

**STEAMBOAT SPRINGS SALES AND USE TAX  
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# C h a p t e r 2 2 - T A X A T I O N

**Editor's note**— Ord. No. 2371, § 1(Exh. A), adopted Feb. 15, 2011, amended Ch. 22 in its entirety to read as herein set out. Former Ch. 22, §§ 22-1—22-242, pertained to similar subject matter.

ARTICLE I. - IN GENERAL  
ARTICLE II. - ENTERPRISE ZONES  
ARTICLE III. - SALES, USE AND ACCOMMODATIONS TAXES  
ARTICLE IV. - TELEPHONE OCCUPATION TAX

## ARTICLE I. - IN GENERAL

Reserved.

## ARTICLE II. - ENTERPRISE ZONES

Reserved.

## ARTICLE III. - SALES, USE AND ACCOMMODATIONS TAXES

DIVISION 1. - GENERALLY  
DIVISION 2. - ADMINISTRATION AND ENFORCEMENT  
DIVISION 3. - SALES TAX  
DIVISION 4. - USE TAX  
DIVISION 5. - PUBLIC ACCOMMODATIONS TAX  
DIVISION 6. - EXCISE TAX ON NEW CONSTRUCTION

### DIVISION 1. – GENERALLY

#### Sec. 22-86. - Definitions.

Capitalized words or phrases used in Article III are defined below. Any capitalized terms used in this Article, not defined in this section, shall have the meaning defined in other sections of the Steamboat Springs Municipal Code.

(1) *Sales Tax defined.* The Steamboat Springs Sales Tax is levied on all Sales, leases and rentals at Retail on the basis of, the Purchase or Sale Price on Purchases of Tangible Personal Property and specific services Taxable hereunder. All Sales and Purchases of Tangible Personal Property are subject to the Tax, except as specifically exempted, Sales and Purchases of services as specifically set forth in section 22-182 are subject to the Tax. The Tax is in reality imposed on the Purchaser. The duty is imposed on the seller to collect and remit the Tax to the City under the penalties for failure to do so as prescribed herein.

#### REGULATION 22.86-(1)

**The tax falls upon the transaction called the sale or purchase and/or upon the use, storage, distribution or consumption of tangible personal property as defined, or of taxable service.**

**The transaction shall be deemed to be a purchase or sale if the acquisition of tangible personal property or a service is effected by the transfer, either conditionally or absolutely, of title or possession, or both, of the tangible personal property, or a lease, rental or grant of license to use (including royalty payments), store, distribute or consume the tangible personal property.**

**The term "sale or purchase" includes installment and credit sales and the exchange of properties as well as the sale thereof for money, and includes and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and services, as set forth herein, for a valuable consideration, and the rendering, furnishing or setting for a valuable consideration any of the substances, things, services, rentals, leases or grants of license to use, designated and defined throughout as taxable under the terms of the Steamboat Springs Sales and Use Tax Code and Rules and Regulations.**

**Where any consideration is given in return for tangible personal property or the specific services set out as taxable herein, including the consideration of labor, then that transfer or "sale" is taxable hereunder.**

(2) *Use Tax defined.* Means the Tax paid or required to be paid by a Consumer for Using, Storing, Distributing or otherwise Consuming Tangible Personal Property or Taxable Services inside the City. The Steamboat Springs Use Tax is levied upon the privilege of Using, Storing, Distributing or otherwise Consuming Taxable Tangible Personal Property and Taxable Services (as described in section 22-197) in the City of Steamboat Springs which property or service is Purchased, leased or rented at Retail and not subjected to the Steamboat Springs Sales Tax, without regard to whether the property or service is Purchased either from sources within or without the City. Nonresident Persons Engaged in Business in Steamboat Springs as defined, are required to collect and remit the Use Tax on Taxable transactions.

(3) *Distinction between Sales and Use Tax.* The primary distinction between the Sales Tax and Use Tax is that the Sales Tax is collected by Persons Engaged in Business in the City from the Purchaser or Consumer, and such Person pays the Tax to Steamboat Springs, while in the absence of that Tax charge, then the Use Tax is levied directly upon the Person who Purchases the commodities or services and Uses the same in Steamboat Springs, which Person must make remittance of the Tax, together with Returns showing the Purchase and the Use of articles which are subject to the Tax, directly to the City of Steamboat Springs.

(4) *Accommodations* means the transaction of furnishing rooms or Accommodations by any Person, partnership, association, corporation, estate, receiver, trustee, assignee, lessee, or Person acting in a representative capacity or any other combination of individuals by whatever name known to a Person who for a consideration Uses, possesses, or has the right to Use or possess any room in a hotel, motel, home, condominium, campsite, inn, bed and breakfast residence, or similar establishment, under any concession, permit, right of access, license to Use, or other agreement, or otherwise.

