO REMIT COLLECTIONS 5-3-15

If any vendor shall, during any reporting period, collect as a tax an amount in excess of four percent (4%) of his/her total taxable sales, he/she shall remit to the Director of Finance the full net amount of the tax herein imposed and also such excess. If record of City and State Tax Collections are kept separately, the vendor will remit excess of City tax collected over and above City Net Taxable Sales and Service. If there is no separate record kept of City and State tax collections and it is not possible to determine the excess to be remitted to each, the vendor shall remit forty-nine percent (49%) of such excess to the City. The retention by the vendor of any excess collections or the intentional failure to remit punctually to the Director of Finance the full amount required to be remitted by the provisions of this Code, is hereby declared to be a violation of this Code.

UNLAWFUL TO ADVERTISE ABSORPTION OF TAX 5-3-16

It shall be unlawful for any taxpayer or vendor 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 Code will be assumed or absorbed by the vendor or taxpayer 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. Any person violating this provision of this Code shall be subject to the penalties herein provided.

SPECIAL ACCOUNTING 5-3-17

(a) Alcoholic Beverage Sales by the Drink and Vending Machine Sales of Tangible Personal Property 5-3-17(a)

Any retailer selling malt, vinous, or spirituous liquors by the drink or vending machine sales may include in his/her sales price the tax levied under this Section; provided, that 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 consumers. The rate set forth in Section 5-3-3 of this Code shall be used by such retailer in determining amounts to be included in such sales price. No such retailer shall gain any benefit from the collection or payment of such tax except as permitted in subsection 5-3-7(d) nor shall the use of the rate set forth in Section 5-3-3 of this Code relieve such retailer from liability for payment of the full amount of the tax levied by this Section.

- (b) **Combined Sales of Services and Personal Property** 5-3-17(b)
Every retailer or vendor conducting a business in which the transaction between the vendor and the consumer or purchaser consists of the supply of tangible personal property and services in connection with the maintenance or servicing of same, shall be required to pay the tax levied under this Code upon the full contract price, unless application is made to the Director of Finance for permission to use a percentage basis for reporting the tangible personal property sold and the services supplied under such contract. The Director of Finance 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 tax levied pursuant to the provisions of this Code. This Section shall not be construed to include terms upon which the tax is imposed on the full purchase price as defined in Section 5-3-4(a)(41) of this Code, nor shall it be construed as an allowance for the vendor to fail to itemize to the customer the taxable, and non-taxable portions of the bill.
- (c) **Use Tax Collections by Non-Resident Vendors** 5-3-17(c)
Every retailer or vendor engaged in business in this City, as the same is defined herein, and making sales, even though not maintaining an office in this City, of tangible personal property or taxable services subject to the use tax, must, in accordance with this Code, collect and remit the use tax on such sales in like manner as Northglenn Retailers collect and remit the sales tax. Provided, that if the non-resident vendor petitions the Director of Finance stating that the imposition of the tax on an individual sales basis will impose an unnecessary hardship, and if the type and occasion of sale so warrants, the Director may accept payment of that vendor's tax liability on regularly audited and reasonable estimated payment basis. This estimated payment will be based on the surveyed Northglenn sales and use tax liability as it bears to the vendor's aggregate gross sales and services.
- (d) **Contractor Estimated Payment Basis** 5-3-17(d)
Satisfaction in full of Northglenn sales and use taxes "Estimated Payment Basis," based on the percentage of construction valuation as herein set forth in Section 5-3-10 shall be allowed.

