



A COLORADO HOME RULE CITY

TAX REGULATIONS

Revised August 2012

APPENDIX A TO THE CODE OF LAWS

THESE REGULATIONS ARE PROMULGATED PURSUANT TO WHEAT RIDGE, COLORADO, CODE SECTION 22-33, TO BETTER PROVIDE FOR SPECIFIC BUSINESS AND SPECIAL CIRCUMSTANCES. THEY SHALL APPLY IN ADDITION TO AND HAVE THE SAME EFFECT AS THE NUMBERED SALES AND USE TAX PROVISIONS.

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## **REGULATIONS**

### **A-10. ADVERTISING AGENCIES, COMMERCIAL ARTISTS, AND DESIGNERS.**

(1) Nontaxable services include, without limitation, writing copy for use in newspapers, magazines, or other advertising, or to be broadcast on television or radio; placing or arranging for the placing of advertising in print media; billboards and other forms of outdoor advertising; cards in taxicabs, buses, and other facilities used in public transportation; delivering or causing the delivery of brochures, pamphlets, and cards; and making charges for supervision, consultation and research.

(2) The tax applies to the entire amount charged to clients for items of tangible personal property such as drawings paintings, tapes, films, designs, photographs, lettering, assemblies, and printed matter. Whether the item of property is used for reproduction or display purposes is irrelevant to its taxability.

### **A-20. AGRICULTURAL PRODUCERS.**

(1) "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, dairymen, poultrymen and other persons similarly engaged, but 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 that person's own consumption directly or by giving it away free of charge.

(2) All sales and purchases of cattle, sheep, lambs, poultry, swine, and goats; all sales and purchases of mares and stallions for breeding purposes; all sales and purchases of live fish for stocking purposes; all sales and purchases of straw and other bedding for use in the care of livestock or poultry; all sales and purchases of feed for livestock and poultry; all sales and purchases of seeds for commercial use, and all sales and purchases of orchard trees for commercial use shall be exempt from taxation only if sold or purchased for use outside the City even though the sale and/or delivery is made within the City.

(3) All sales of farm machinery and farm machinery parts to the purchaser for use outside the City even though the sale and/or delivery is made within the City is exempt from Wheat Ridge tax. All sales of farm machinery and parts for use in Wheat Ridge are taxable. Trucks of one-ton manufacturer-rated capacity or less, and lawn and garden tillers, mowers and renovators are not considered farm machinery and are taxable.



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(4) Containers, labels, and furnished shipping cases purchased by an agricultural producer to deliver his products to his customers are not subject to tax. Containers and shipping cases include wire, twine, rope, tape and similar binding materials, together with

any other material or product used to wrap, bag, bundle, or similarly contain products. Containers not used to deliver a product, or which are used for any purpose whatsoever prior to use in delivering a product to a customer, are subject to tax at the time of acquisition.

(5) Fertilizer purchased by an agricultural producer is not subject to tax. "Fertilizer" means compounds of nitrogen, phosphorus, potassium, trace elements or similar materials or substances which provide essential plant food elements and which are absorbed by growing plant, but does not include soil, sand, peat moss, limestone, disinfectants, mulches, and similar materials primarily used to condition the soil or to preserve or facilitate plant growth, regardless of incidental nutritive value. Similarly, the purchase of insecticides, fungicides, germicides, herbicides, rodenticides, and similar substances is taxable.

(6) Colorado form DR0511 completed in full by an agricultural producer, and accepted in good faith by the retailer, is adequate proof of agricultural exemption.

**A-30. ALARMS AND SECURITY SYSTEMS**

(1) Leased or rented alarm or security systems, whether monitored, silent or audible are taxable on the full amount charged for such rental or lease service. Burglar and fire alarm systems sold outright and installed by the vendor are taxable as a retail sale of tangible personal property.

(2) The entire service charge for any alarm or security system is subject to the Wheat Ridge sales tax. This service charge includes, but is not limited to, monitoring, maintenance, rental, lease, materials and equipment.

(3) All materials and equipment used in providing the service are subject to the Wheat Ridge use tax. If title of the material or equipment is transferred to the customer for resale, then the material or equipment is deemed to be held for resale and a sales tax should be collected from the customer at the time of transfer of such title. Such transfer shall be deemed a separate and distinct transaction from the service charge.

(4) A contractual relationship with alarm subscribers and private alarm or security system services provides for two distinct economic transactions; the first relates to the installation of the alarm system hardware or components, and the second to the ongoing provision of system monitoring services to the alarm subscriber.

(5) Subscribers may be billed in one of two ways:



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- (a) The initial system components are billed as a retail sale of tangible personal property, and the sales tax is charged on the full amount.
- (b) The subscriber is billed a periodic monthly charge which includes a cost amortization of system components and installation of components; all these charges are subject to sales tax.
- (6) Alarm systems that are subsequently resold are subject to sales tax as separate and distinct transactions.
- (7) Non-taxable security services include consulting or human or guard dog patrol services.
- (8) Charges by the Wheat Ridge Police Department to the alarm or security service are not subject to sales tax.

**A-35 AMUSEMENT DEVICES**

- (1) Amusement devices are any machines which allow someone to insert money, slugs, tokens or any other representation of payment in exchange for use to play a game, test a mental or physical skill or be entertained in some way. Not included are juke boxes, radios, televisions playing commercial broadcasts, bowling lanes, non-coin-operated pool or billiards tables and children's rides.
- (2) Amusement devices are individually subject to annual licensing and certain restrictions under Code section 11-101 through 11-124, based on how many devices are present. Contact the City Clerk's office for details and fees.
- (3) Sales tax is due 20 days after the end of the month on the gross receipts from amusement devices and is calculated as follows:

$$\text{Taxable Amount} = \text{Gross Receipts} \times (1 - \text{Tax Rate})$$

$$\text{Tax Due} = \text{Tax Rate} \times \text{Taxable Amount}$$



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**A-40. AUTOMOBILE DEALERS AND DEMONSTRATION VEHICLES.**

Motor vehicles used by automobile dealers for demonstration and other company purposes are subject to tax as follows:

(1) If titled to an address in Wheat Ridge, a vehicle actually sold to a salesman, partner, or other employee or agent of the dealer's company is subject to the sales tax on the purchase price, or if there is a trade-in allowance, on the net purchase price of the vehicle.

(2) A motor vehicle dealer who uses a vehicle for other than promotion of business, as defined below, shall pay a use tax upon the dealer's net invoice price.

(3) The dealer's use of an inventory or stock vehicle is not subject to a use tax if the vehicle is available for and in fact used in the promotion of the business of selling vehicles by the dealership. As used in this rule, the following terms shall have the following meanings:

(a) "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 normal business hours.

(b) "In fact used" means that the vehicles not only must be available but actually must be used by the dealership in the promotion of its business.

(c) "Promotion of the business" means any efforts to sell motor vehicles, however, vehicles used in the promotion of the business does not include vehicles used in the dealer's service or repair business.

**A-50. AUTOMOTIVE REPAIRS.**

(1) Sales of parts and accessories installed in motor vehicles are of the same nature as other sales of tangible personal property and are taxable. The taxable amount is the total charge made to the consumer, less service or labor charges if separately stated.

(2) If the repair of a motor vehicle is subcontracted to another repairman in the City by the consumer's repairman, the sub-repairman must charge sales tax to the consumer's repairman. An itemized bill from the sub-repairman must be retained for tax purposes and a copy provided with the final bill to the consumer to illustrate the tax paid to the sub-repairman. The repair should be itemized on the final bill as a lump sum contract repair, tax paid; any profit on it to the customer's repairman is a non-taxable service fee.

a) A sub-contracted repair made where no local tax is charged is subject to sales tax on the parts, disposal fees and shop materials fees as if the repair were made in the City.

(3) Motor vehicle dealers, garages, repairmen and the like may purchase tax-free only tangible personal property intended for resale. This exemption does not apply to service



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vehicles, machinery, equipment, supplies, tools, and similar items which they purchase for their own use or consumption and not for resale. Supplies consumed in the performance of a job (such as sandpaper, and masking tape) are taxable to the repairman and sales tax should be paid at the time of purchase or remitted as use tax on the repairman's sales/use tax return.