**REGULATION 22.86-(4)**

**A "room" is a regular sleeping room or unit which is a part of a hotel, motel, bed-and-breakfast inn, home, condominium, campsite, or similar establishment for which a charge is made for its use. 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.**

**"Accommodation" includes the furnishing of space in any camp grounds, auto camp, trailer court or park, under any concession, permit, right to access, license to use, or any other agreement by or through which any such space may be used or occupied. Accommodations are exempt from taxation if rented for at least thirty (30) consecutive days of paid use by any single payor or customer, with the commitment documentable in writing.**

**“Accommodation” does not include storage facilities which are not designed for human occupancy.**

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

(6) *Auction Sale* means any Sale where Tangible Personal Property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

**REGULATION 22.86-(6)**

**Every factor, auctioneer, or agent acting for an unknown or undisclosed principal, and who is entrusted with possession of any bill of lading, custom house permit, or warehousemen'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 to be the owner thereof, and upon the sale of such property shall be required to file a return and pay the tax thereon. A sale by a factor, auctioneer, or agent, when acting for a known or disclosed and properly licensed principal, shall be taxable to the principal. The same rules apply to lien holders, such as storage, 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 Steamboat Springs Sales Tax License is required.**

(7) *Automotive Vehicle* means any vehicle, including every device in, upon, or by which any Person or property is or may be transported or drawn upon a public highway. Automotive Vehicle includes, but is not limited to, motor vehicles, trailers, or semi-trailers, and mobile homes. Automotive Vehicle shall not include devices moved by human power or Used exclusively upon stationary rails or tracks. (See also section 22-86(34), Mobile Machinery and Self-Propelled Construction Equipment.)

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

(9) *Capital Expenditure* as used in this article, means an expenditure made by the City of Steamboat Springs for the purpose of providing a permanent addition or improvement to property of the City made with the expectation of existence for an indefinite period. The term furthermore includes those expenditures for that category of items which, when privately owned, are treated as depreciable by the United States Internal Revenue Service for income Tax purposes, including but not limited to, the Purchase of major equipment and motor vehicles.

(10) *Charitable Organization* means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(11) *City* means the City of Steamboat Springs or its jurisdictional limits, as the case may be.

- (12) *City Council* means the elected legislative body of the City of Steamboat Springs.
- (13) *City Manager* or *Manager* means the City Manager of the City of Steamboat Springs or any duly authorized agent or representative acting in his/her stead or behalf.
- (14) *City Treasurer* or *Finance Director* means the City Treasurer or Finance Director of the City of Steamboat Springs or such other Person designated by the municipality; "City Treasurer or Finance Director" shall also include such Person's designee.
- (15) *Code* means the Sales and Use Tax Code of the City of Steamboat Springs or any of the adopted Codes of the City of Steamboat Springs as the context indicates.
- (16) *Construction Materials* means Tangible Personal Property which, when combined with other Tangible Personal Property, loses its identity to become an integral and inseparable part of a completed structure. Materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project are not Construction Materials.
- (17) *Consumer* means (A) any individual Person or (B) Person Engaged in Business in the City who Uses, Stores, Distributes or otherwise Consumes in the City Tangible Personal Property or Taxable Services Purchased from sources inside or outside the City.
- (18) *Consumption* means the act or process of Consuming: it includes waste, destruction, or Use. Consumption is the normal Use of property for the purpose for which it was intended.
- (19) *Department of Finance* or *Department* means the Department of Finance of the City of Steamboat Springs, of which is responsible for the administration of the City Sales and Use Tax Codes.
- (20) *Distribution* means the act of Distributing any article of Tangible Personal Property Purchased at Retail for Use or Consumption, which may include, but not be limited to, the Distribution of advertising gifts, shoppers guides, catalogues, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the Sales of other commodities or services.

**REGULATION 22.86-(20)**

**When business is solicited within the City of Steamboat Springs using catalogues, online methods, or by other advertising media, the resulting sales made to Steamboat Springs residents are taxable no matter where the order is approved, if the vendor is engaged in business in the City.**

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

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

**The sale of gift certificates is not subject to tax. However, when the certificate is exchanged in whole or in part, for tangible personal property, that transaction is a sale and taxable as such at the full fair market value of the article received.**

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

(22) *Engaged in Business in the City* means performing or providing services or selling, leasing, renting, delivering or installing Tangible Personal Property for Storage, Use or Consumption within the City. Engaged in Business in the City includes, but is not limited to, any one of the following activities by a Person:

- a. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of Business within the taxing jurisdiction;
- b. Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit Business or to install, assemble, repair, service, or assist in the Use of its products, or for demonstration or other reasons;
- c. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- d. Owns, leases, rents or otherwise exercises control over real or Personal Property within the taxing jurisdiction;

