

# **CITY OF THORNTON COLORADO**

## **SALES AND USE TAX REGULATIONS**

AS AMENDED NOVEMBER 19, 2007



**SALES TAX DIVISION  
9500 CIVIC CENTER DRIVE  
THORNTON, COLORADO 80229  
303-538-7400**

## TABLE OF CONTENTS

Athletic and Health Clubs .....	1
Auction and Consignment Sales .....	1
Automotive Vehicles.....	2
Bad Debts .....	2
Charitable Organizations.....	2
Commercial Packaging .....	3
Contractors – Prepayment of Tax .....	3
Cost of Goods Used.....	3
Cover, Door and Other Related Charges .....	4
Distribution .....	4
Drugs, Medical Supplies, Therapeutic & Prosthetic Devices .....	5
Engaged in Business in the City.....	5
Exempt Transactions.....	5
Gas, Electric and Heating Services.....	6
Imposition of Tax.....	6
Interstate and Intrastate Sales .....	6
Licenses .....	6
Linen Services.....	7
Lodging Tax.....	7
Lump Sum/Time & Material Billings .....	7
Maintenance Services .....	8
Meals .....	8
Pay Television Services .....	9
Printed Materials .....	9
Purchase Price or Sale Price .....	9
Purchases Prior to Residency in City .....	9
Recreation Services .....	9
Reporting Periods.....	10
Resale (Wholesale) – Component Parts .....	10
Resale (Wholesale) – To Other License Vendors .....	10
Security Systems.....	11
Tangible Personal Property.....	11
Tax Included in Selling Price .....	11
Telecommunications Services.....	11
Transient Vendors .....	12
Use Tax .....	12
Vending Devices .....	12

## **SALES AND USE TAX REGULATIONS**

*Revised November 19, 2007*

These Sales and Use Tax Regulations ("Regulations") are intended to add clarifying insight to the existing City of Thornton ("City") Sales and Use Tax Code ("Code"). These Regulations may be altered from time to time by action of the Finance Director, in order to comply with new ordinances or court rulings that affect the general sales tax rules. The term "Code" as referred to in these Regulations means Chapter 26, Article V - VII of the Thornton City Code.

The City of Thornton recognizes that certain differences exist between the State of Colorado Revised Statutes, with its accompanying rules and regulations, and the City Sales and Use Tax Code, with its accompanying rules and regulations. However, the City of Thornton is a home-rule municipality under the Constitution of the State of Colorado and as such, the Code with its accompanying rules and regulations shall take precedence over conflicting State provisions or procedures as applicable to the imposition of City taxes.

Any person who is in doubt as to the effect of the Code upon their particular business operation, or any facet of their business, may submit a statement of facts regarding that operation to the City Treasurer and they will be furnished with a written opinion of the City Treasurer. The City Treasurer's opinion as to non-tax liability with regard to any business operation shall be effective only upon the completeness and truthfulness of the statement of facts as submitted and shall be subject to any tax Code change affecting such business operation, and to any change in the operation of such business enterprise that would alter the tax liability under the Code.

The City Treasurer may declare a need for modification, revision or extension of published regulations. No regulation regarding specific applicability of tax or binding opinion shall be issued except with the written endorsement of the City Treasurer. Reliance upon any unofficial regulation or opinion, or upon regulation or administrative directive, procedure or policy of any other taxing jurisdiction shall be totally at the risk of the vendor and/or taxpayer.

The City Treasurer is vested with the power and authority to enforce and interpret all provisions of the Code, and as such may prescribe forms and formulate and promulgate rules and regulations to increase public understanding of the Code, including the imposition of any costs and expenses incurred and involved in the ascertainment, assessment, and collection of the taxes under the Code.

### ***Athletic and Health Clubs***

Athletic and health club membership fees are tax exempt. Athletic and health clubs are facilities for which the primary purpose of use is to establish or maintain physical fitness. Membership dues for entrance into athletic/health clubs are typically charged on a monthly or annual basis, which suggests an intent for frequent or regular attendance. Athletic/health clubs differ from recreation services, as defined in the Code, in that recreation services are intended for entertainment purposes (to some degree) and are typically billed on a per-entrance or group fee, suggesting occasional or irregular use.

### ***Auction and Consignment Sales***

Every factor, auctioneer, or agent acting for a principal, and who is entrusted with possession of any bill of lading, custom house permit, or warehouseman's receipt for delivery of any tangible personal property, or entrusted with possession of any such personal property for the purpose of sale, shall be deemed for purposes of taxation under the Code to be the owner, and upon the sale of such property shall be required to file a return and pay the tax due. The same rules apply to sellers of goods accepted on consignment and lienholders, such as storagemen, pawnbrokers, mechanics and artisans. In cases of retail sales by auctioneers at their established auction houses, sales yards or other places of business, the gross receipts are taxable regardless of how the property may have been acquired or by whom it may be owned. A Thornton Sales and Use Tax Business License is required for any such auction house, sales yard, or other similar places of business.