(4) Common items subject to use tax by the repairman include: Masking tape, clothing, uniforms, special masks, gloves, cloths, wipe rags, towels, chamois, sponges, floor dry, hand tools, machinery and equipment, paint thinner and reducer, paint supplies, rubbing compound, sandpaper, fileboard, grinding disks and other abrasives, soaps, shampoos and other cleaners, solvents, and other similar supplies consumed in the normal course of business.

**A-60. BARBERS, BEAUTICIANS, AESTHETICIANS, NAIL TECHNICIANS, MASSAGE THERAPISTS AND OTHER PERSONAL SERVICE PROVIDERS.**

(1) The purchase of supplies, equipment and furniture used by barbers, aestheticians, cosmetologists, massage professionals, nail technicians and related personal service providers in the regular course of business is taxable. Personal service providers are the consumers these items. If no local sales tax is paid at the time of purchase, use tax must be remitted and is calculated as follows:

$$\text{Use Tax Due} = \text{Tax Rate} \times (\text{Cost of Goods} + \text{Shipping, handling and fees})$$

(2) Any supplies or other tangible personal property sold to consumers in the regular course of business are taxable and sales tax should be collected and remitted. The purchase of items for resale is exempt from sales tax.

(3) Sales or use tax is due on the purchase price of equipment or supplies which are subsequently sold, rented or leased to independent contractors associated with a personal service provider's business.



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**A-70. BOWLING CENTERS.**

- (1) An excise tax of four percent (4%) is due on each admission charge to an amusement or entertainment event including, but not limited to, the charges for bowling by the line.
- (2) Shoe rentals and other rentals are subject to sales tax.
- (3) Video games, bowling ball cleaning machines, and storage lockers, are considered short term rentals and subject to sales tax on the gross receipts. Tangible personal property vended through machines is subject to sales tax (except cigarettes, newspapers, and items less than nineteen cents). Sales tax on gross receipts is calculated as follows:

$$\text{Taxable Amount} = \text{Gross Receipts} \times (1 - \text{Tax Rate})$$

$$\text{Tax Due} = \text{Tax Rate} \times \text{Taxable Amount}$$

- (4) Sales or use tax is due on all equipment and supplies purchased for use by the business including electronic scorekeeping devices and office supplies.

**A-80. BROADCASTING STATIONS AND OTHER MEDIA.**

Purchases and leases of tangible personal property by broadcasting stations are subject to sales or use tax if title to or right of use of the property is acquired by the station and the property is not to be resold in the regular course of business. Such purchases and leases include, but are not limited to, equipment, materials and supplies such as phonographic records, tapes, compact discs, and blank discs used by transmitter, relay, studio, business office, and general station facilities.

**A-85. BUILDING MATERIALS AND SUPPLIES.**

Use tax is due on all building materials and building supplies used in building, constructing, reconstructing, altering, expanding, modifying or improving any building, dwelling, structure or improvement to real property in the City. City of Wheat Ridge, Renewal Wheat Ridge, the Wheat Ridge Housing Authority projects, public schools projects and projects of exempt institutions having the exempt purpose of building, constructing, reconstructing, altering, expanding, modifying or improving any building, dwelling, structure or improvement to real property are exempt. There is no exemption for projects for any other exempt institutions or for private contracting companies performing work on behalf of governmental agencies.





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- a) The use tax is payable at the time building permit is obtained and is calculated by applying the current sales and use tax rate to 60% of the total project value, excepting the cost of land but including interior decoration (such as painting and wallpapering and similar) if included in the project.
- b) The building permit serves as proof of exemption from local tax when making purchases of building materials and building supplies when a copy of the permit is presented to the retailer.
- c) Alternatively, the tax may be reported and remitted directly on an actual cost basis if the contractor obtains a City sales and use tax (business) license.
- d) Building materials and building supplies include all items which become permanent attachments to a building, dwelling, structure or improvement to real property, including fixtures. They do not include tools, office supplies, uniforms, safety equipment, food and beverage provided to workers at the jobsite or free-standing appliances. Generally, if something must normally be wired, plumbed or securely fastened to a building, dwelling, structure or improvement to real property in order to be used for its intended purpose, it is considered building material. All other items are subject to sales or use tax as any other property classed as a general business expense.

A-90. **CEMETERIES.**

Cemeteries must charge sales tax on the selling prices of cement vaults, liners, markers and similar items. Persons furnishing foundations are deemed to be contractors and must follow the contractors' regulations.

A-110. **COINS AND BULLION.**

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

(2) Bullion sold within the City and physically or constructively transferred into the City is subject to sales tax. If the purchaser, however, paid a sales tax in the city or state in which he took delivery, then the purchaser is liable to the City for the difference between the sales tax paid and the City sales tax, if any. Sales of gold and silver



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commodity contracts are not subject to sales tax unless delivery of the commodity is taken in the City.

**A-120. COMPUTER SOFTWARE/ PROGRAMS**

(1) Computer software or computer programs are defined as a set of instructions and routines which cause data processing machines or computers to perform designated tasks. Software, whether placed on cards, tape, disc pack or other machine readable form or entered into a computer directly or via download, may be in the form of:

(a) "Systems programs" (except for the internalized code which controls the basic operations, i.e. arithmetic and logic, and considered an integral part of the hardware)-programs that control the hardware itself and allow it to compile, assemble, and process the application programs. These programs are not normally accessible or modifiable by the user and are always taxable.

(b) "Application programs"-programs that are created to perform business functions, or control, or monitor processes.

(c) "Prewritten programs" (or canned programs) - programs that are either system programs or application programs and are not written specifically for the user.

(2) The lease of a computer with application programs is subject to sales tax on the entire charge.

(3) The vendor's purchase of tangible personal property (tape, disc, paper, etc.) that is transferred to the customer in connection with the tax exempt service is subject to sales or use tax.

(4) A software vendor that sells packaged programs for use with personal computer equipment or with home television games when such programs are fully usable by the customers is considered to be selling tangible personal property and such sales are subject to sales tax on the purchase price of such property.

**A-125 COMPUTER SOFTWARE SERVICES**

Computer software services include any design, development, writing, translation, fabrication, maintenance, lease or transfer of computer programming.

(1) Computer software services are subject to sales or use tax.

(2) Computer software maintenance or support agreements are subject to sales or use tax.

(3) Computer software maintenance or support included in the lease, transfer or sale of computer hardware is subject to sales or use tax.



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- (4) If a company or consumer hires an outside software company or vendor to write, design, develop, translate or fabricate a computer software program the entire charge for that service is taxable. A use tax exemption on this service would only apply, if the company utilizes their own in-house employees or personnel in developing their own software computer program.
- (5) Charges made to consumers for updates or rights to future updates to programs are subject to sales or use tax.

A-130. **CONCRETE - READY MIX.**

The sale of ready-mix concrete is subject to sales tax on the delivery price, which includes minimum load and transportation charges. Standby fees charged after arrival at the destination are not subject to sales tax if stated separately on the purchase invoice. When concrete is sold for a job site on which a building permit is required, no tax is due at the time of the sale because the tax will be collected through the permit and use tax process.

A-140. **CONSIGNED MERCHANDISE SALES.**

Regardless of the status of the consigned inventory for the purpose of any other tax and regardless of whether the retail customer knows that the inventory is not owned by the vendor, the vendor is the retailer of the property and liable for the tax due on the retail sales.

A-150. **CONSTRUCTION AND CONTRACTORS.**

- (1) Contractor means any person, other than an employee, who performs work on a construction project, and includes, without limitation, building, electrical, plumbing and heating contractors.
- (2) A contractor may pay the building use tax in either of two ways:
  - (a) By determining an estimated amount of the total cost of construction as established by the City Building Inspector and stated on the building permit and multiplying 60% of that value by the current tax rate; or
  - (b) By obtaining a sales and use tax license and remitting tax monthly based upon actual purchases. The City may require that a contractor file a return for each project.
- (3) Any contractor who permits the use of the contractor's equipment at an hourly, daily or other periodic rate is presumed to be a lessor of tangible personal property and must collect the sales tax on the fees charged for the use of such machinery and



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equipment. If the charge for the operator of the equipment is not segregated from the rent for the hire of the equipment, the measure of the tax will be the total fee charged.