TAX RETURNS - CONTENT, CONSOLIDATION, REPORTING PERIODS 5-3-18

- (a) **Tax Return: Content, Form, Etc.** 5-3-18(a)
The returns to be filed by the taxpayer, or the taxpayer's trustee, manager, officer, or director, shall contain such information and be completed in such manner and upon such forms as the Director of Finance may prescribe. When a return filed by a taxpayer does not include a signature, a correct City of Northglenn account number, or any other information required by the Finance Director, the Finance Director has the right to send back to the taxpayer the return and payment. The Finance Director may consider an improperly filed return to be not filed with the City of Northglenn. A valid digital signature on a filed return is accepted and held as a written signature.
- (b) **Consolidation of Returns** 5-3-18(b)
A vendor doing business in two or more places or locations, whether in or without the City, and collecting taxes hereunder, may file one return covering all such places or locations, when accompanied by a supplemental report showing the gross sales and service and net taxable sales and service and taxes collected thereon for each such place or location.
- (c) **Reporting Periods** 5-3-18(c)
If the accounting methods regularly employed by the vendor or licensed consumer in the transaction of his/her business, or other conditions, are such that the returns aforesaid made on a calendar month basis, will impose unnecessary hardship, the Director of Finance may upon request of the vendor, or licensed consumer, accept returns at such intervals as will, in his/her opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax; provided however, the Director of Finance may by rule permit a vendor or licensed consumer whose monthly tax collected is less than one hundred dollars (\$100) to make returns and pay taxes at intervals not greater than three (3) months, or as approved by the Director of Finance.

RETAILER AND CONSUMER LICENSE - APPLICATION CONTENT 5-3-19

- (a) **Application - Content 5-3-19(a)**
Northglenn retailer and consumer licenses shall be granted only upon application stating the name, address, and date of birth of the person desiring such license, the name of such business and the character thereof, the applicable Federal Identification number and State of Colorado license number of the business, the physical location of the business, the physical location phone number, and the contact phone number, fax, and email address. Other facts may be required by the Director of Finance such as, but not limited to, the date of birth, driver's license number, and social security number of an officer or owner of the business. The application must be signed and dated under penalty of perjury by an owner or officer of the business. A valid digital signature is accepted and held as a written signature. Any person doing business as a wholesaler shall obtain a retailer's license if any sales are made at retail as defined herein. Applications for such licenses shall be made to the Director of Finance. The City Clerk shall issue and renew such licenses.
- (b) **Each Retail Establishment to be Licensed 5-3-19(b)**
In case business is transacted at two or more separate places by one person, a separate license for each place of business shall be required; however, consolidated tax returns may be filed for those various locations as set forth in subsection 5-3-18(b).
- (c) **Form of License - License Non-Transferable 5-3-19(c)**
Each license shall be numbered and shall show the name, residence, mailing address, 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.
- (d) **License Fee 5-3-19(d)**
Each application for and renewal of a license shall be accompanied by payment of an annual fee in the amount of fifteen dollars (\$15.00). An exempt institution license, as required by Section 5-3-9, shall be exempt from this license fee.
- (e) **Expiration, Renewal, and Renewal Fees 5-3-19(e)**
All licenses issued shall expire on December 31st of each calendar year. On or before December 31 of each calendar year the holder of a license may apply for a renewal license to the Department of Finance for a renewal license for the calendar year next ensuing. A license for a new business or for a transfer of ownership issued on or after October 1st of each calendar year shall be valid for the next complete calendar year subject to the renewal provisions of this Section and subject further to the licensee's compliance with this Article. All applications for renewal license shall be made on forms prescribed and furnished by the Department of Finance. Failure to obtain a renewal license by the December 31 expiration date of the original license shall result in payment of an increased renewal fee according to the following schedule:

Renewal after January 1	\$2.00 penalty	Total Due \$17.00
Renewal after February 1	\$5.00 penalty	Total Due \$20.00
Renewal after March 1	\$7.50 penalty	Total Due \$22.50
Renewal after April 1	\$10.00 penalty	Total Due \$25.00

ENGAGED IN BUSINESS WITHOUT LICENSE 5-3-20

Any person engaged in business in the City as defined in the Code, without having secured a license thereof, except as specifically provided herein, shall be guilty of a violation of this Code.