### ***Automotive Vehicles***

The Tax is imposed on every trade or sale involving the payment of money, evidence of indebtedness, or other consideration, including the consideration of labor, of new and used automotive vehicles whether the seller is engaged in business or is making an isolated sale or trade. Automotive vehicles primarily used and maintained in Thornton are subject to taxation in Thornton. Any resident of Thornton 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.

Retail sales and purchases of automotive vehicle parts and accessories are taxable sales of tangible personal property. If automobiles are exchanged or traded between individuals who are not licensed or engaged in the business of selling automobiles in the City, then the retail value of each automobile is the purchase price on which Tax shall be paid by each owner.

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.

Any resident of Thornton who has dual residency both within and without the City must pay the Tax on the full amount of such taxable purchase price if the vehicle is primarily used and maintained in Thornton. Any resident who registers a vehicle at an address other than his principal residence or place of business within Thornton for the purpose of evading the Tax may be in violation of the Code and shall be prosecuted accordingly.

Parts and service warranties for automotive vehicles which are sold by retailers in the City are taxed as "Maintenance Services".

### ***Bad Debts***

Gross taxable sales may be reduced by any worthless accounts deemed uncollectible to the extent that such accounts were previously, or are currently, included in gross taxable sales subject to the imposition of Thornton's Sales Tax. Gross taxable sales can only be reduced for uncollectible amounts if the original sales were reported to Thornton, and if the Sales Tax was remitted to Thornton.

Any bad debts previously deducted from gross taxable sales on a City Sales Tax Return and subsequently collected must be re-reported as taxable sales and the tax shall be remitted thereon.

Bad debts on credit sales wherein the seller takes a chattel mortgage to secure all or part of the purchase price of tangible personal property sold may not be deducted from taxable sales. Total tax is immediately due on the selling price of these transactions, and no refund or credit is allowed in case of repossession.

### ***Charitable Organizations***

"Charitable" requires the dispensation of charity and benevolence resulting in the rendition of service to the community. A non-profit status does not in and of itself establish a "charitable" status. Any organization wishing to buy tax-free must apply for a Thornton Exempt License. The charitable exemption provisions contained in Section 26-390 of the Code do not grant an exempt status automatically to any organization but, on the contrary, provide for the City's examination of the nature of each organization's operations and activities before an exemption is granted.

An application for exempt status must be completed and submitted to the Department of Finance, including but not limited to financial statements showing the sources of funds and expenditures thereof, along with any articles of incorporations and by-laws. Such exempt license is not a blanket authorization for total exemption, but only for exemption of activities specified by the City. Those purchases made by such organizations or institutions that are not specifically exempt must be reported for Use Tax purposes.

The exemption from taxation granted to property used for religious worship and charitable purposes under Article X, Section 5 of the Constitution of the State of Colorado, pertains only to ad valorem or property taxes and does not apply to general excise or sales and use taxes. Exemption from the applicability of these taxes is a matter of local legislative action, and any exemption granted is to be strictly construed, and interpreted.

Charitable organizations which hold IRS section 501(c)(3) qualification letters and have a Colorado exemption certificate may be exempt from collecting sales tax during fund raising events. If the charitable organization conducts sales for a total of 12 days or less during a calendar year and the net proceeds from all these events do not exceed \$25,000 in that calendar year, the sales are not subject to Tax. [Net proceeds is total gross events receipt(s) less expenses attributable to the event(s).] As soon as the organization reaches either \$25,000 in net proceeds, or conducts sales for more than 12 days a year, it must obtain a License and begin collecting the Tax.

### ***Commercial Packaging***

Sales of non-returnable containers, labels, tags, cartons, packing cases, wrapping paper, wire, bags, shipping cases, bottles, cans and other similar articles and receptacles to manufacturers, producers, wholesalers, jobbers, retailers, or other licensed vendors for use as containers, labels and shipping cases of tangible personal property sold by them are not taxable if such containers are to be delivered to the customer with the articles sold.

Containers sold to persons performing services are taxable if the container is not to be resold with tangible personal property. Containers, labels and shipping cases which are returnable to the person who sells and delivers merchandise in them are taxable. In such cases, the manufacturer or compounder is the user or consumer of such returnable containers and must pay the Tax on all purchases of such containers.