**REGULATION 22.86-(22)**

**The vendors who deliver tangible personal property, or cause to be delivered such property purchased from them at retail to a Steamboat Springs resident are subject to the provisions of the Steamboat Springs Sales and Use Tax Code. Any vendor who delivers or causes such deliveries to be made without first complying with the Steamboat Springs City Sales and Use Tax Code or any other person aiding or abetting the noncomplying vendor, while knowledgeable of such noncompliance, including but not limited to, common or contract or commercial carriers so delivering such tangible personal property for the vendor, shall be deemed by the City Treasurer as guilty of a violation of this article and shall be prosecuted accordingly. (Refer to Specific Industry Section "Common, Contract and Commercial Carrier.")**

**If the vendor does not have an office or place of business in the City or State, but does have salesmen or other representatives soliciting orders and making sales in Colorado and Steamboat Springs then such a vendor may be responsible for the entire tax on all sales made for use, storage, distribution or consumption in Steamboat Springs and if such vendor does not assume such responsibility, then such salesmen or agents must collect and remit the Steamboat Springs Tax.**

**All vendors or salesmen responsible for collecting the Sales and Use Tax shall apply for and obtain from the City of Steamboat a Sales and Use Tax License, and in the event there is a failure to so apply for a Steamboat Springs Sales and Use Tax License on the part of the salesman or vendor, then he shall be subject to the penalties as set forth herein.**

**At the City Treasurer's discretion a cash deposit may be required of any transient salesman or vendor subject to refund of such cash deposit Upon complete compliance with the licensing and reporting provisions of this article. The refund time limitations and other provisions set out in Section 22.110 of this article 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 article based on the best information available to the City Treasurer. (See also deposit requirements on Annual License issuance 22.128-A(reg)).**

(23) *Excess Tax* means that amount of Tax collected during a reporting period that is in Excess of the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196, of City Net Taxable Sales and Services, and which excessive collection must be remitted to the City using the method prescribed herein.

(24) *Exempt Commercial Packaging Materials* means containers, labels and shipping cases sold to a Person engaged in Manufacturing, compounding, wholesaling, jobbing, retailing, packaging, Distributing or bottling for Sale, profit or Use that meets all of the following conditions: (i) is Used by the manufacturer, compounder, Wholesaler, jobber, Retailer, packager, distributor or bottler to contain or label the finished product; (ii) is transferred by said Person along with and as a part of the finished product to the Purchaser; and (iii) is not returnable to said Person for reuse.

(25) *Exemptions* means those deductions from Gross Sales and Services in order to arrive at a Taxable base, as set forth in section 22-183

**REGULATION 22.86-(25)**

**See all authorized exemptions under the City Sales and Use Tax Code in Section 22.183, to determine which can be included as deductions on your Steamboat Springs Sales and Use Tax return.**

(26) *Farm Closeout Sale* means full and final disposition of all Tangible Personal Property previously Used by a farmer or rancher in farming or ranching operations which are being abandoned.

**REGULATION 22.86-(26)**

**A farmer or rancher may retain ownership of his improved and unimproved real property and his personal property not used in farming or ranching operations and still be eligible for this exemption if he is abandoning his farming or ranching operations.**

(27) *Food* means Food for domestic home Consumption as defined in 7 U.S.C. section 2012(g) as amended, for purposes of the federal Food stamp program as defined in 7 U.S.C. section 2012(h), as amended, except that "Food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow Food; prepared salads and salad bars; cold sandwiches; deli trays; and Food or drink vended by or through machines or non-coin operated coin collecting Food and snack devices on behalf of a Vendor.

(28) *Gross Sales and Service or Gross Taxable Sales* means the total amount received in money, credit, property or other consideration valued in money for all Sales, leases, or rentals of Tangible Personal Property or services.

(29) *License* means a City of Steamboat Springs Sales and Use Tax License.

(30) *Linen Services* means services involving provision and cleaning of linens, including but not limited to rags, uniforms, coveralls and diapers.

(31) *Lodging Services*: (See "Accommodations")

(32) *Manufacturing* means the application of manual labor or machinery time to materials to produce a usable item of Tangible Personal Property or to provide a service. Sales to and Purchases of Tangible Personal Property by a Person engaged in the Business of Manufacturing, compounding for Sale, profit or Use, any article, substance, or commodity, which Tangible Personal Property enters into the processing of or becomes an ingredient or component part of

the product or service which is manufactured, compounded, or furnished, and the container, label, or the furnished shipping case thereof, shall be deemed to be Wholesale Sales and shall be exempt from Sales Tax.

**REGULATION 22.86-(32)**

The sale of tangible personal property to a person engaged in the manufacture or compounding of a product or service, where such tangible personal property becomes a physical part of such product or service, is a wholesale sale and exempt from sales tax. Any container, label or shipping case used to encase or enclose such product may be purchased tax free by the manufacturer or compounder.