REVOCAION OF LICENSE BY CITY CLERK 5-3-21

- (a) The City Clerk may on reasonable notice and after full hearing, revoke the license of any person found to have violated any provisions of this Code, in accordance with the provisions of Article 1 of Chapter 18 of the Municipal Code. The Director of Finance shall promptly notify the City Clerk of any violations of the provisions of this Code of which he/she becomes aware.

- (b) Any findings and order of the City Clerk revoking the license of any person shall be subject to review by the District Court upon application of the aggrieved party, in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

SALE OR TRANSFER OF BUSINESS INTEREST REQUIRES NEW LICENSE ISSUANCE AND APPLICABLE USE TAX PAYMENT 5-3-22

Any sale, transfer, or purchase of an interest in a business enterprise by any persons, as defined, where the respective interest of the person purchasing or selling as a result of the transaction has changed in any degree, requires, in the case of a retailer or other person required to be licensed under the Code, the issuance of a new license, and in all cases where any of the assets of any business are within the City, then also the payment of the use tax on transfer of title or possession or both of the tangible personal property taxable herein whether involving a retail establishment or any other type business.

METHOD OF PAYMENT DETERMINED BY THE DIRECTOR 5-3-23

- (a) The Director shall have the discretion to enter into an agreement with taxpayers to allow for payment of required taxes on an installment basis when such a method would be equitable for the taxpayer and the City.
- (b) The Code provides the following methods for the payment of the sales tax:
 - (i) If the vendor maintains a place of business or office in the City or State, such vendor shall be responsible for the collection and remittance of the sales tax on all sales made by such a vendor for use, storage, distribution, or consumption in Northglenn regardless of whether or not the purchaser buys through offices in the City or State, or orders by mail, internet, or otherwise direct from the retailer in another city or state.
 - (ii) If the vendor does not have an office or place of business in the City or State, but does have salespersons or other representatives soliciting orders and making sales in Colorado and Northglenn, then such vendor may be responsible for the entire tax on all sales made for use, storage, distribution, or consumption in Northglenn and if such vendor does not assume such responsibility, then such salespersons or agents must collect and remit the Northglenn Tax.
 - (iii) At the Director of Finance's discretion a cash deposit may be required of any transient salesperson or vendor subject to refund of such cash deposit upon complete compliance with the licensing and reporting provisions of this Code. The refund time limitations and other provisions set out in Section 5-2-13 of this Code shall apply in cases of such cash deposit. The Director of Finance shall require a deposit in an amount sufficient to pay any tax liability of the transient salesperson or vendor arising under this Code based on the best information available to the Director of Finance.

EVASION OR AVOIDANCE OF TAX 5-3-24

- (a) **Evasion or Avoidance of Tax 5-3-24(a)**

It shall be a violation of this Code for any retailer, vendor, consumer, purchaser, or any other person subject to the tax levied by the City of Northglenn Retail Sales and Use Tax Code to refuse to make any return provided to be made by this Code, or to make any false or fraudulent return, or any false statements in any return, or to fail or refuse to make payment to the 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 Ordinance, 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 making a false return or a return containing a false statement shall have violated this Code and shall be subject to prosecution and the imposition of penalties as provided by law. Any person in violation of any Section shall be subject to these same penalties.

- (b) **Separate Violations** 5-3-24(b)
Each and every twenty-four (24) hours continuation of any violation shall constitute a distinct and separate offense.
- (c) **Personal Liability** 5-3-24(c)
Any taxpayer, or person who executes any form or report required by this Chapter to be submitted to the City, shall be personally responsible for the payment of any taxes required under this Chapter. Additionally, any officer, director, partner, managing partner, or manager of a taxpayer shall be personally liable for any violations under this Chapter.
- (d) **Summons to Court for Violations of Code** 5-3-24(d)
The City Manager or his/her duly authorized agent, including personnel of the Department of Finance, have the authority of peace officers, as that term is defined under the Colorado Municipal Court Rules, to summons into the Northglenn Municipal Court any person who may be in violation of this Code as set forth under Subparagraph (a) of this Section.