Deposits required by the vendor on returnable containers are includable in the gross taxable price charged. Code Subsection 26-390 dealing with returned goods applies to the return of such containers. Such containers sold to persons performing a service are also taxable.

### ***Contractors – Prepayment of Tax***

The City collects Tax on 50% of the estimated value of a construction project, or on 100% of the taxable materials cost, whichever is greater. The Tax is due at the time the permit is issued, and is to be paid by the general contractor, building owner, or lessee. A separate permit(s) is required for all site work such as paving, curb and gutter, water and sewer, and grading. All site permits require their own valuations apart from the building permit, and Tax is also prepaid on these permits.

To avoid double payment of the City Tax, both the general contractor and subcontractors should present a copy of the permit to all suppliers when purchasing construction materials. Suppliers should keep a copy of the permit or the permit number for their records.

### ***Cost of Goods Used***

A person who purchases tangible personal property without payment of Tax to the seller and uses the property for their own business or personal purpose (including for any non-resale purposes) is liable for Tax on the purchase price thereof and shall make payment of the Tax directly to the City Treasurer.

If a purchaser buys property to be used exclusively in the rental or leasing business and does not use that property for their 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 on the rentals only and not on the initial purchase by the vendor or lessor. However, if the purchaser uses the property personally for any period of time prior to any rental or lease term, tax shall be paid on the original purchase price. If the purchaser uses the property personally for any period of time subsequent to any rental or lease term, tax shall be paid on the fair market value of the property by the purchaser.

Tangible personal property used by a vendor exclusively for the purposes of demonstration, display, or stock inventory purposes, and which "demonstrator models" are to be eventually resold in the general conduct of business are not taxable to the vendor. However, any such articles, including automotive vehicles actually used by the vendor, his employees, agents or customers for other than exclusively demonstration purposes, display or stock inventory purposes, are taxable on the purchase price or fair market value.

A person purchasing tangible personal property to be given away in any manner is the user or consumer and shall be liable for the Tax thereon, including but not limited to advertising gifts, shoppers' guides, catalogues or other property given as prizes, premiums, or for goodwill or promotional purposes.

Tax is due on the cost of any article of tangible personal property used, stored, distributed or consumed in the performance of a service or contract.

Where tangible personal property is traded in an exchange between two or more persons, the Tax is imposed on the fair market value of each article. Each owes the Tax on the fair market value of the tangible personal property given in the exchange. Any transaction or series of transactions which result in the transfer of title or possession, or both, of tangible personal property shall constitute a taxable exchange, as set out herein.

The imposition of Thornton Use Tax falls on any property purchased for use, storage, distribution and consumption in this City whether that property was purchased inside or outside the City, and that is not otherwise exempt under the Code.

#### ***Cover, Door and Other Related Charges***

Cover, admission and door charges to places of amusement, entertainment or recreation are taxable. Such places include, but are not limited to, theaters, motion picture shows, dance halls, cabarets, night clubs, miniature golf courses, bowling alleys, skating rinks, and game rooms.

Tax may be charged on each individual cover, door, or service charge or the Tax may be incorporated in each individual cover, door or service charge. Once the election is made, the vendor must continue to report the Tax in the elected manner.

#### ***Distribution***

When catalogues or brochures are sold in the City, the sales transaction is taxable. If such catalogues or other advertising media are given away, the cost of the catalogues or other advertising media must be reported and use tax paid to the City based on this cost. Catalogues, brochures, or other similar media that are mailed from the City of Thornton to customers outside the City are subject to the Thornton Sales and Use Tax for their use and storage in the City based on the cost of such brochures, catalogues, etc.

Stamp companies are required to pay Tax upon the cost of all trading stamps, stamp books, stamp collections, or other similar items, which are stored, used and distributed or otherwise consumed in the City 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 purchasing such stamps. Upon redemption or "trading in", Tax shall be collected on the fair market value of the item for which the stamps are redeemed or traded.

When advertising gifts, shoppers' guides, catalogues, directories, discount or coupon redemption books, or other property, are given away as prizes, premiums or for goodwill purposes and there is no charge to the recipient, such items are taxable at cost 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.

### ***Drugs, Medical Supplies, Therapeutic & Prosthetic Devices***

The term "prescription drugs" shall be defined as medicinal substances for human consumption used in the treatment or prevention of disease, which are required to be purchased under prescription by order of a state licensed practitioner of the healing arts and dispensed by a state licensed pharmacist. Prescription drugs do not include medicinal substances which can be purchased over the counter whether or not the substance is prescribed by a physician.

The sale and purchase of prescription drugs, as defined in the Code are exempt from the imposition of the Sales and Use Tax. All sales and purchases of non-prescription drugs are taxable. All sales and purchases of drugs or medicines for use or consumption by animals are taxable.