(4) The contractor is always the consumer of the materials used in the construction project and may not avoid the payment of the sales or use tax by any subterfuge such as the use of provisions in a construction agreement or by use of the name of a tax-exempt entity on an invoice or purchase order, whether or not the contractor is indicated thereon as the agent of such tax exempt entity.

(5) A vendor or retailer that is also a contractor must remit the tax on materials removed for use in its construction jobs from its own stock of goods held for sale and must base the tax on the value to the customer. In other words, a contractor/retailer who sells bricks for \$5 each at retail, but charges out a discounted rate of \$4 each for their own projects will calculate tax on the \$4 per brick rate. If no discount is made, the full retail price is the basis for tax.

(6) Sales of stoves, refrigerators, washing machines, clothes dryers, air conditioners, heat pumps, storm windows, storm doors, patio covers, carpeting, wallpaper, fencing, prefabricated swimming pools, lawn sprinkler systems, nursery stock, landscaping materials, sod, site lighting, concrete or asphalt paving, or other items of tangible personal property to be affixed to, installed in or used in conjunction with a structure, which can be removed without substantial damage to the structure, are not part of the work performed by a contractor subject to building permit use tax. In such cases, the tax will be collected from the purchaser by the vendor of such items of tangible personal property, and the contractor may act as agent for a purchaser. If no local sales tax is collected on the purchase of such items, use tax must be remitted by the purchaser.

(7) If a contractor manufactures an item or materials to be incorporated into a building or construction project, the tax is measured by the value of the item if the contractor were to sell it at retail. Examples include but are not limited to custom cabinets, custom-cut lumber and custom windows made and installed or incorporated into the project by the contractor.

(8) Sales within the City of tangible personal property to be delivered and used outside the City by a construction company are exempt from tax if delivery of the items is made to a location outside the City.

**A-160. CONTAINERS.**

(1) The sale of containers, labels, tags, cartons, packing cases, wrapping paper, twine, bags, shipping cases, bottles, cans, similar articles and receptacles sold to manufacturers, producers, wholesalers and jobbers for the compounding, processing or shipping of tangible personal property for resale is not taxable.



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- (2) The sale of containers, labels, tags, cartons, packing cases, wrapping paper, twine, bags and shipping cases by vendors in the final sale of tangible personal property to the consumer generally is taxable.
- (3) The disposable items a restaurant offering carryout or delivery service uses to package food items intended for immediate consumption are not subject to sales tax however, convenience supplies such as napkins, straws, utensils, doggie bags or bags are.
- (4) Vendors must charge sales tax on beverage bottle deposits however the sales tax must be refunded when the deposits are refunded.

A-170. **COUPONS.**

- (1) 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 vendor. Because the vendor is reimbursed by the manufacturer for the amount of the reduction, sales tax applies to the full purchase price before the deduction for the manufacturer's coupon.
- (2) A store coupon is issued by the vendor for a reduction in the price of an article when the coupon is presented to the vendor by the customer. Because there is no reimbursement to the vendor for such reduction, the sales tax applies to the reduced purchase price of the article.

A-180. **COVER CHARGES.**

All charges for admission to an amusement or entertainment event are subject to the admissions tax regardless of the provision of tangible personal property to the attendee upon payment of such admission. Any tangible personal property given is considered a premium and is subject to the sales or use tax at purchase because the substance of the cover charge transaction is to gain entry to the amusement or entertainment event, not to buy the premium.

A-190. **CREDIT BUREAUS AND AGENCIES.**

A credit bureau or agency must collect tax on all credit reporting services provided by it including, without limitation, reproductions of credit reports, credit bulletins, and listings. The sale and/or rental of such information is subject to taxation whether the information is provided in tangible (books, publications, reports) or intangible (electronic listings) form.

The tax will be charged on the amount assessed to the customer for such information, and, in the event that the cost for the information is not stated separately



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from the general membership fee, the total amount of such credit membership fee is taxable.

**A-200. DENTAL LABORATORIES AND DENTISTS.**

(1) Purchase of supplies and materials by a dental laboratory which become a constituent part of a prosthetic device to be resold to a dentist are exempt from sales and use tax. Purchases of supplies and materials that do not become constituent parts of a prosthetic device are subject to sales tax.

(2) Sales of prosthetic devices to a dentist are exempt from sales and use tax. Prosthetic devices are replacements for lost or missing natural parts or are the addition of devices through prosthetic dentistry to aid the dental bodily functions. Prosthetic dentistry consists of the use of inlays, crowns, replacement of lost teeth, bands, brackets, and other band attachments, wires, intraoral and/or extraoral traction devices, and retaining or holding appliances and other devices which aid in the dental bodily functions.

(3) General business equipment and supplies of dentists are subject to sales or use tax, including all hand instruments and other items used for patient care, dental equipment and furnishings and supplies used for patient diagnostic records.

(4) Dental laboratories and dentists must obtain a Business/Sales and Use Tax License and remit tax as scheduled in Sec. 22-40(c).

**A-210. DRY CLEANERS AND LAUNDRIES.**

Dry cleaners and laundries must pay use tax on the purchase of all cleaning materials and supplies, machinery and equipment utilized in the business and not held for resale, rental or lease including, but not limited to, plastic or paper bags and hangers.

Dry cleaners and laundries must collect the sales tax on any counter sales of tangible personal property. Examples include but are not limited to lint rollers, sachets and hangers.

Self service laundries are in the business of renting fabric washing and drying equipment on site. They may also sell food, beverages, laundry supplies, and sundry other items over the counter or through vending machines. Items sold over the counter are subject to sales tax and each customer must be provided a receipt showing the tax paid. Items sold through vending machines are subject to sales tax based on gross receipts calculated as follows:



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Taxable Amount = Gross Receipts x (1- Tax Rate)

Tax Due = Taxable Amount x Tax Rate

The tax is due 20 days after the end of the month and is the obligation of the owner of the vending machines. Commissions are not subject to the tax.

Amusement devices located in dry cleaners and laundries must be licensed annually according to Code sections 11-101 through 11-124 and paid play time is considered a short term rental be it paid by coin, card, key or any other method. Sales tax is due on the gross receipts from amusement devices.

**A-220. EATING AND DRINKING ESTABLISHMENTS.**

(1) Sales of meals and beverages are subject to sales tax and any person making such sales must acquire a Business/Sales and Use Tax License and collect sales tax based upon the total consideration paid therefor as follows:

(a) Caterers and other persons similarly engaged are liable for sales tax on the total selling price of items sold and/or charges for service essential to providing meals and beverages.

(b) 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.

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

(d) Vendors of meals and drinks must pay the tax on purchases of articles used or consumed in the operation of the business, including fixtures, linens, silverware, disposable convenience items and glassware.

(e) When a customer purchases one dinner and receives another dinner free as a result of presenting a coupon for the free dinner, sales tax applies only to the actual amount charged.

(2) Boarding houses which serve meals only to persons regularly boarding there and not to the public should not collect sales tax on the meals. Such boarding houses are not exempt from sales tax on their purchases of food and non-food items.

(3) Nontaxable gratuities include cash tips (money left by the patrons for the benefit of those providing the service), charge tips (amounts added to the sales check by patrons for the benefit of those providing the service), banquet tips and tips separately stated and



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added to the sales check by the vendor at a flat rate if the amount is distributed by the vendor to persons who actually render the service.

(4) Tax on sales of alcoholic beverages may be remitted based on gross receipts. The tax is calculated as follows:

$$\text{Taxable Amount} = \text{Gross Receipts} \times (1 - \text{Tax Rate})$$

$$\text{Tax Due} = \text{Tax Rate} \times \text{Taxable Amount}$$

(5) All sales of alcohol must be recorded separately and clearly marked on guest checks and receipts. Documentation of purchases of alcohol for resale must be retained for three years from the end of the year.