VIOLATIONS - PENALTIES 5-3-25

It shall be unlawful for any person to violate any of the provisions of the Article. Any violation of this Article shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the City jail or County jail for not more than one (1) year, or by both such fine and imprisonment.

SEVERABILITY - SAVING CLAUSE 5-3-26

- (a) As used in this Section, the term “provision” means and includes any part, division, subdivision, Section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an Ordinance or any part thereof, whether considered or construed alone or together with another Ordinance or Ordinances, or part thereof, of the City; and the term “this Ordinance” means and includes the Ordinance enacting this Section, together with any and all exhibits and schedules therein incorporated, and each Chapter, Article, and Section of the Municipal Code in which such Ordinance is codified.
- (b) If any provision of this Ordinance, or the application of such provision to any person or circumstances, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end effect the provisions of this Ordinance are declared to be severable. The City Council of the City of Northglenn hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid.
- (c) The amendment repeal or supersession of any Ordinance or provision of any Ordinance by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right which may have been incurred or obtained under such Ordinance or provision thereof; and such Ordinance or provision thereof so amended repealed or superseded shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, or proceedings, or prosecutions imposing, inflicting or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions hearings and appeals pending before any court or administrative tribunal.

CHAPTER 5

ARTICLE 11 – ADMISSIONS TAX

LEGISLATIVE INTENT 5-11-1

It is hereby declared to be the legislative intent of the City Council of the City of Northglenn that on and after the effective date of this Article, every person who pays to gain admission to any place or event in the City that is open to the public shall pay and every person, whether owner, lessee, or operator, who charges or causes to be charged admission to any such place shall collect the tax imposed by this Article.

EXCISE TAX BASED ON ADMISSIONS 5-11-2

On and after the effective date of this Article, there is hereby levied and shall be paid and collected an excise tax of three percent (3%) on the price paid to gain admission to any place or event in the City which is open to the public. Said excise tax is in addition to all other taxes imposed by law except as provided herein.

DEFINITIONS 5-11-3

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

- (a) **Northglenn Admissions Tax** 5-11-3(a)
“Northglenn Admissions Tax” is the tax levied herein.
- (b) **City** 5-11-3(b)
“City” means the City of Northglenn, Colorado.
- (c) **Article** 5-11-3(c)
“Article” means Article 11, Chapter 5 of the Northglenn Municipal Code, as amended.
- (d) **Person** 5-11-3(d)
“Person” means and includes any individual, firm, co-partnership, joint venture, corporation, society, club, association, joint-stock company or estate, or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit, including the United States of America, State of Colorado and any political subdivision thereof, in the plural as well as the singular number.

PLACE OR EVENT OPEN TO THE PUBLIC 5-11-4

The term “**place or event open to the public**” means any place or event the admission or access to which is open to members of the public upon payment of a charge or fee. This term shall include by way of illustration, but not by way of limitation, the following places and events when a charge or fee for admission to such places and events is placed upon members of the public:

- (a) Any performance of a motion picture, stage show, play, concert, or other manifestation of the performing arts.
- (b) Any sporting or athletic contest, exhibition, or event, whether amateur or professional.
- (c) Any lecture, rally, speech, or dissertation.
- (d) Any showing, display, or exhibition of any type, such as an art exhibition.
- (e) Any restaurant, tavern, lounge, bar, or club, whether the admission charge is termed a “**cover charge**,” “**door**

charge”, or any other such term.

TAXABLE TRANSACTIONS 5-11-5

It shall be a violation of this Article for any person who pays to gain admission to any place or event in the City that is open to the public to fail to pay or for any person, whether owner, lessee, or operator, who charges or causes to be charged admission to any place or event in the City that is open to the public to fail to collect the tax levied by this Article.