Physicians, surgeons, dentists, veterinarians and other licensed practitioners of the healing arts, as well as hospitals, nursing homes, clinics and the like, shall pay tax on their purchases of any equipment, instruments, furniture, fixtures and medical and surgical supplies used or consumed in the ordinary and usual course of business.

Medical care providers (i.e. hospitals, medical clinics, nursing homes, physicians in private practice) use a variety of medical goods in the course of performing services for which they are paid. If not specifically exempt under the Code, such goods are use taxable to the purchaser at cost. Nutrition supplements, food, personal hygiene products, and over the counter medicinal substances are taxable to the purchaser.

Veterinarians, chiropractors, massage therapists and other similar practitioners may sell tangible personal property that is not exempt from taxation under the Code. If the non-exempt tangible personal property is itemized on the patient's bill or invoice, the total selling price of the tangible personal property is subject to Sales Tax. The provider must charge, collect and remit the Sales Tax to the City of Thornton. If the tangible personal property is consumed by the provider in the rendition of the service and not separately stated on the patient's bill or invoice, then the tangible personal property is subject to Use Tax at the provider's cost.

### ***Engaged In Business in the City***

Vendors who deliver tangible personal property, or cause to be delivered such property purchased from them at retail to a Thornton resident, are subject to the provisions of the Code. Vendors who sell taxable services at retail within the City of Thornton are subject to the provisions of this Code. Any vendor engaged in business in the City who delivers or causes such deliveries to be made without first complying with the licensing requirements of Section 26-391(a) of the Code, or any other person aiding or abetting the non-complying vendor by delivering such tangible personal property for the vendor, may be considered by the City Treasurer to be found in violation of this Code and shall be prosecuted accordingly.

If the vendor maintains a Tax License with the City, such vendor shall be responsible for the collection and remittance of the Tax on all sales made by such vendor wherein the sale (transfer of ownership) takes place inside the City. If the vendor does not have an office or place of business in the City, but does have salespeople or other representatives soliciting orders and making sales, agents, delivery vehicles, or leased equipment in the City then such vendor is considered to be engaged in business in the City and is responsible for collecting and reporting Tax on all sales made for use, storage, distribution or consumption in the City. All vendors or salespeople responsible for collecting the Tax shall apply for and obtain from the City a Tax License, and properly collect and remit the Tax to the City.

Purchasers of tangible personal property or taxable services subject to the Tax, must pay the Tax either to the vendor, if such vendor is licensed and authorized to collect the Tax, or directly to the City.

### ***Exempt Transactions***

Purchases and sales of all articles of tangible personal property and taxable services to all non-exempt persons are subject to the Sales or Use Tax. Exemptions are strictly construed. The list of exempt commodities cannot be increased by implication or similarity. It is the duty of the vendor to collect and the

purchaser to pay the Tax unless the transaction is clearly exempted by the Code.

Whenever there is a disagreement between a vendor and a buyer as to whether a given sale is or is not tax exempt under this Code, the vendor will collect and the buyer will pay the tax. The buyer may then make application to the Department of Finance for a refund.

In all cases, the burden of proof is upon the vendor to establish that the item being sold is tax exempt, with delivery receipts, bills of lading, invoices with purchaser's address, building permit number, City Exempt License number, or other pertinent evidence. When a taxpayer claims an exemption under the Code, the burden is upon the taxpayer to clearly establish the right to such exemption.

### ***Gas, Electric and Heating Services***

Gas and electric, etc., service, whether furnished by or through governmental, public, private, mutual, or cooperative corporations or enterprises, is taxable. All fees and charges included in the billing for gas and electric service are taxable, including but not limited to service and usage charges, franchise fees, connections and installation charges, accounting fees, and other administrative charges or fees.

### ***Imposition of Tax***

All sales at retail, unless otherwise exempt, are subject to the tax rate imposed in the Code. The vendor must collect the tax from the purchaser. Regardless that a vendor's total gross sales consist of a number of items, each of which has a retail sale price of less than the minimum taxable sale, the tax must be computed, charged and remitted on the total sales price of all the items sold at retail.

### ***Interstate and Intrastate Sales***

When tangible personal property is located within the City at the time of sale and is delivered by the seller either to a purchaser or the purchaser's agent within the City, including but not limited to a common contract or commercial carrier, the transaction is a taxable event, irrespective of where the parties to the contract of sale are located, or where the contract is made or accepted, or where the purchase price is paid.

### ***Licenses***

Every business located in the City or engaged in business in the City must have a valid Thornton Sales and Use Tax Business License. There is no fee charged for the issuance of such License. A License is required for all businesses located within the City, even if the business does not sell items. It is unlawful for any person engaged in business in the City of Thornton to fail to obtain a Sales and Use Tax License, or any such person to continue to engage in business within the City after the person's License has been revoked.