A-230. **FABRICATING, PRODUCING AND PROCESSING.**

(1) "Fabricating, producing and processing" includes any operation which 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 such an article, excluding operations not related to the creation or production of such an article.

(2) Sales tax applies to the total charges for the fabrication or production of an article of tangible personal property made to order. 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 charge for making drapes is subject to tax.

A-240. **FIDUCIARY.**

Trustees, receivers, executors or administrators who, by virtue of their appointment by a state or federal court, operate, manage or control a business engaged in buying or selling of tangible personal property, including the liquidation of the assets of a bankrupt, insolvent or deceased person or entity, must acquire a sales tax license in the fiduciary's name and otherwise meet the collection and reporting requirements.

A-250. **FINANCIAL INSTITUTIONS.**

(1) Banks, savings, and loan associations and similar financial institutions who offer gifts or premiums of tangible personal property as an inducement for opening an account,





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making a deposit or adding to an account are making sales of tangible personal property or are making taxable purchases.

(2) 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 an account is opened or a deposit is made to the customer's account. The purchase of these gifts and premiums or sales thereof are to be reported in the following manner:

(a) Sales of these premiums and gifts at a reduced price are treated as retail sales, and the financial institutions must collect the sales tax from the customer on the sales price. If the financial institution's purchase price exceeds the sales price, the difference between the financial institution's purchase price and the sales price shall be taxable to the financial institution.

(b) If an item is given to the customer, then the item's full purchase price (cost) to the financial institution is subject to the use tax and is remittable to the City by the financial institution.

A-260. **FOOD SALES AND USES - EXEMPT.**

(1) Any food, as specified in 7 U.S.C. Section 2012(g) as such section exists on October 1, 1987, or is thereafter amended, which is purchased with food stamps pursuant to the federal food stamp program is totally exempt from the City sales tax.

(2) Any food, as specified in 42 U.S.C. Section 1786, as such section exit on October 1, 1987, or is thereafter amended, which is purchased with WIC vouchers pursuant to the federal special supplemental program for women, infants, and children is totally exempt from the City sales tax.

(3) Food or meals purchased with Federal food stamps or with funds provided by the special supplemental food stamps for women, infants, and children, 42 U.S.C. Section 1786, in the following instances:

(a) Retail food stores which primarily sell food for home preparation and consumption and in which one or more staple food items make up more than 50 percent of eligible food sales. These stores shall include: full-line grocery stores; convenience stores; stores which sell meat, poultry, or fish; stands which sell agricultural commodities; farmers markets; milk routes; bread routes; day-old bread stores; bakeries which sell bread; and nonprofit cooperative food-purchasing ventures which are properly licensed to sell food in the state and locality in which they are operating.

(b) The meals are prepared for and served to residents of federally subsidized housing and for the elderly; or are prepared for and served to persons who are sixty (60) years of age or over or who receive supplemental security income benefits, and their spouses, in senior citizens' centers, apartment buildings



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occupied primarily by such persons, public or private non-profit establishments (eating or otherwise) that contract with the appropriate agency of the state to offer meals for such persons at concessional prices;

(c) The meals are prepared for and delivered to persons sixty (60) years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, when such meals are prepared for and delivered to them (and their spouses) at their home by a public or private non-profit organization or by a private establishment that contracts with the appropriate state agency to perform such services at concessional prices.

(d) The meals are prepared for and served to narcotics addicts or alcoholics as part of drug addiction or alcoholic treatment and rehabilitation programs;

(e) The meals are prepared for and served to disabled or blind recipients of Federal financial benefits under the Social Security Act who are residents in a public or private non-profit group living arrangement that is certified for no more than sixteen residents by the appropriate state agency or agencies under regulations issued under the Social Security Act; or

(f) The meals are prepared for and served to women and children temporarily residing in public or private non-profit shelters for battered women.

(g) The federal food stamp program definition of food includes, among other items, meat, poultry, fish, bread, and breadstuffs, cereals, vegetables, fruits, fruit and vegetable juices, dairy products, coffee, tea, cocoa, candy, breath mints, condiments, spices, soft drinks, cakes, cookies, potato chips, special dietary foods (e.g. diabetic and dietetic), enriched or fortified foods, health food items (e.g. Metrical, Enfamil, Sustegen, wheat germ, brewer's yeast, sunflower seeds which are packaged for human consumption, rose hips powder which is used for preparing tea, and other food products which are substituted for more commonly used food items in the diet), infant formulas, distilled water for human consumption, ice for human consumption, and items incorporated into foods with other ingredients (e.g. pectin, lard, and vegetable oils).

(h) NON FOOD ITEMS even if sold in grocery or similar type stores (e.g. hardware, clothing, common household items such as cooking utensils, cleaning, and paper products, soaps, toiletry articles, grooming items, and cosmetics) are subject to taxation even if purchased with federal food stamps or WIC vouchers.

(4) Seeds and plants for producing food which are purchased with Federal food stamps or WIC vouchers are exempt from sales tax.

(5) Food purchased by a licensed retailer who presents in good faith a completed State, local or generally accepted multi-jurisdictional exemption for resale form is exempt from sales tax.



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- (6) Food purchased tax exempt for resale and donated to any publicly funded school lunch program or any non-profit facility to feed the low-income elderly or the addicted, infirm or indigent is exempt from sales tax.

A-261. **FOOD SALES AND USES - TAXABLE.**

- (1) All sales of food for immediate or home consumption to the final consumer or user, excepting eligible food stamps and WIC vouchers purchases, are subject to sales tax.
- (2) All food purchased tax exempt for resale that is used for other than resale or any of the specified charitable purposes, such as for samples or employee benefit, is subject to use tax.

A-270. **FREIGHT, DELIVERY AND TRANSPORTATION CHARGES.**

- (1) If taxable tangible personal property is sold F.O.B. Shipping Point, 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.
- (2) If taxable 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 before the credit.
- (3) If taxable tangible personal property is sold on a delivered or F.O.B. Destination basis, the tax shall be computed on the total charges, even when the seller bills the purchaser separately for the freight charges.
- (4) If the seller delivers taxable tangible personal property and makes a charge which 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 charges.
- (5) If the seller has prepaid the transportation charges that appear on the seller's invoice as an additional charge, or a separately invoiced charge is made, the tax shall be computed on the total charges unless the seller was acting as a bona fide agent of the purchaser to effect transportation by the carrier of the purchased goods as in F.O.B. Shipping Point, prepaid/charge back.

A-280. **GIFT CERTIFICATES.**

Sale at retail: Sales at retail of gift certificates, gift cards and similar items which convey cash value, as well as their redemption for cash, are not subject to tax. If the gift



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certificates, gift cards or similar are redeemed for merchandise, sales tax is due on the total purchase price of the merchandise.

Retailer's purchase: The tangible property of gift certificates, gift cards or other items which convey cash value are subject to sales or use tax to the retailer who later places value on and issues them because the retailer's customer is buying the value represented, not the tangible property used to convey it. Gift certificates and similar are akin to checks, which are taxable upon purchase, require action to be of value and have no value once that value is transferred. Any value gift certificates and similar acquire after the cash value is used up or expired, such as when they become collectors' items, is irrelevant in the original transaction.

A-290. **GIFTS, PREMIUMS AND PRIZES.**

Purchases of tangible personal property for use as gifts, premiums or prizes for which no valuable consideration is received by the purchaser from the recipient are subject to sales tax on the total purchase price. The purchaser is deemed to be the user or consumer of such property. If the property is purchased from a licensed City vendor, then sales tax should be paid to the vendor upon such purchase. If purchased without a legally imposed municipal tax being paid then the amount of tax due must be submitted to the City as a use tax.

The tax applies to the entire receipts from operators of "grab bag" concessions from which customers always receive some tangible property in return for payment.