EXCLUSIONS AND EXEMPTIONS 5-11-6

- (a) The admissions tax shall not apply to any admission charge:
 - (1) For any event sponsored or conducted by the United States, the State of Colorado, the City of Northglenn, 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 of Colorado.
- (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 the admission 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 the entire three (3) 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 organization 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 the event for which admissions tax exemption is requested.

EXEMPTIONS: BURDEN OF PROOF 5-11-7

- (a) The burden of proof that any transaction is excluded or exempted from imposition of admissions tax shall be on the person or persons 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.

REPORTS AND REMITTANCES 5-11-8

- (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 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.

- (b) Every person required to collect admissions tax hereunder shall remit the full amount of such tax to the City within five calendar days after the date such tax was collected, provided that the Director of Finance may authorize persons collecting admissions tax on a regular continuing or recurring basis to file monthly reports and remittances, which shall be due on the 20th day of the month following each month in which admissions taxes were collected.
- (c) Persons collecting admissions tax may either add the tax to the admissions charge as a separate and distinct item or may include the tax in the admission price without separately identifying it as a 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.

REFUNDS 5-11-9

In the event that an admission price is refunded for any reason, either before or after an event has taken place, the tax is not applicable and shall be refunded along with the admission price.

FREE OR COMPLIMENTARY ADMISSIONS; ADMISSIONS AT REDUCED CHARGES 5-11-10

The providing of free passes, complimentary admission tickets, or otherwise where no admission price is charged or paid shall exempt said person from payment of the admission tax; however, in the event that a reduced charge for admission is made, whether for a pass, complimentary admission, or otherwise, the tax imposed in this Article is applicable to the amount of such charge.

CITY-OWNED PLACES AND CITY-SPONSORED EVENTS 5-11-11

The tax levied by this Article shall not apply to any admission fee paid or charged to gain entry into any event sponsored or conducted by the City.

LIABILITY; LICENSES AND REPORTING PROCEDURE 5-11-12

The burden of proving that any transaction is not subject to the tax imposed herein shall be upon the person upon whom the duty to collect the tax is imposed by Section 5-11-1.

SALES AND USE 5-11-13

Any person remitting admissions tax pursuant to this Article shall be exempt from any sales or use tax liability imposed on the price paid by such person for the use of motion picture film prints in public performances which generate admissions tax.

RESPONSIBILITY FOR COLLECTION AND REMITTANCE OF TAX 5-11-14

Every owner or operator, who charges or causes to be charged admission to any place or event that is open to the public, shall be liable for the collection and remittance of the tax levied herein. If an owner or operator of a facility leases or rents such a facility to another party, which in turn sponsors or conducts some public event in such facility, then such owner or operator shall be relieved of the liability of collecting and remitting the tax, only if the party to whom the facility is leased or rented is, at the time of such leasing or rental, licensed to collect and remit the tax.

LICENSE TO BE OBTAINED 5-11-15

- (a) Every person required to collect or remit admissions tax hereunder shall obtain an Admissions Tax License from the City Clerk. 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 City Clerk to be sufficient to secure compliance with all provisions of this Article. Said license shall be issued without further charge and shall be valid for a period of one (1) year.
- (b) Notwithstanding the provisions of Subsection 5-11-15(a), the City Clerk may allow any person holding a valid City of Northglenn Sales and Use Tax License to receive, collect and remit the admissions tax under that licensing and reporting system without further licensing or bonding herein.

PENALTY AND INTEREST FOR FAILURE TO COLLECT OR REMIT TAX 5-11-16

- (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 of Northglenn for the amount of the tax.
- (b) Any person required to collect and remit admission 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 the negligence or intentional disregard of authorized rules or regulations but without intent to defraud, there shall be added ten percent 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 attributed in whole or in part to fraud or intent to evade the tax, there shall be added fifty percent 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 the 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.

DIRECTOR OF FINANCE EMPOWERED TO MAKE RULES AND REGULATIONS 5-11-17

The Director is hereby authorized to promulgate rules and regulations regarding the payment, collection, reporting, accounting criteria and periods, settlement of disputes over payment, refund, and enforcement of the tax imposed by this Article. Said rules and regulations shall not be inconsistent with the provisions of this Article.