Tax applies to the sale of tangible personal property to the manufacturer or compounder that purchases it for use as an aid in manufacturing, producing or processing tangible personal property and not for the purpose of physically incorporating it into the manufactured article to be sold. Examples of such property are machinery, tools, furniture, office equipment, and chemicals used as catalysts or otherwise to produce a chemical or physical reaction such as the production of heat or the removal of impurities.

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

(a) Sales of CO<sub>2</sub> gas for use in the sale of draft beer are taxable to the vendor of the beer, since the vendor buys the gas for use in forcing the draft beer through the pipes rather than for the purpose of resetting the gas.

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

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

(c) Flux if used as a cleaning agent or as a means of reducing oxidation, is taxable to the manufacturer at the time of purchase. It may also be used for transmitting desirable alloys to the deposited metal. To the extent it is used for the latter purpose, it is not subject to sales tax to the manufacturer at the time of purchase. Since the different functions are not mutually exclusive, exempt and nonexempt purposes may be served simultaneously and in such cases the tax will have to be apportioned between the various uses.

(d) Sulphur used in frying and curing fruit is regarded as used by the manufacturer, not as incorporated and resold and the tax is to be paid by the manufacturer when he purchases the sulphur.

(e) Forged steel bolts are used in a bait mill to grind silica sand to a desired fineness. In the course of the grinding, the baits wear out, and they become incorporated into the finished product which is sold. The steel balls are purchased for the purpose of using them in the manufacturing processes and not primarily for the purpose of incorporating steel into a finished product. Accordingly, the manufacturer must pay sales tax on the steel baits at the time of purchase.

(f) If ice is in fact used for the sole purpose of becoming an ingredient of the finished product, as where it is used solely to supply all or a part of the water content of the sausage and luncheon meats, the sale of the ice may be regarded as a sale for resale and the processor is not required to pay tax at the time of purchase of the

ice.

**(g) A rubber chemical used as a lubricant to facilitate mold release of rubber products, such as tires, and which may remain as a film on the finished rubber product is a manufacturing aid used as a lubricant by the manufacturer who is required to pay the sales tax at the time of purchase.**

**(h) Cleaners purchased for use in preparing metal part surfaces prior to rust proofing do not become incorporated in the product and therefore the manufacturer is the user and must pay sales tax at the time of purchase.**

**(i) When paint thinner, abrasives, cleaning compounds, masking tape and similar items are used by a person in painting tangible personal property, that person is the user of such items and must pay sales tax at the time of purchase.**

**(j) Talc used as an anti-adhesive or lubricant in the manufacture of rubber products is manufacturing aid and a sales tax is imposed on the manufacturer at the time of purchase.**

(33) *Medical Supplies* means Drugs Dispensed in Accordance with a Prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable for treatment of insulin reactions; urine and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; Prosthetic Devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or hearing aids.

**REGULATION 22.86-(33)**

**Medical marijuana sold or dispensed in accordance with Article XVIII, Section 14 of the Colorado Constitution is not a prescription drug.**

(34) *Mobile Machinery and Self-Propelled Construction Equipment* means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of Persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of Persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of Persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly Used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches. (See also section 22-86(7), Automotive Vehicle.)

(35) *Net Taxable Sales and Services* means adjusted Gross Sales and Services less authorized Exemptions therefrom.

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

(37) *Notice*. All Notices required to be given under the provisions of this article shall be in writing and given personally or by postpaid first class mail to the addressee's last known address, in which event Notice shall be sufficient for the purpose of this article unless context indicates



otherwise.

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

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

(40) *Preprinted Newspaper Supplements* shall mean inserts, attachments or supplements circulated in Newspapers that: (1) are primarily devoted to advertising; and (2) the Distribution, insertion, or attachment of which is commonly paid for by the advertiser.

(41) *Prescription Drugs for Animals* means drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

(42) *Price* or *Purchase Price* means the Price to the Consumer, exclusive of any direct Tax imposed by the federal government or by this article, and, in the case of all Retail Sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

- a. Such exchanged property is to be sold thereafter in the usual course of the Retailer's Business, or
- b. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to Tax.

*Price* or *Purchase Price* includes:

- a. The amount of money received or due in cash and credits.
- b. Property at fair market value taken in exchange but not for resale in the usual course of the Retailer's Business.
- c. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the Retailer for part of the Purchase Price and other media of exchange.
- d. The total Price charged on credit Sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the Purchase Price is not part of the Purchase Price unless the amount added to the Purchase Price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the Purchase Price. An amount charged for insurance on the property sold and separately stated is not part of the Purchase Price.
- e. Installation, deliver and wheeling-in charges included in the Purchase Price and not separately stated.