A-300. **HOSPITALS AND CLINICS.**

Hospitals and clinics that do not qualify as charitable or governmental organizations under the sales and use tax provisions of the Code of the City of Wheat Ridge are required to pay sales and use tax on purchases of tools, equipment, instruments, medical and surgical supplies, furniture and fixtures, and business office supplies. Exempt from the tax, however, are purchases of prescription drugs and prosthetic devices as defined in the Code.

Hospitals and clinics that qualify as charitable or governmental organizations under the sales and use tax provisions of the Code must pay sales tax on purchases of medical supplies and equipment unless specifically exempted by Section 22-58(a)(25.5) of the Code.



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A-310. **HOTELS AND MOTELS.**

Purchases of supplies such as toilet tissue, soap, shoe shine cloths, clothes bags, matches, facial tissue, coffee and other items available to guests without additional charge are subject to sales or use tax at the time of purchase by the hotel or motel. In addition, linens, furniture, pool equipment and supplies, and similar items are subject to sales tax at the time of purchase by the hotel or motel. If a legally imposed municipal tax is not paid at the time of purchase then the tax due must be submitted to the City as use tax.

The rental of banquet facilities, ballrooms, meeting rooms and similar is subject to sales tax. Admissions charges for entry to any amusement or entertainment events held in them are subject to the 4% admissions tax; registration fees for conferences, seminars, private trade shows and meetings are not admissions charges.

A-320. **ICE.**

Sales of ice to other sellers of ice or to sellers of soft drinks for use as a component part of a drink are for resale and are not subject to sales tax.

Sales of ice to manufacturers, carriers or any other consumer for the purpose of cooling or keeping perishable items or property or for other uses are taxable sales.

If ice is used for the sole purpose of becoming an ingredient or component of the finished product, as where it is used solely to supply all or part of the water content of sausage and luncheon meats, then the sale of the ice is a sale for resale. If not purchased for that sole purpose, and the purchase is not otherwise exempt, as for resale, then the purchase is subject to sales tax.

Ice sold for human consumption is taxable.

A-325. **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 item shall be resold later in either its original or altered form. A tax-free purchase is taxable in full the first time it is used by the purchaser for a nonexempt purpose.

A-330. **INSURANCE COMPANIES.**

Insurance companies are not exempt from sales tax on purchases of tangible personal property for their consumption, including articles given as gifts or premiums to clients.



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

A-340. **INTEREST.**

- (1) Interest shall be calculated and assessed at the rate of one percent (1%) per month from the due date that a tax deficiency remains unpaid.
- (2) When a timely protest is made to a Notice of Assessment, no additional interest shall be assessed on any tax for the period between the date of the Notice of Assessment and the date of the hearing, whether formal or informal.
- (3) Interest properly assessed on any tax deficiency shall not be waived.

A-345. **ITEMS INCLUDED IN PURCHASE PRICE.**

- (1) Intermingled sales and service --- repairs, installations, maintenance, refurbishment. The sales tax applies to an operation which restores a used or worn item of tangible personal property essentially to its original form in the following manner:
  - (a) If the person performing the repair, installation, maintenance or refurbishment separates, itemizes and invoices at a specific price the parts, materials and supplies consumed or used during such process and states separately an amount for labor and/or time consumed, only that portion of the total price charged which relates to parts, materials and supplies is subject to sales tax.
- (2) Intermingled sales and service--manufacturing, producing, fabricating and processing made-to-order items: The sales tax applies to the total price charged for manufacturing, producing, fabricating, and processing tangible personal property which has been made-to-order or tailor made for the purchaser. Manufacturing, producing, fabricating or processing occurs when tangible personal property is created, transformed or reduced to a different state, quality, form, property or thing. Transformation may occur by hand, machine, art, chemical action or natural means. The total price is subject to the tax, although materials or parts and labor may be listed separately on the bill or invoice.
- (3) Transportation charges--freight, delivery, drayage, shipping costs: Included in the purchase price are transportation and other charges to effect delivery to the purchaser if the sales agreement requires such delivery to consummate the sale. Generally, charges for transportation to the place where title is to pass are included in the purchase price and charges for transportation after title passes are not included. The determining factor is



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the agreement between the vendor and the purchaser. However, when the liability for the shipment rests with the vendor, the freight costs shall be included in the purchase price and taxed. The manner of payment of the transportation charges does not control but may be evidence of the agreement between the parties.

A-350. **JANITORIAL SERVICES.**

Hand soaps, paper towels, toilet tissue, disinfectants and other items furnished under a service contract and billed to the customer as separate and distinct items from the service are considered property sold at retail and are subject to the sales tax.

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

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

A-360. **LINEN SERVICES.**

(1) Persons engaged in the business of furnishing bed linens, table linens, mops, rugs, runners, diapers or apparel to customers under an agreement that includes a continuous service to be rendered in the periodic cleaning of such articles are deemed to be engaged in taxable rentals and must charge sales tax on such transactions.

(2) Items such as hand soaps, paper towels, toilet tissue, and disinfectants furnished under a service contract and consumed where delivered are considered property sold at retail and are subject to the sales tax.

(3) Lost or damaged items charged to customers are subject to sales tax.

A-370. **MAINTENANCE AND SERVICE CONTRACTS.**

(1) The full contract price of tangible personal property and services sold in connection with the maintenance or service of tangible personal property, shall be subject to tax.

(2) Persons engaged in the business of rendering renovation services, such as painters and paper hangers, floor waxing services and others similarly engaged in repairing and servicing tangible personal property under a maintenance or service contract, are rendering a service and are considered the users of articles purchased and are subject to tax on these articles at the time they are purchased.



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(3) A computer maintenance or service agreement is subject to tax on the full contract price charged to the consumer of the software maintenance and support agreement and in addition to terms disclosed under the consumer's software license agreement.

(4) Consumers billed maintenance charges on their telecommunications billing are subject to tax on all interstate, intrastate and international calls furnished by public or private corporations or enterprises.

**A-380. MANUFACTURERS, PREFABRICATORS ACTING AS CONTRACTORS.**

A manufacturer or prefabricator may contract to build into real property that which it manufacturers or prefabricates. If the contract provides for the transfer of title to the materials prior to the time that the materials are built into the real property, and if the material price is separately stated from the installation price, then the manufacturer shall be considered to have sold the material. If not properly segregated, then the amount included for installation is also part of the taxable price.

**A-385. MARKETING OR INFORMATION AGENCIES.**

Marketing or information agencies must collect city sales tax on the purchase price or charge for the access, use or receipt of any demographic study or listing, interest or opinion survey, or other information compilation sold for marketing or solicitation purposes.

The marketing or information agency services described in this regulation are subject to city sales tax whether the end product is tangible (books, publications, reports) or intangible (electronic listings).

**A-390. MODULAR OR SECTIONAL HOMES.**

A "modular or sectional home" is a factory built structure that: (1) is built to a customer's specifications or inventory standards; (2) is not titled; (3) may be approved for HUD/FHA long term financing; (4) complies with conventional residential building codes; and (5) is separate from its delivery chassis.

A manufacturer or dealer who enters into a single contract with the customer is considered to be a construction contractor if the contract requires that manufacturer or dealer to sell and install the structure by incorporating it into the real property of the customer before title to the structure is passed. The manufacturer or dealer is considered to be the final consumer of the materials and supplies incorporated into the real property under the contract. A manufacturer or dealer who merely sells a modular or sectional





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home to a customer and does not at the time agree to incorporate it into the real property of the customer is considered to be a vendor and is required to charge sales tax on the total purchase price of the structure.

A modular and sectional home manufacturer or dealer may be both a contractor and a vendor.

**A-400. MORTUARIES AND CREMATORIES.**

Mortuaries and crematories are considered to be rendering services and making sales of tangible personal property and shall collect sales tax in accordance with the following rules:

If a funeral service is contracted for in such a manner that the charges for such articles as caskets, urns, vaults, shipping boxes, clothing and similar articles are separately stated from the charges for such services as music, police escort, clergy, honorarium and similar services, then sales tax shall be imposed only upon the purchase price of such articles. The fact that the physical remains are consigned to a common carrier for delivery elsewhere, whether inside or outside the City, does not change the fact that the articles indicated in the above paragraph are first used in the City and, therefore, are subject to sales tax. These rules apply to all sales of funeral services and related tangible personal property within the City.