A License is required for all forms of retail selling whether through stores, from a private residence, by house to house canvass, by peddlers, by truckers, by vending machines, or in any other manner whatsoever. Cooperative associations, clubs, chambers of commerce, lodges, churches and similar organizations must be licensed and collect and remit the Tax if selling at retail, even though they may be non-profit organizations and may sell only to their own members.

Leased departments are separate and distinct stores just as if the various activities 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 certain of its departments to persons for the sale of tangible personal property, each such lease department shall obtain a Sales and Use Tax Business License, collect the tax and remit same on a proper return.

Lessees may keep their own books and make their own collections on account of sales. If the store leasing such departments keeps the books for the leased departments and makes collections on account of their sales, the store shall make separate accounting for such departments and remit the taxes due. However, the

lessee is not relieved of liability if the store fails to make the proper returns or fails to remit the taxes to the City Treasurer.

### ***Linen Services***

Linen service companies provide a variety of "services", including but not limited to, the selling, leasing, renting, cleaning and laundering of such items as bed and bath linens, table linens, uniforms, runners and mats, shirts, smocks, lab coats, bar towels, dispensing units, and mops.

For purposes of taxation, the only non-taxable function that such a company provides is for the cleaning and mending of linens or other tangible personal property that is not owned by the linen company. All other "services" wherein the linen company owns the property being provided are considered taxable rentals of tangible personal property. The entire charge for such rental services is taxable unless the invoice separates charges for cleaning from the rental charges.

### ***Lodging Tax***

The term "room" shall mean, in addition to a regular sleeping room or unit, a meeting room, a display room, a banquet room or any special purpose room for which a charge is made. The term "accommodations" shall include the furnishing of a space in any auto camp, trailer court or park under any concession, permit, right of access, license to use, or any other agreement, by or through which any of the above rooms or accommodations may be used or occupied. Accommodations include rentals of banquet rooms, meeting rooms, display rooms, etc.

### ***Lump Sum/Time & Material Billings***

The following information applies to service or repair providers who bill their customers on a lump sum and/or time and material basis. This section does not apply to contractors operating under a City of Thornton permit where the Tax has been prepaid. Service or repair providers include but are not limited to plumbers, maintenance and repair persons, window tint installers, HVAC repair persons, painters, and flooring, counter and cabinetry installers.

Types of billing and types of contracts can affect the way tax is imposed on a contractor and/or their customer. The following outlines billing and types of contracts and their tax treatment:

Time and material billing – The contractor who invoices separately for labor and materials must have a Sales and Use Tax Business License and charge applicable City tax on the marked up price of all materials sold at retail. Labor separately stated on the invoice is exempt from taxation under the Code. The contractor is liable for Use Tax on the cost of all supplies not separately billed to the customer, as well as on tools and equipment. A time and material agreement cannot be treated as a lump sum contract for billing/invoicing or for tax reporting purposes.

Lump sum contract – A lump sum contract does not distinguish between labor and materials, the amount is invoiced together as one total. A contractor cannot treat a lump sum contract as a time and materials contract for billing purposes. Contractors selling/installing completed units must charge Sales Tax on the entire contract price when using the lump sum type of billing and are required to obtain a Sales and Use Tax Business License. Contractors selling/installing items other than completed units should pay Use Tax directly to the City for all supplies, materials, prefabricated materials and rentals used to complete the contract.

Completed units are tangible personal property that can be purchased at retail as stand alone items and do not require significant on-site fabrication labor at the installed location. Some examples of completed units are appliances, awnings, window air conditioners, windows, and cabinetry.

## ***Maintenance Services***

Separate warranty or maintenance contracts purchased to guard against future potential repair costs relating to tangible personal property or software which include parts, materials, or upgrades are partially taxable. Examples of such contracts that are purchased include, but are not limited to, automobiles, computer equipment, copy machines and other office equipment, manufacturing equipment, projection and other related audio-visual equipment, construction equipment, software, and all types of medical and diagnostic testing equipment. Maintenance contracts are taxed as follows:

The taxable portion of a maintenance agreement that includes parts only is 100% of the contract price.

The taxable portion of a maintenance agreement that includes parts and labor is 30% of the contract price for any type of tangible personal property except medical equipment.

The taxable portion of a maintenance agreement on medical equipment that includes parts and labor is 50%. Medical equipment means any type of equipment or device used by any doctor, nurse, or any other practitioner or medical assistant providing any medical related service.