CRIMINAL PENALTIES FOR VIOLATION 5-11-18

Any violation of the provisions of this Article shall be punishable as provided in Section 1-1-10(a)(2) of this Code, in addition to any civil penalty provided herein.

REPEAL OF CONFLICTING ORDINANCES 5-11-19

All Sections or parts of Sections of the Northglenn Municipal Code, as amended, or ordinances or parts of ordinances in conflict or inconsistent herewith are hereby expressly repealed.

SEVERABILITY 5-11-20

If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portions of this Article.

CHAPTER 18

ARTICLE 11 - AMUSEMENT DEVICE

TITLE 18-11-1

This Ordinance shall be known and cited as the Northglenn Amusement Device Ordinance.

DEFINITIONS 18-11-2

As used in this Ordinance and in Article 11 of Chapter 18 of the Municipal Code of the City of Northglenn:

- (a) **Amusement Arcade** 18-11-2(a)
“Amusement Arcade” shall mean a place or establishment where an individual, association, partnership, or corporation maintains more than ten (10) amusement devices.
- (b) **Amusement Center** 18-11-2(b)
“Amusement Center” shall mean a place or establishment where an individual, association, partnership, or corporation maintains more than four (4) but less than eleven (11) amusement devices, either as a sole business or in conjunction with some other business.
- (c) **Amusement Devices** 18-11-2(c)
“Amusement Devices” shall mean any devices which upon insertion of a coin, slug, token, plate, or disc, or payment of a game, entertainment, amusement, a test of skill, either mental or physical, whether or not registering a score, and shall include, but not limited to, pool tables, snooker tables, foosball tables, electronic games, coin-operated movies, and pinball machines of every kind and description, but shall not include radios, devices that provide music only, televisions carrying commercial broadcasts only, devices for bowling, such as bowling lanes, non-coin-operated pool and billiard tables, fixed-stand coin-operated kiddie rides, or vending machines as defined in Section 5-3-5(c)(11) of the Code.
- (d) **Applicant** 18-11-2(d)
“Applicant” shall mean any individual, association, partnership, or corporation requesting a license pursuant to this Chapter.
- (e) **Manager** 18-11-2(e)
“Manager” shall mean an individual who manages, directs, supervises, oversees, and administers the acts and transactions of the agents or servants of any establishment governed by this Chapter or who, through his/her own actions, directs, oversees, and administers the affairs of any such establishment.

LICENSE - PAYMENT OF FEE REQUIRED 18-11-3

- (a) No amusement arcade or amusement center shall conduct business within the City without a valid license as provided herein.
- (b) No amusement arcade or amusement center shall conduct business within the City without first paying the fee placed upon amusement devices imposed in Section 18-11-8.
- (c) No person, individual, business or association, partnership, or corporation shall own, maintain, or operate an amusement device in the City without first paying the fee placed upon amusement devices imposed by Section 18-11-8.

LICENSE – APPLICATION 18-11-4

The application for an amusement arcade or amusement center license shall be made to the City Clerk, and shall be accompanied by the fees required by Section 18-11-8 and shall contain the following information:

- (a) The name and address of the establishment.
- (b) The name, address, age, date and place of birth, and prior felony convictions, if any, of the applicant(s) and manager(s) of the establishment.
- (c) Evidence from the Department of Community Development of the City that the location of the proposed amusement arcade meets all of the zoning requirements of the City.
- (d) Where the applicant is an association, partnership, corporation, or private club, the information required in paragraph two shall be furnished to each member of the association, or each officer of the corporation and members of the board of directors of the corporation and the holders of ten percent or more of the corporate stock of any class.
- (e) The number of amusement devices to be maintained at the amusement arcade.