- f. Transportation and other charges to effect delivery of Tangible Personal Property to the Purchaser.
- g. Indirect federal manufacturers', excise taxes, such as taxes on automobiles and tires.
- h. The gross Purchase Price of articles sold after Manufacturing or after having been made to order, including the gross value of all the materials Used, labor and service performed and the profit thereon. Any consideration valued in money, such as trading stamps, coupons, and other media of exchange, and any labor and services rendered in exchange for any Tangible Personal Property and Taxable Services, as defined herein.

*Price or Purchase Price* shall not include:

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

**REGULATION 22.86-(42)**

**"Purchase Price" or "Sale Price" may include freight, loading, unloading, handling and incidental charges to effect delivery to the vendor. Transportation charges to effect delivery to the purchaser are included in the taxable sale price if the agreement is, in substance, for sale and delivery at the point of destination. Freight, loading, unloading, handling, and incidental charges included in the sales price when not separately stated, are subject to sales tax.**

**For articles of tangible personal property which have been manufactured or made to order, the aggregate amount charged to the consumer or user for all materials used, labor and service performed, and the profit thereon, but excluding, however, those items otherwise exempt in the article. Examples of such articles of tangible personal property taxable at full sales price are custom tailoring, fur goods, drapes, curtains, portieres, storm windows, doors, furniture, tents, awnings, cabinet work, photography, printing, picture frames, etc. (Refer to 22.183-D-(1)).**

**A "manufacturer" is defined as one who applies, or causes to be applied, manual labor or machinery time to materials in order to produce a usable item. Manufacturers who are subject to tax under the article include, but are not limited to, contractors who use an item so manufactured for their own purpose or in the performance of a contract or services for another person and are, therefore, the consumer of items so "manufactured." The tax shall be computed on the total cost of materials, labor, freight, and all other services used and employed in the manufacture of said property. (Also refer to 22.183-D-(1))**

**Prefabricated components installed in buildings are taxable on the basis of the aggregate amount for labor, materials, etc., as related above. Any person making a sale of such prefabrication must be licensed and may purchase any tangible personal property which enter into and become a part of such articles tax free. Purchases of any tangible personal property not becoming an ingredient or a part of the finished product are taxable.**

(43) *Prosthetic Devices* means any artificial limb, part, device or appliance for human Use which

aids or replaced a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. Prosthetic Devices include but are not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

(44) *Purchase* or *Sale* means the acquisition for any consideration by any Person of Tangible Personal Property or Taxable Services that are Purchased, leased, rented, sold, Used, Stored, Distributed, or Consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installments and credit Sales, and property and services acquired by:

- a. Transfer, either conditionally or absolutely, of title or possession or both to Tangible Personal Property;
- b. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to Use Tangible Personal Property or Taxable Services; the utilization of coin operated devices, except coin-operated telephones, which do not vend articles of Tangible Personal Property shall be considered short term rentals of Tangible Personal Property;
- c. Performance of Taxable Services; or
- d. Barter or exchange for other property or services including coupons;
- e. The right to continuous possession or Use of Tangible Personal Property is granted under a lease or contract.

The terms Purchase and Sale do not include:

- a. A division of partnership assets among the partners according to their interests in the partnership;
- b. The formation of a corporation by the owners of a Business and the transfer of their Business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;
- c. The transfer of assets of shareholders in the formation or dissolution of professional corporations;
- d. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
- e. A transfer of a partnership interest;
- f. The transfer in a reorganization qualifying under section 368(a)(1) of the Internal Revenue Code of 1954, as amended;
- g. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;
- h. The repossession of Personal Property by a chattel mortgage holder or foreclosure by a lienholder;
- i. The transfer of assets from a parent corporation to a subsidiary corporation or

corporations which are owned at least eighty (80) percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

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

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

**REGULATION 22.86-(44)**

**The term "sale" or "purchase" or "sale and purchase" shall mean any transaction whereby a person, in exchange for a valuable consideration such as money or its equivalent, property, or the rendering of a service, effects any of these things:**

**(a) Transfers, or agrees to transfer, either conditionally or absolutely, title or possession or both title and possession, all or part of his interest, or the interest of any other for whom he is acting as agent, any tangible personal property, as defined, to any other person; or,**

**(b) Leases, rents or grants a license to use (including royalty agreements), or agrees to lease, rent or grant a license to use (including royalty agreements), tangible personal property, as defined, for use, storage, distribution or consumption to any person for any length of time; or**

**(c) Perform or furnishes, or agrees to perform or furnish, or contracts to have another perform or furnish any service taxable under this act for any other person.**

**Regardless of whether the transaction is absolute or conditional, it shall be considered a "sale" if it results in title or possession, or both, being transferred by the seller to a buyer, for any length of time whatsoever or for any "use", as defined, whatsoever, and shall additionally be considered a "sale" regardless that title or actual possession remains at all times with the owner of the property as set forth in 22.182-C-(7) and elsewhere herein.**

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

**A bona fide gift of tangible personal property is not a "sale".**

**(45) *Purchaser or Consumer* means any Person to whom Taxable service has been rendered or who shall have leased, rented, or Purchased at Retail, Taxable Services or Tangible Personal**

Property which is Purchased, delivered, Used, Stored, Distributed or Consumed in the City upon which a Tax is imposed hereby.