The taxable portion of a maintenance agreement on hardware or software is 30% of the contract price if the agreement includes parts and/or software upgrades for all tangible personal property except medical equipment.

The taxable portion of a maintenance agreement on hardware or software related to medical equipment is 50% of the contract price if the agreement includes parts and/or software upgrades.

Warranty and maintenance agreements which state specifically that they are for labor services only are not taxable.

Vendors who use or install parts while performing service under a maintenance agreement may purchase and install those parts Tax free provided Tax was collected on the maintenance agreement and remitted to the City in accordance with the provisions above.

## ***Meals***

If businesses or organizations, including but not limited to boarding houses, hospitals, fraternities and sororities, and nursing homes, serve meals only to persons regularly boarding there, such establishments are considered consumers of the food products and shall pay Use Tax on the cost of food and beverages furnished as part of their services. However, if such establishments also sell meals and beverages to the public or visitors in a retail setting such as a cafeteria, they must charge Sales Tax on the full price charged for such meals and beverages.

Caterers and other persons engaged in retail meal and beverage service sales are responsible for collecting and reporting Sales Tax on the total price charged for all items and/or services. Private clubs, cafeterias of commercial and manufacturing companies, churches and exempt organizations, and any other similar organizations which regularly serve and charge employees and/or the general public for meals and beverages, are liable for Sales Tax on the selling price of such meals and beverages. Employee meals sold at a reduced price are taxable on the amount charged to the employee. Meals given to an employee free of charge are subject to Use Tax.

Purchases of products which are to be served as a part of or together with the taxable meal, are non-taxable to the vendor. Such non-taxable items include purchases of food and drink, paper cups, paper napkins, paper plates, straws, and other products necessary to be furnished with the meal or refreshment for one-time only use. Equipment and fixtures used for the preparation of the meal or furnished as part of the eating facilities, and other items not consumed with the meal such as linen napkins, glassware, silverware, etc., are taxable to the vendor.

### ***Pay Television Services***

Tax is due on all "pay," "cable," or "subscription" services sold on the full amount of the charge for such services rendered. The Tax is due on the total charge for service connections, installations and connection charges, usage, and any and all other charges made for such services. Satellite programming services are exempt from taxation per Federal Law.

### ***Printed Materials***

The exemption on sale of newspapers may not be extended to include taxable publications such as magazines, and inserts included in newspapers usually appearing on Sundays, trade publications or journals, credit bulletins, advertising pamphlets and circulars whether included in newspapers or not, directories, maps, programs, reprints, newspaper clipping and mailing service or listings, publications that include an updating or revision service, books and pocket editions of books , etc.

The tax will be collected and remitted on both "over the counter" sales in this City, and on sale of subscriptions to City residents made by any salesman, agent, independent contractor or any other person, or by any other company or person maintaining any representatives, offices or owning any property in this City, no matter the method of sale and how delivery is to be made to the customer in this City

### ***Purchase Price or Sale Price***

The term "purchase price" or "sale price" means the gross value of things paid for under a lease, rental or pursuant to a sale, including, but not limited to, money, trading stamps, coupons, and services and/or labor in exchange for tangible personal property or taxable services. Such consideration is to be valued at the fair market value of the tangible property or taxable service received.

Delivery, loading, unloading, handling and incidental charges to effect delivery to the purchaser are taxable and considered to be part of the taxable purchase price. However, third party freight charges billed to the purchaser, when separately stated, are not subject to tax.

The entire purchase price of articles of tangible personal property which have been manufactured or made to order is subject to Tax. The purchase price includes the aggregate amount charged to the purchaser or consumer for all materials used, labor and service performed and profit. Examples of such articles of tangible personal property that are taxable at full sales price include but are not limited to custom tailoring, fur goods, drapes, curtains, windows, furniture, tents, awnings, millwork, photography, printing, artwork, and picture frames.

The purchase price of all tangible personal property or taxable services includes any taxes, tariffs or fees imposed directly on the vendor by a governmental body, regardless that the vendor is allowed and may choose to pass these charges and fees on to the end consumer.

### ***Purchases Prior to Residency in City***

There is no tax liability to a resident when any tangible personal property is purchased and used for its bona fide purpose, for a substantial length of time (as defined below) outside the City prior to use of the property in the City.

"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 or value based on straight-line booklife (as opposed to accelerated income tax) depreciation standards of the industry.

### ***Recreation Services***

All recreation services as defined in the Code are taxable. Golf green fees, and athletic and health club

memberships are specifically exempted in the Code, however, miniature golf fees are taxable. Also exempted are those recreation services provided by a municipal government or its primary contractor; however, services such as food, pro-shop sales and rentals are not exempt from Sales Tax. All material and equipment used in providing recreation services are subject to City Tax on the purchase price.