LICENSE – APPROVAL 18-11-5

- (a) Application for the license required by Section 18-11-3 shall be reviewed by the City Clerk. The City Clerk shall have an investigation conducted by the Police Department sufficient to verify all the information required by this Chapter. On completing of this investigation, the City Clerk shall either approve or disapprove the application.
- (b) No license shall be issued to any applicant unless approved by the City Clerk. The City Clerk shall refuse to issue any license for an amusement arcade, amusement center, or amusement device, if said Clerk find any of the following:
 - (1) That the applicant is under the age of twenty-one (21) years.
 - (2) That the applicant, manager, or either of them has made false statements upon the application.
 - (3) That the applicant, manager, or either of them has been convicted of a felony within the past ten (10) years.
 - (4) That the proposed amusement arcade or amusement center is located within five hundred (500) feet of the boundary of any public or parochial school grounds. Said distance to be computed by the direct measurement from the nearest portion of the building in which the amusement arcade or amusement center is located.
 - (5) That any designated manager is under the age of twenty-one (21).
- (c) In the event that the City Clerk disapproves a license application, the City Clerk shall make written findings of fact stating the reasons for the disapproval. Any decisions of the City Clerk may be reviewed by City Council if an appeal of the City Clerk's decision is properly filed within twenty (20) days of that decision.

LICENSE – TERM 18-11-6

All licenses granted pursuant to this Chapter shall be for a term of one (1) year unless suspended or revoked pursuant to Section 18-11-9 hereof. Said term shall commence on the date the license is issued and terminate on the anniversary date of the license.

LICENSE – RENEWAL 18-11-7

Renewal of any of the licenses granted pursuant to this Chapter may be had by payment of the license fee along with a statement that the information listed on the original license application is still true and correct, or a statement listing those items of information required for a license application which have changed in the year since the license was granted or renewed. Failure to renew a license in a timely manner shall be grounds for termination and revocation of said license, and shall be grounds for failure to renew said license.

LICENSE – FEES 18-11-8

Fees for persons licensed under the provisions of this Chapter are as follows:

- (a) **Amusement Arcade, Annual Fee 18-11-8(a)**
Applicants or holders of an amusement arcade license shall pay a yearly fee of one hundred dollars (\$100) per amusement device maintained upon the premises.
- (b) **Amusement Center, Annual Fee 18-11-8(b)**
Applicants or holders of an amusement center license shall pay a yearly fee of one hundred dollars (\$100) per amusement device maintained upon the premises.
- (c) **Amusement Devices, Annual Fee 18-11-8(c)**
Any person, individual, business or association, partnership, or corporation owning, operating, or maintaining one or more amusement devices, but not required to obtain an amusement arcade or amusement center license hereunder, shall pay a yearly fee of fifty dollars (\$50) per amusement device.
- (d) **Investigation Fee 18-11-8(d)**
Applicants for amusement arcade and amusement center licenses shall pay an investigation fee of fifty dollars (\$50) to cover the cost of investigation required by this Chapter.
- (e) **Additional Devices Acquired During License Period 18-11-8(e)**
All applicants and holders of amusement arcade or amusement center licenses shall report to the City Clerk the addition of any amusement device or devices to their premises within fifteen (15) days of said addition and tender to the City Clerk at that time the fee of one hundred dollars (\$100) for each additional amusement device for the remainder of the original license period. Failure to report additional amusement devices to the City Clerk shall constitute a violation of this Chapter and be grounds for revocation or suspension of the license granted pursuant to this Chapter.

The City Clerk shall issue a receipt for the payment of these fees.

LICENSE – SUSPENSION OR REVOCATION GENERALLY 18-11-9

- (a) The City Clerk shall, in accordance with the provisions of Article I of Chapter 18 of the Municipal Code, either suspend or revoke any license granted pursuant to this Article upon a finding of any of the following factors:
 - (1) That any of the amusement devices maintained upon the premises are being used for gambling purposes.