(46) *Resident* means, for the purposes of the taxation provisions herein, a Person who resides or maintains his domicile within the City of Steamboat Springs or who maintains one or more places of Business within the City at the time of a Taxable transaction as defined herein. A Person may have dual residency, or other places of residence or domicile, or place of Business outside the City prior to, during or after the occurrence of the Taxable transaction and be a "Resident" according to the terms of this definition.

**REGULATION 22.86-(46)**

(Refer to Code Sections 22.86-(53), 22.197-A, and 22.198-A)

(47) *Retail Sale or Purchased at Retail* means all Sales except Wholesale Sales.

**REGULATION 22.86-(47)**

"Retail Sale" is any sale, rental, lease or grant of license, or taxable service, other than a wholesale sale. Except for such wholesale sales, all sales, rentals, leases and grants of licenses of tangible personal property, unless otherwise exempt, and sales, rentals, and leases of the services set forth throughout the Code and Regulations as taxable, are considered retail sales and are subject to the tax imposed by this article. A retail sale is made to the user or consumer of the property or service sold.

The sale by a wholesaler to a user or consumer and not for resale is a retail sale and subject to the City Sales Tax. Section 22.87, referring to exercise of taxable privilege, and other references throughout the Code to sales made within the City, are limitations upon the authority of Steamboat Springs to assert the tax. Only those retail sales made in the City, including sales made by anyone outside of Steamboat Springs for delivery to any purchaser for storage, use or consumption within the City, are included within the definition of taxable retail sale for purposes of the City of Steamboat Springs Code.

(48) *Retailer or Vendor* means any Person selling, leasing or renting Tangible Personal Property or services at Retail. Retailer shall include any:

- a. Auctioneer;
- b. Salesperson, representative, peddler or canvasser, who makes Sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- c. Charitable Organization or governmental entity which makes Sales of Tangible Personal Property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be Used for charitable or governmental purposes.

**REGULATION 22.86-(48)**

**A retailer or a vendor is a person who engages in the business of making retail sales as herein defined, and who is charged with the collection, accounting for, and remittance of the sales tax imposed by this article. (Refer to 22.86-(22))**

(49) *Return* means the Sales and Use Tax reporting form used to report Sales and Use Tax.

(50) *School* means an educational institution having a curriculum comparable to grade, grammar, junior high, high school or college, or any combination thereof, requiring daily attendance, and having an enrollment of at least forty (40) students.

(51) *Security System Services* means electronic Security System Services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services.

(52) *Special Accounting Basis or Estimated Percentage Basis* means the permission to pay City Sales or Use Tax liability on a percentage of gross Sales or gross Purchases, and which is granted to facilitate Tax reporting to qualified Consumers or Vendors upon petition to the City Manager or his agent on basis prescribed in section 22-143 and elsewhere herein.

**REGULATION 22.86-(52)**

**If any vendor can establish that the amount of taxable sales made to Steamboat Springs residents are infrequent and relatively small in proportion to his total volume of business and, therefore, create an undue bookkeeping burden, and if the vendor is willing to submit regular audit reports as to the frequency of sales to Steamboat Springs residents in comparison to all of his sales and pay the tax accordingly on this estimated basis, the City Treasurer shall be authorized, in his/her discretion, to accept such payment basis. The City Treasurer is authorized, at his/her discretion and upon the submissions of sufficiently audited reports, to accept such or similar arrangement for payment of the Steamboat Springs Sales and Use Tax that may be due from any person where there is demonstrated that it is economically infeasible to report the tax due on an "actual" item by item basis.**

(53) *Storage* means any keeping or retention of, or exercise or dominion or control over, or possession, or Use for any length of time, of Tangible Personal Property when leased, rented or Purchased at Retail from sources either within or without the City from any Person or Vendor.