Articles that are purchased and that are not to be resold in the normal course of business are subject to sales tax at the time of purchase. Tax-free purchases for resale, when removed from inventory and used in the regular course of a mortician's business, must be included in the sales and use tax return for the month in which such articles are removed from inventory.

**A-410. NEWSPAPERS, MAGAZINES AND OTHER PUBLICATIONS.**

The sale of newspapers is exempt from sales and use tax. This exemption does not include magazines, trade publications or journals, credit bulletins, advertising pamphlets, circulars, supplements, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings or updating or revision services, books or pocket editions of books. A publisher who makes sales of newspapers only is not required to obtain a Business/Sales and Use Tax License. The publisher shall pay sales tax upon all purchases of tangible personal property except newsprint and printer's ink used in the production of the newspaper product. If the publisher makes retail sales of other articles delivered in the City, then it shall obtain a Business/Sales and Use Tax License and collect sales tax and may purchase such articles tax-free for resale.



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Magazines, periodicals, trade journals and similar items which do not qualify as newspapers are tangible personal property whose retail sale is subject to sales tax. If such publications are printed and sold within the City, then the subscription price is subject to sales tax. If the publication is printed in the City and delivery is made outside the City, then the sale is not subject to sales tax.

Trade journals, advertising pamphlets, circulars and similar items which are to be distributed free of charge and are distributed by means of house-to-house delivery or are included in and distributed as part of a newspaper are subject to the sales tax. Sales tax must be paid to the printer by the advertiser at the time that these items are prepared by the printer.

Organizations which produce and distribute free trade publications and similar items are deemed to be purchasers of goods for their own consumption, and such items are subject to sales tax based on the purchase price of the tangible personal property consumed.

A-420. **NURSING HOMES.**

Items related to nursing homes which are considered taxable include but are not limited to: vending machine income (gross receipts basis), cleaning supplies and materials, food service, magazine subscriptions, linen rentals, healthcare items, medical supplies (except prescription drugs and prosthetic devices), rentals and leases, office and computer supplies, fixed assets, income from crafts and art and bake sales.

A-430. **OPTICAL SALES.**

Eyeglasses, 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 sales thereof are exempt from sales and use tax.

Sales of sunglasses, reading glasses, binoculars, telescopes and similar articles not dispensed under a qualified prescription are subject to sales tax.

A-440. **PENALTIES.**

(1) Penalty for Late Payment: A penalty shall be levied on any delinquent tax or deficiency. Such penalty shall be fifteen dollars (\$15.00) or ten percent (10%) of the delinquent tax or deficiency, whichever is greater.



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- (2) Penalty for audit assessment: A penalty shall be imposed on a sales, use, lodgers or admissions tax audit assessment at the rate of ten (10) percent of the total tax assessment.
- (3) Penalty for Fraud: For transactions consummated on or after January 1, 1986, if any part of delinquent tax or deficiency is due to fraud with the intent to evade the tax, the penalty shall be one hundred percent (100%) of the total amount of the deficiency.
- (4) Penalty Waived: For good cause shown, the City may waive any penalty assessed in this Chapter. Interest shall never be deemed a penalty.

A-450. **PHOTOGRAPHERS AND PHOTOFINISHERS.**

Photographers and photofinishers are primarily engaged in the business of selling tangible personal property to their customers and such sales are subject to sales tax. Purchases of materials which become ingredients or component parts of the finished picture, such as mounts, frames and sensitized paper, are not subject to the sales tax because such items are purchased by the photographer or photofinisher for resale. Conversely, purchases of materials and equipment that do not become a part of the finished product are subject to sales tax payable by the photographer or photofinisher.

The charge made by photographers and photofinishers for only the development of film is a service charge and is not subject to sales tax. If individuals deliver their own pictures to photographers for tinting or coloring, then the transaction is a service and is not subject to sales tax. Prints made from or computer storage devices containing developed negatives and sold to a customer are subject to sales tax.

A photographer may be performing a service subject to the special regulations relating to "Service Enterprises". If the service is specifically bargained for without regard to the tangible personal property involved, and if the value of the service is greater than the property transferred, then no sales or use tax is to be charged to the purchaser but the photographer must pay sales tax on purchases or materials used to perform the service.

A-460. **PHYSICIANS AND SURGEONS.**

The members of the medical profession are the consumers of the various items of tangible personal property which they use in the rendering of their professional services, and as such, are required to pay City sales/use tax on purchases of items such as tools, equipment, instruments, medical and surgical supplies including one-time use items consumed in rendering service, furniture, fixtures, and office supplies.

Exempt from the tax are purchases of prescription drugs and prosthetic devices as defined in the sales/use tax provisions of this Code.



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Medical doctors must obtain a Business/Sales and Use Tax License and remit tax as scheduled in Sec. 22-40(c).

A-470. **PRESCRIPTION DRUGS/PROSTHETIC DEVICES.**

Prescription drugs and prosthetic devices are exempt from the City of Wheat Ridge sales and use tax.

The terms prescription drug and prosthetic device include, but are not limited to the following:

- (1) artificial arms, legs, hands, eyes, and larynxes
- (2) permanent catheters
- (3) colostomy bags, sets, and supplies
- (4) disposable ostomy tubes
- (5) ileostomy supplies
- (6) orthotics and inserts for orthotics
- (7) otology implants
- (8) pacemakers
- (9) surgical brassieres
- (10) breast forms for mastectomy patients
- (11) dentures and items designated to restore and replace a dental function
- (12) hearing aids and hearing aid batteries
- (13) crutches, wheelchairs, walkers, oxygen, and related equipment and special beds sold to individuals for personal use in accordance with a prescription or written directive issued by a member of the healing arts.
- (14) special shoes, when prescribed
- (15) insulin, insulin injecting and measuring devices
- (16) sales of glucose usable for treatment of insulin reactions
- (17) plasma, blood and blood derivatives
- (18) hemodialysis products
- (19) corrective contact lenses
- (20) corrective eyeglasses and frames

The terms prescription drug and prosthetic device do not include medical equipment or supplies such as:

- (1) cosmetic contact lenses
- (2) contact lens chemicals and appliances
- (3) cosmetic eyeglasses and frames
- (4) dietary supplements and foodstuffs
- (5) vitamins and vitamin supplements



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- (6) hot tubs, whirlpools, mattresses, chairs, and other similar "appliances"
- (7) kits - urine, pregnancy, blood, etc.
- (8) pregnancy prevention devices available for purchase over the counter
- (9) ramps, special equipment, and other facilitating devices used to aid mobilization of the handicapped
- (10) x-rays and x-ray film
- (11) medical equipment (i.e. x-ray machines, tables, blood pressure equipment, heart monitors, etc.)
- (12) office equipment
- (13) medical and surgical supplies consumed by practitioners (i.e. tongue depressors, cotton swabs, bandages, tape, gauze, disposable syringes, etc.)
- (14) drugs, ointments, and other medicines available for purchase over the counter.

**A-480. PRINTERS AND PRINTING.**

Sales of catalogs, books, letterheads, bills, envelopes, folders, advertising circulars, and other printed matter are taxable retail sales if the purchaser does not resell the articles but consumes them as by distributing them free of charge. Except as herein stated, for the purposes of calculating the tax due, a printer may not deduct from the purchase 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 and is, therefore, taxable.

If separately stated on the invoice, the services of typesetting, color separation and design, art and camera mechanicals performed by a printer or its sub-contractor for a customer or another printer are not subject to sales or use tax.

On commercial printing of postal cards or stamped envelopes purchased from the United States Postal Service, the amount subject to sales tax is not to include the amount of postage involved.

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

Exempt purchases of tangible personal property for resale include

- (1) Paper: newsprint, paper and stock on which the finished product is printed and delivered to the customer.
- (2) Ink: printer's ink, ink additives and overprint varnishes.
- (3) Chemicals: anti-offset, sprays, fountain etch solutions, gum solutions and all component chemicals when used with the above materials.