- (2) That repeated disturbances of public peace have been occurring within the licensed establishment or upon any parking areas, sidewalks, walkways, access ways, or grounds immediately adjacent to the licensed premises involving patrons, employees, or the holder of the license of the establishment.
 - (3) That the holder of the license or any employee thereof is illegally offering for sale, or illegally allowing to be consumed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways, or grounds immediately adjacent to the licensed premises, narcotics or dangerous drugs.
 - (4) That the holder of the license or an approved manager is not upon the licensed premises at all times.
 - (5) That where not specifically authorized by law, malt, vinous, or spirituous beverages are being consumed on the premises with or without the consent of the owner by patrons of the licensed establishment or where such beverages are being consumed by patrons of the establishment upon any parking areas, sidewalks, walkways, access ways, or grounds immediately adjacent to the licensed premises.
 - (6) That the amusement devices have been installed, and/or are being operated, on the premises of any amusement arcade or amusement center for which the fee required by Section 18-11-3(b) hereof has not been paid, or for which application has not been made pursuant to Section 18-11-8(d) hereof.
 - (7) That any amusement center or amusement arcade is being maintained in such a way as to violate any building code, zoning, or public health requirement imposed by the City, County or State Ordinance, law or regulation, or any other provision of City Ordinance, or State or Federal law.
 - (8) That any license required to be renewed has not been renewed in a timely manner as prescribed in this Article.
 - (9) That any provision of this Article has been violated by the owner or manager of the amusement arcade, amusement center, or that either such owner or manager has knowingly allowed the violation of any provision of this Chapter to occur.
 - (10) That the use of the amusement devices in the licensed establishment occurs during the hours where such operation is prohibited pursuant to Section 18-11-11 hereof.
- (b) Nothing in this Chapter shall prohibit the City from taking any other enforcement action provided for by this Code or the laws of the State or of the United States.
 - (c) Any decision by the City Clerk specified in this Section may be appealed by an aggrieved party to the City Council by the filing of a written notice of appeal no later than twenty (20) days after the date of the City Clerk's decision. Upon receipt of such a notice of appeal, the appeal shall be placed on the City Council's agenda and shall be heard as a public hearing. Any appeal from the City Council's decision shall be to the Adams County District Court.

GAMBLING PROHIBITED 18-11-10

Nothing in this Article shall be construed to permit any unlawful gambling or wagering within the City.

HOURS OF OPERATION 18-11-11

No establishment licensed pursuant to this Article shall allow operation of any amusement device between the hours of 12:01 a.m. and 8:00 a.m., with the following exception: an establishment possessing a valid license issued pursuant to the Colorado Liquor Code, Title 12, Article 7, C.R.S., may allow operation of amusement device during the hours in which the establishment is authorized to sell liquor pursuant to C.R.S. 12-47-128.

**ENFORCEMENT OF REVOCATION, SUSPENSION OR NON-RENEWAL ORDERS
18-11-12**

Any amusement arcade or amusement center for which a permit is denied, not renewed, suspended or revoked shall terminate operation of each amusement device located therein immediately. During the pendency of any appeal to the City Council or any Court, as provided in this Article, the amusement arcade or amusement center shall be entitled to continue to operate all amusement devices identified pursuant to Section 18-11-8(d) hereof, provided that a bond in the amount of one hundred dollars (\$100) per amusement device is posted with the City Clerk. Any amusement device being operated in violation of any decision or order of the City Clerk, City Council or any Court of competent jurisdiction shall be deemed a public nuisance pursuant to Article I of Chapter 9 of the Municipal Code.

PENALTY 18-11-13

Any individual, association, partnership, corporation or any other entity violating any provisions hereof shall be guilty of a misdemeanor, and upon conviction of such violation shall be subject to a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), which fine may not be suspended in whole or in any part, or imprisonment not to exceed one (1) year, or both such fine and imprisonment. Nothing contained in this Section 13, however, shall impair the ability of the City of Northglenn to enforce this Ordinance as provided in Section 18-11-12 hereof.

SEVERABILITY 18-11-14

If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

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