### ***Reporting Periods***

Approval of requests for quarterly, seasonal or annual filing periods may be granted by the City Treasurer or his designee. Permission to change the time or interval for filing of reports and payment of tax will not be granted to vendors or consumers who are delinquent in filing, nor will vendor's fees be allowed to vendors who are delinquent in filing their tax returns.

If any person required to report and pay Sales or Use Tax who has been granted permission to file reports, and pay tax on other than a monthly basis shall become delinquent, then authorization for such alternative method of reporting may be revoked by the City Treasurer at any time and immediately following notice of such revocation, the taxpayer will be required to file reports and pay tax, interest and penalties on a monthly basis for all unreported or unpaid tax in the same manner required by law and under conditions that would prevail if the person had never been granted the alternate method of reporting and paying the tax.

### ***Resale (Wholesale) - Component Parts***

Sales to and purchases of tangible personal property by a person engaged in manufacturing, compounding or processing a product which ultimately is to be sold at retail, are exempt from the imposition of the Sales and Use Tax. The exemption shall be conditioned upon the tangible personal property actually being used or consumed directly in the primary production, processing, manufacture, compounding or refinement, and becoming a necessary and integral or component part of the finished product by either chemical, manual or mechanical means. In addition, the physical presence of the tangible personal property in the finished product must be essential to the use or consumption of the product in the hands of the ultimate consumer.

This manufacturing exemption does not apply to the purchaser of (1) items not used directly in the compounding or manufacturing operations; (2) items used in the maintenance, managerial, sales and other administrative and/or operational activities; (3) items used by persons who are designated under this Code as being ultimate consumers of materials that they purchase for their business operation; (4) equipment (including manufacturing equipment), tools, machinery and supplies, and (5) 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 product, are taxable to the user or consumer on their proportionate value.

Abrasives used by a cutlery manufacturer, explosives, foundry patterns, dies, casts, molds, designs and drawings, and similar items that do not become an ingredient, component, constituent or part of a manufactured product and the purchases of such tangible personal property are not exempt from the tax.

A photographer, artist, painter, sculptor or other person in such similar occupations, may purchase tax-free only materials or trade items which become an integral or component part of the finished item, work or piece to be resold. Purchases of film, film developer, proof paper, and other items used by photographers for developing and printing services in the various stages of making finished photographic prints are taxable, as they do not become component parts of, nor are they coated upon or impregnated in the final product. However, print paper on which the finished photographs are made and tinting materials are component parts and are exempt from the tax.

Manufacturers and processors must report and pay use tax on 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.

### ***Resale (Wholesale) - To Other Licensed Vendors***

The Sales and Use Tax is not imposed upon wholesale sales. A "wholesale sale" is a sale to a retail

merchant, jobber, dealer or other wholesaler for resale, manufacture, or for further processing prior to the ultimate taxable resale of that property at retail. "Retail sales" are defined as "all sales made within the City, except wholesale sales." A sale by a wholesaler to a user or consumer and not for resale is a retail sale and is taxable unless otherwise exempt.

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 is taxable at the users cost. 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 in the reporting period in which conversion to other than a non-taxable use occurred. The tax must be reported on the Sales and Use Tax Return.

### ***Security Systems***

The entire service charge for any alarm or security system in the City is subject to the Thornton Sales and Use Tax. This service charge includes, but is not limited to, monitoring, maintenance, rental, lease, materials, and equipment. Any labor charge attributable to installation is not subject to Sales Tax if separately stated.

All material and equipment used in providing the service is subject to Thornton Sales and Use Tax. If title of the material or equipment is transferred to the customer in a retail sale, Sales Tax should be collected from the customer at the time of transfer of such title. Such sale shall be deemed a separate and distinct transaction from the service charge. If the material or equipment is given to the customer free of charge, then the material or equipment is subject to Use Tax payable by the vendor.

### ***Tangible Personal Property***

Tangible personal property, for purposes of the Code, means all goods, merchandise, products, commodities or corporeal things and substances, solid, liquid or gaseous, or other form which are capable of being possessed, measured, weighed, contained, transported or exchanged, and the services or labor ordinary or necessary or actually utilized to sell, rent, lease or convey that property to the customer in a usable form or manner and which are specified as taxable herein.

Not included in the definition of "tangible personal property" are: real estate or any interest therein; book accounts; stocks; bonds; mortgages; notes and other evidence of debt; insurance certificates or policies; business, professional, hunting, fishing or other similar licenses; and uncanceled United States postage or stamps sold for postage purposes. Prefabricated goods and materials and other property purchased for improvements to real estate, houses when detached from the land, and trailers or mobile homes not affixed to the land are all tangible personal property.