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- (4) Materials: padding compound, stitching wire and staples and bookbinder's tape.
- (5) Pre-press preparation materials: light sensitive film, plates and proofing materials.

A-490. **PRIVATE CLUBS.**

Transactions by private clubs such as country clubs, athletic clubs, fraternal organizations or organizations of persons formerly in the armed services of the United States are subject to tax when such clubs sell tangible personal property at retail or do anything else subject to tax. Such transactions are taxable even if the transactions are only with members of such clubs.

A-495. **RECORDS RETENTION AND AUDIT**

(1) Code Sec. 22-42 requires that all persons or entities engaged in or continuing business in the City keep for 3 years complete records supporting all transactions, including but not limited to:

- (a) Gross receipts from all sales or rental payments from leases of tangible personal property (including any services that are part of the sale or lease) made in the City, regardless of whether the seller or lessor believes the receipts to be taxable or nontaxable;
- (b) All deductions allowed by law and claimed in filing returns;
- (c) The total purchase price all tangible personal property purchased for use, storage, distribution, or consumption in the City and information as to whether and in what amount a sales or use tax was paid to a Colorado municipality on such price.

(2) Records must include the normal books of account maintained by the ordinarily prudent business person engaged in such business and all supporting documents: bills, receipts, invoices, cash register tapes, tickets, guest checks or other documents of original entry and all schedules or working papers used in connection with the preparation of tax returns.

- (a) A posting reference must be on each invoice.
- (b) Credit memoranda must carry a reference to the document evidencing the original transaction.
- (c) Documents necessary to support claimed exemptions from tax liability, such as bills of lading, purchase orders and exemption certificates must be maintained in an order which can be readily related to the transaction for which exemption is sought.



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(3) Some records are acceptable in microfilmed form. Microfilm reproductions of general books of account, however, such as cash books, journals, voucher registers, ledgers, and similar items, are not acceptable. When microfilm reproductions of supporting records are maintained, such as sales invoices, purchase invoices, credit memoranda, and similar items, the following conditions must be met:

- (a) Appropriate facilities must be provided for preservation of the films for the required periods;
- (b) Microfilm rolls must be indexed, crossed-referenced and labeled to show the beginning and ending numbers and to show the beginning and ending alphabetical listing of documents included and must be systematically filed;
- (c) The taxpayer must agree to provide transcriptions of any information contained on microfilm that may be required for verification of tax liability;
- (d) Proper facilities must be provided for the ready inspection and location of the particular records, including machines for viewing and copying the records.

(4) An Automated Data Processing (ADP) accounting system must be capable of producing visible and legible records for verification of the taxpayer's liability. The following conditions must be met:

- (a) Recorded or reconstructible data. ADP records must provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time that they are processed, then the system must have the ability to reconstruct these transactions.
- (b) General and subsidiary books of account. A general ledger, with source references, shall be written out to coincide with financial reports for tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers should also be written out periodically.
- (c) Supporting documents and audit trail. The audit trail should be designed so that the details underlying the summary accounting data may be identified and made available to the Treasurer upon request. The system should be designed so that supporting documents, such as sales invoices, purchase invoices, credit memoranda and similar items are readily available.
- (d) Program documentation. A description of the ADP portion of the accounting system should be available. The statements and illustrations as to the scope of operations should be sufficiently detailed to indicate:



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- (i) The application being performed;
  - (ii) The procedures employed in each application which for example, might be supported by flowcharts, block diagrams, or other satisfactory description of the input or output procedures; and
  - (iii) The controls used to ensure accurate and reliable processing. Important changes, together with their effective dates, should be noted in order to preserve an accurate chronological record.
- (5) Unalterable digitally or electronically stored books, documents and records are acceptable but must be provided in printed format if so requested.
- (6) When an audit is scheduled, records must be made available at the business location in the City or provided at City Hall on or before the due date. Partial or piecemeal provision of records may be arranged in advance with the auditors at their discretion. Refusal to provide records for audit in the City will result in subpoena; alternatively the taxpayer may elect to bear the costs of auditing outside the City or a reasonable radius of it, including transportation, lodging, meals, entertainment and incidentals according to the published Federal per diem rate for the location of the records.

A-500. **REPOSSESSED PROPERTY.**

If the reposessor of tangible personal property sold the property to the person from whom it was taken and remitted that tax on the total purchase price, then the reposessor may deduct the uncollected purchase price from the gross sales on the sales tax return for the period during which the repossession occurred. The subsequent retail sale of the reposessed property is subject to sales tax.

No deduction or other credit may be taken from gross sales on account of the repossession where the reposessed property is a motor vehicle or the reposessor reports the sales tax on the cash accounting basis.

A-510. **REPRODUCTION SERVICES.**

Taxable reproduction services applies to the sale of court reports, theses, or any other original or duplicated tangible personal property, including facsimile and computer printouts, with no deduction therefrom on account of labor, service, costs of materials used, or profit.

A-520. **SAND AND GRAVEL.**





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Sand and gravel removed from the ground and sold are subject to the sales tax as retail sales of tangible personal property. The contractor/vendor of sand and/or gravel who removes sand and/or gravel from its stock to fulfill its own construction obligations is required to pay use tax on the acquisition cost of the sand and/or gravel at the time of acquisition or conversion to tangible personal property. For purposes of this rule, acquisition cost is defined as the dollar cost that the contractor/vendor placed on the sand and/or gravel through internal cost accounting and/or inter-company allocations used in reporting income for tax purposes.

A-530. **SERVICE ENTERPRISES.**

(1) Persons engaged in the business of rendering a service (i.e. professionals such as doctor, lawyers, accountants, engineers and architects, etc.) are consumers--not vendors--of the tangible personal property used incidentally in rendering the service. Sales tax applies to the sales of such property to them.

(2) If persons engaged in the business of rendering services also regularly sell tangible personal property to consumers, they are vendors with respect to such sales and must collect and remit sales tax on them. Items purchased for resale as a normal and recurring business activity may be purchased exempt of sales tax.

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

(4) A research and development contract is distinguished from a contract for the manufacture of a custom-made item. In the latter, the research and design, 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 unless an exemption applies.

(5) A person contracting for research and development (excluding computer software - ref. Sec. A125) 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, cannot ordinarily be conveyed orally, the information is conveyed on paper. The initial transfer of the information on paper is not a sale of tangible personal property and the transfer is incidental to the service of developing information. However, charges made for additional copies of reports, plans, lists or documents are subject to sales or use tax. In certain instances, the information



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cannot be conveyed without the transfer of a prototype, model or drawing. The transfer of the prototype, model or drawing is incidental to the transfer of the information and is not a sale. Sales or use tax is paid by the developer on the materials used in the prototype, model or drawing.

**A-535. STATE LAW – APPLICATION.**

- (1) Pursuant to C.R.S. § 24-76.5-101 *et seq.*, every natural person eighteen (18) years of age or older and/or sole proprietor who applies to the City for a sales and/or use tax license in conjunction with an application for a business license shall provide proof of lawful presence in the United States.
- (2) Proof of lawful presence shall be established by
  - (a) A valid Colorado driver's license or a Colorado identification card, issued pursuant to Article of Title 42, C.R.S.;
  - (b) A United States military card or a military dependent's identification card; or
  - (c) A United States Coast Guard Merchant Mariner card; or
  - (d) A Native American tribal document; and
  - (e) An executed affidavit stating that the applicant is a United States citizen or legal permanent resident or that he or she is otherwise lawfully present in the United States pursuant to federal law.
- (3) This Section shall be enforced in accordance with C.R.S. § 24-76.5-101 *et seq.*, as the same may be amended from time to time.