**REGULATION 22.86-(53)**

**The term "storage" within the meaning of this article means the keeping or retention of, or exercise of dominion or control over tangible personal property in this City. This does not mean that the property must be actually and practically used in the common or ordinary sense of the word: the tax applies when the property is placed under the control of the purchaser.**

(54) *Tangible Personal Property or Personal Property* means corporeal Personal Property, including but not limited to Automotive Vehicles as herein defined, which may be seen, weighed, measured, or felt or touched, or is in any manner perceptible to the senses and for the purposes of the Sales and Use Tax and where referred to throughout this article, shall also mean and does include the specific services set out as Taxable in section 22-182

**REGULATION 22.86-(54)**

**Tangible personal property, for purposes of this article, means all goods, merchandise, products, commodities or corporeal things and substances, solid, liquid or gaseous, which are dealt in and 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 licenses; or uncanceled United States postage or revenue stamps sold for postage or revenue purposes. The term also does not include water in pipes, conduits, ditches or reservoirs, but does include water in bottles, wagons, tanks or other containers.**

**Prefabricated units 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.

Property severed from real estate, or property capable of being severed from real estate without irreparable damage to the structure proper or to the property so severed is tangible personal property. This would include such items as furniture and fixtures. The term "fixtures" as used herein means things which are accessory to a building and which do not lose their identity as accessories when placed or installed.

Where referred to throughout this article, tangible personal property shall also include and mean the specific services as set out as taxable herein. "Services" which include the rendering of tangible personal property in any degree, together with labor, whether sold, leased, or rented, are taxable under this article on the basis, and to the degree as set forth throughout the Code and Regulation section herein, with no deduction from the gross sales price of such "services" to arrive at a taxable base, without the express approval of the City Treasurer. (Refer to Sections 22.86-(42), 22.86-(44), Section 22.182 in its entirety and 22.183-D-(1) and the specific industry rules).

(55) *Tax* means the Use Tax due from a Consumer or the Sales Tax due from a Retailer or the sum of both due from a Retailer who also Consumes.

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

(57) *Taxable Sales* means gross Sales less any Exemptions and deductions specified in this article.

(58) *Taxable Services* means services subject to Tax pursuant to this article.

(59) *Taxpayer* means any Person obligated to collect and/or pay Tax under the terms of this article.

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

(61) *Total Tax Liability* means the total of all Tax, penalties or interest owed by a Taxpayer and shall include Sales Tax collected in Excess of such Tax computed on total Sales.

(62) *Use* means the exercise, for any length of time, by any Person within the City of any right, power or dominion over Tangible Personal Property when rented, leased or Purchased at Retail from sources either within or without the City, from any Person or Vendor.

**REGULATION 22.86-(62)**

**The use to which property is put in order to bring about imposition of the tax, is not necessarily an ultimate usage, but may be only such use as is made by the owner or purchaser in exercising control. Use shall be deemed sufficient for the imposition of the tax when the article purchased is actually used or made available for use after delivery is completed. This shall include the keeping,**

storage, withdrawing from storage, moving, installing or performing other acts by which dominion of, or control over the property is assumed by the purchaser, except if held for resale as set out herein.

The storage, use or consumption of an article of tangible personal property in the performance of a service or contract is sufficient to include a liability for the use tax.

Where tangible personal property is traded in an exchange between unlicensed individuals, the use 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 he receives 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 the Steamboat Springs Use Tax falls on property purchased for use, storage, distribution and consumption in this City whether that property was purchased in or out of state or outside the City, and that is specifically defined under this article.

(63) *Wholesale Sale or Wholesale Purchase or Sales for Taxable Resale* means Sales to Licensed Retailers, jobbers, dealers or Wholesalers for resale. Sales by Wholesalers to Consumers are not Wholesale Sales. Sales by Wholesalers to non-Licensed Retailers are not Wholesale Sales.

**REGULATION 22.86-(63)**

All sales are either wholesale or retail. It is illegal for any person to sell at retail in Steamboat Springs without first having obtained a Sales Tax license. It shall be presumed that any person not having a valid State of Colorado or Steamboat Springs Sales and Use Tax License is the ultimate user or consumer of any property that he purchases. Any sales to such a person will be taxable as a retail sale regardless of the disposition of the property sold.

(64) *Wholesaler* means any Person selling to Retailers, jobbers, dealers, or other Wholesalers, for resale, and not for Storage, Use, Consumption, or Distribution.

**REGULATION 22.86-(64)**

Wholesale dealers should have record of the Sales Tax License numbers of every purchaser to whom he sells at wholesale.

It is required that each invoice have the complete name and address of the purchaser on all wholesale invoices. Invoices which do not show a name but are out to cash must always be considered to be retail sale invoices and taxable. If the purchaser has a Sales Tax License, the dealer may sell to him tax exempt, provided the purchaser is substantially engaged in the business of reselling the property he is buying. Even though a purchaser does have a Sales Tax License, the dealer is not relieved of the responsibility of collecting tax on the items which a purchaser personally uses. It is the dealer's responsibility to know the nature of his customer's business so that he will know when to collect tax on items purchased for personal use.

**Sec. 22-87. - Intent of article.**

(a) *Regarding the Use of Personal Property and Taxable Services.* It is hereby declared to be the legislative intent of the City of Steamboat Springs that for the purposes of this article, every Person who Stores, Uses, Distributes, or consumes in the City any article of Tangible Personal Property, or Taxable Services Purchased, leased or rented at Retail, as herein defined, is exercising a taxable privilege (refer to division 4 of this article pertaining to Use Tax).