### ***Tax Included in Selling Price***

A vendor may elect to include the sales tax in the selling price of an alcoholic beverage, vending machine sales, recreation services, cover or door charges, or admission ticket sales. Once the election is made, the vendor must continue to impose and collect the tax in the manner elected.

Example:  $\text{cost of alcoholic drink} \div (1 + \text{tax rate}) = \text{taxable base}$   
 $\text{cost of alcoholic drink} - \text{taxable base} = \text{sales tax due to City}$

### ***Telecommunication Services***

All forms of communications services, including intrastate, interstate, international, cellular, and data communications are taxable, whether furnished by or through governmental, public or private corporations or enterprises.

The Tax shall be paid on additional listings, joint use of service, non-talking service circuits, leased circuits and facilities, local exchange service, cellular service, text messaging, data communications, internet access, voice over internet protocol (VOIP), regardless of whether on a flat or measured basis, service connections, installations or connection charges, and sales of tangible personal property such as telephone directories, etc. The tax attaches to all amounts paid for communication services, irrespective of whether there is actual consumption or not, including but not limited to usage charges, service fees, connection and termination fees, insurance, etc. Telephone service, either local or toll, where calls are made or telegrams are sent from telephone pay stations, are taxable. Mobile radio or telephone service or other special services rendered are taxable. Telecommunications, as defined in Section 26-388(c), encompasses a vast array of different means of transmitting information. Thus, virtually any such transmission, access, or use for which a price is paid falls under the taxation of telecommunication services.

### ***Transient Vendors***

Anyone selling "door to door" or from other than an established store must have a Sales and Use Tax Business License. Because of the transient character of persons who sell at retail from other than regularly established store fronts and carry a stock of goods on hand at all times from which sales may be made at retail, such persons may be required, as a condition of their obtaining a Sales and Use Tax Business License to post a bond or secure a deposit satisfactory to the City Treasurer.

Such cash deposit may be subject to refund upon complete compliance with the licensing and reporting provisions of this Code. The refund time limitations and other provisions set out in Section 26-396 of the Code shall apply in cases of such cash deposit. The City Treasurer shall require a deposit in an amount sufficient to pay any tax liability of the transient salesman or vendor arising under this Code based on the best information available.

### ***Use Tax***

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 manufacturing consumption of tangible personal property purchased by a licensed retailer, manufacturer, jobber, dealer or other wholesaler for ultimate taxable resale within the regular course of business in this City.

### ***Vending Devices***

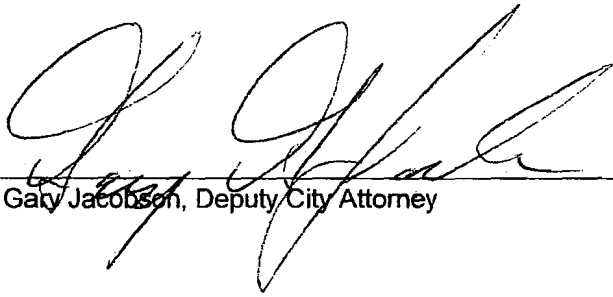
The sale of articles of tangible personal property through coin or credit operated vending machines are subject to Sales Tax. The owner, operator, or person selling tangible personal property through vending machines may elect to pay the Sales Tax on the gross receipts, or the Sales Tax may be incorporated into the selling price of the tangible personal property. Once an election is made, the vendor shall continue to report the Sales Tax in the manner elected.

The owner, operator, or person selling tangible personal property by coin or credit operated vending machine shall be liable additionally for the Sales and Use Tax on the purchase price of the vending machine. Furthermore, the Sales and Use Tax applies to any subsequent lease, rental, or sale thereof on the full lease, rental, or sale price.

Where the use of any coin, credit, or other device not vending articles of tangible personal property as its prime function, but rather where the object utilization of such device is the short-term rental of the tangible personal property device itself, then the Sales Tax may either fall on the gross receipts from utilization or rental of such device, or the Sales Tax may be incorporated into the rental amount charged. Once the election is made, the owner, operator or person must continue to report the Sales Tax in the elected manner.

Taxable short-term rentals of coin or credit operated machines shall include, but are not limited to such devices as: laundry machines, car wash machines, and other electronic non-entertainment devices.

Reviewed By Legal Department:

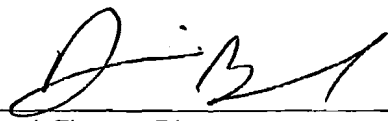


Gary Jacobson, Deputy City Attorney

11-19-07

Date

Approved By:



David Boyd, Finance Director

11/19/07

Date