**A-540. TAX EXEMPT INSTITUTION LICENSE.**

(1) Prior to the issuance of an Exempt Institution License, the Treasurer will determine whether the applicant qualifies as an organization exempt from paying City Sales and Use Tax. In making such a determination, the City Treasurer or his designee will review the documents the applicant chooses to submit and determine whether the applicant fits the definition of an exempt organization. Documents to be considered include but are not limited to the certificate of incorporation, a Federal income tax exemption letter under 26 U.S.C.S. Section 501(C)(3), a State tax exemption letter, by-laws and financial statements showing sources and uses of funds. 501(C)(3) status does not guarantee qualification for the Wheat Ridge Exempt Institution License and lack of it does not negate qualification. The following will be considered along with the documents:

- (a) Does the organization exclusively, freely and voluntarily minister to the physical, mental or spiritual needs of its members?



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- (b) Does the organization operate without profit and, if not:
    - (i) Is the profit totally used for the chartered purpose of the organization?
    - (ii) Is the profit totally expended within one year's time?
    - (iii) Is the profit totally used to develop new programs, and expand services being provided to its members?
  - (c) Are fees charged by the organization to recipients of the benefits and, if so:
    - (i) Are the fees directly related to the benefits received?
    - (ii) Are the fees reduced or waived if an individual is unable to pay?
    - (iv) Do the fees simply cover the organization's operating expenses, the cost of new programs, capital asset replacement, etc.?
  - (d) Does the organization operate 100% of the time as a governmental, quasi-governmental, or political subdivision?
  - (e) Does the organization operate 100% of the time as a "charitable" organization?
  - (f) Does the organization operate by providing services solely to members?
- (2) An Exempt Institution license is issued for a three year period and expires on the earlier of the expiration date stated on the license or when the nature of the organization or its activities change so that it no longer qualifies as an exempt organization.
- (3) Exempt organizations or institutions may include, but are not limited to:
- (a) Federal governmental agencies and departments
  - (b) State governmental agencies and departments
  - (c) County or municipal governmental agencies or departments
  - (d) School districts, water or sanitation districts, recreation districts and other quasi-governmental entities
  - (e) Non-profit organizations for charitable, religious, scientific, community, educational, athletic or cultural purposes
- (4) An Exempt Institution License allows purchases to be made by the exempt organization without paying the Wheat Ridge sales tax. Complete reports of all purchases made by the organization must be submitted to the Treasurer upon written request, on forms approved by the Treasurer. The written request will include time periods on which to report and deadlines for submitting reports.
- (5) A licensed institution or organization must abide by all other sales and use tax, general and licensing laws and regulations.
- (6) An institution or organization which has been denied a Wheat Ridge exempt institution license must pay sales or use tax on all purchases of tangible personal property for use in the City.



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A-541. **TAX EXEMPT INSTITUTION FUNDRAISING SALES**

All sales of tangible personal property made by a charitable, non-profit, or exempt organization are subject to the sales tax unless the organization chooses to pay use tax on the cost of the item(s) to be sold in lieu of charging sales tax to the consumer. The Treasurer may authorize this alternative method of reporting and remittance of tax upon advance written request of the organization. The alternative method does not apply to sales of donated tangible personal property; sales tax must be collected and remitted on the sales price of donated items. The organization must obtain a sales tax license.

A-550. **TOOLS, JIGS, DIES, PATTERNS, MOLDS AND SIMILAR ITEMS.**

A person who makes and sells tools, jigs, dies, patterns, molds and similar items to a customer for use in manufacturing or processing is making retail sales of the articles and is required to collect and remit the sales tax. After using such items, the purchaser may re-sell them to the customer for whom he is manufacturing articles. Such resales, however, do not exempt the sale first described above because that customer purchased the article primarily for use and not for resale. If an article is sold to a customer after use by the seller, then the sale is subject to sales tax.

A-560. **UPHOLSTERERS.**

(1) An upholsterer who is engaged in the repair, recovering, upholstering or similar work on a customer's property is engaged in the sale of tangible personal property and must charge his customers sales tax on the tangible personal property used. The upholsterer must itemize the tangible personal property and the service or labor charges on the bill to the customer.

(2) 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 subject to sales tax. A sale to someone who will resell the material or articles is exempt from sales tax if that person provides a valid resale exemption certificate that will be kept with the invoice or on file.

(3) An upholsterer who purchases property which he upholsters and then sells must charge and remit sales tax on the selling price of the property.

(4) Upholsterers may purchase materials that become part of the finished product exempt from tax because they are for resale. Equipment, general and office supplies, advertising and the like are subject to sales or use tax.



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A-565. **VENDING MACHINES.**

- (1) Owners of vending machines that sell and dispense articles of tangible personal property are subject to sales or use tax on the cost of the vending machines when purchased.
- (2) Items of tangible personal property sold and dispensed through vending machines are taxable as gross receipts and the retailer or vendor shall pay sales tax at the rate specified in Code Sec. 22-56 of this ordinance.
- (3) Vending machines which do not sell and dispense items of tangible personal property, such as vacuums, juke boxes and air compressors, are considered short term rentals, and the gross receipts are subject to the sales tax.
- (4) Owners of vending machines which do not sell and dispense items of tangible personal property are not subject to the sales or use tax on the cost of such devices provided that the sales tax is paid on the gross receipts generated by the machines.
- (5) Sales tax on gross receipts is due 20 days after the end of the month and is calculated as follows:

$$\text{Taxable Amount} = \text{Gross Receipts} \times (1 - \text{Tax Rate})$$

$$\text{Tax Due} = \text{Taxable Amount} \times \text{Tax Rate}$$

A-570. **VETERINARIANS.**

- (1) The members of the veterinary profession are the consumers of the various items of tangible personal property which they use in rendering services and are required to pay City sales or use tax on purchases of items such as tools, equipment, instruments, medical and surgical supplies, drugs, serums, medicines, furniture and office supplies. Prescription drugs and prosthetic devices for animals, whether livestock or domestic, are exempt. This exemption does not apply to prescription dog or cat food, medicated shampoos, vitamins and the like.
- (2) When veterinarians sell tangible personal property to consumers separate and apart from the rendition of professional services they are required to collect and remit sales tax.
- (3) Veterinarians must obtain a Business/Sales and Use Tax License and file sales/use tax returns with the City.



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A-580. **X-RAY LABORATORIES.**

- (1) Producers of x-ray film for the purpose of diagnosis are the consumers of materials and supplies used in the production thereof. Sales tax applies to the sale of such materials and supplies to laboratories producing x-ray film for the purpose of diagnosis.
- (2) X-ray laboratories must obtain a Business/Sales and Use Tax License and file sales and use tax returns with the City.

CITY OF WHEAT RIDGE, COLORADO  
OFFICE OF THE TREASURER  
RESOLUTION NO. 2

Series of 2012

TITLE: A RESOLUTION AMENDING THE SALES AND USE TAX  
REGULATIONS OF THE CITY OF WHEAT RIDGE

WHEREAS, the office of the Treasurer is empowered by Wheat Ridge Code of Laws Section 22-33 to adopt and, to amend from time to time regulations for the implementation of Chapter 22 of the Wheat Ridge Code of Laws entitled Taxation; and

WHEREAS, acting pursuant to this authority, the office of the Treasurer has in the past adopted sales and use tax regulations which are presently in force within the City; and

WHEREAS, On July 9, 2012 the Wheat Ridge City Council enacted Ordinance 1512 amending section 22-68 of the Code of Laws to exempt the purchase and use of building materials and supplies for City, Renewal Wheat Ridge, the Wheat Ridge Housing Authority and public schools projects from the sales and use tax;

NOW, THEREFORE, BE IT RESOLVED by the office of the Treasurer of the City of Wheat Ridge, Colorado that:

Section 1. The sales and use tax regulations of the City are amended in their entirety, all as shown on **Exhibit A**, attached hereto and fully incorporated herein by this reference.

Section 2. As amended hereby, the sales and use tax regulations of the City are hereby readopted in their entirety.

Section 3. This resolution shall be effective immediately, but shall be filed for public record with the office of the City Clerk and published in a newspaper of general circulation within the City.

DONE AND RESOLVED this 22 day of August, 2012.

  
Larry Schulz, Treasurer

ATTEST:

Janelle Shaver  
Janelle Shaver, City Clerk