(b) *Regarding the Sale of Personal Property and Taxable Services.* It is hereby declared to be the legislative intent of the City of Steamboat Springs that, for the purposes of this article, every Person who is Engaged in Business in the City, as herein defined, and who shall deliver or cause to be



delivered to the Purchaser in the City, any property or services Taxable herein is exercising a taxable privilege and shall collect the Tax imposed by this Code on the total Purchase Price of such article or articles of Tangible Personal Property or Taxable Services that are Purchased, sold, leased or rented at any time by or to every customer or buyer, in the manner hereinafter set forth (refer to division 3 of this article pertaining to Sales Tax).

**REGULATION 22.87-B**

It is incumbent upon the administration where required, to interpret for purposes of the proper enforcement of this article, each section with reference to the article as a whole, and with particular reference to the legislative intent as originally implied and as continuously confirmed by the lawmaking body, the legislature of this City.

The City, recognizing that not every type of sale or purchase by every person, whether individual or business grouping, could readily or reasonably be discussed in detail within the limits of this Steamboat Springs Sales and Use Tax Handbook prior to initial publication, wishes then to notify all concerned that:

Any person, as herein defined, who is in doubt as to the effect of this Steamboat Springs Sales and Use Tax Code upon his particular business operation, or any facet of his business, may submit a statement of facts regarding that operation to the City Treasurer and he will be furnished with a written opinion of the City Treasurer as to his liability under this law, and such opinion shall be official and binding on Steamboat Springs under the statement of facts as submitted.

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 this article.

As such interpretation and opinion of the City Treasurer is rendered to any person, individual, business or industrial grouping and the effect of that opinion is required of general distribution, it will be distributed to all licensed vendors, consumers, contractors, etc., as an addendum to the Specific Industry Section Rules and Regulations.

(c) *Constitutional preclusion from Steamboat Springs Sales and Use Tax.* All the Sales, Uses and other transactions which the City is prohibited from Taxing under the Constitution and laws of the United States, or under the Constitution of the State of Colorado are exempt hereunder.

**Secs. 22-88—22-100. - Reserved.**

**DIVISION 2. - ADMINISTRATION AND ENFORCEMENT**

- Subdivision I. - General Provisions
- Subdivision II. - Licenses
- Subdivision III. - Reports and Accounts
- Subdivision IV. - Collection Rights and Remedies

**Subdivision I. - General Provisions**

**Sec. 22-101. - Authority of Department of Finance.**

The Department of Finance is hereby given responsibility for administration and implementation of this article under the direction of the City Manager.

**Sec. 22-102. - Adoption of additional regulations.**

The City Treasurer, with the approval of the City Manager, shall adopt rules and regulations for the administration of this article.

**REGULATION 22.102**

The City of Steamboat Springs recognizes that certain differences exist between the State of Colorado Sales and Use Tax Statute, with its accompanying rules and regulations, and the City Sales and Use Tax Ordinance, with its accompanying rules and regulations. Such differences are not inconsistent with the City's policy of non-conflict with the State Statute only under those circumstances when the City's objectives and requirements are not detrimentally affected. Thus, in order to establish equity when differences occur, the City Sales and Use Tax Code with its accompanying rules and regulations shall take precedence over conflicting State provisions or procedures.

The City Treasurer may declare, at any time in his opinion required, 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. Delegation of authority to issue rules, regulations or binding opinions shall not be implied from any organizational structure adopted within the office of the City Treasurer nor from any general designation of position or delegation of general duties.

**Sec. 22-103. - Powers and duties of City Treasurer.**

(a) In order to effectuate the purposes of this article, the City Treasurer, under the direction of the City Manager, shall prescribe necessary forms for the making of Returns (see section 22-142(a)), for the ascertainment, assessment, and collection of the Taxes imposed and for the proper administration and enforcement thereof, and to permit uniform methods of adding the Tax, or the average equivalent thereof, to the Purchase Price.

(b) The City Treasurer shall have power and authority to amend, or rescind such rules and regulations adopted pursuant to section 22-102 not inconsistent with the provisions of this article, for the purpose of ascertaining the correctness of any Return or for the purpose of making an estimate of the Tax due from any Taxpayer, the City Treasurer shall have the power to examine or cause to be examined by any employee, agent or representative designated by him for that purpose, any book, papers, records or memoranda bearing upon the matters required to be included in the Return.

**REGULATION 22.103-B**

The City Treasurer shall be vested with the proper administration and enforcement of the Sales and Use Tax provisions of the City Code. He may prescribe forms and formulate and promulgate rules and regulations to effectuate the purpose of this article, including the imposition of any costs and expenses incurred and involved in the ascertainment, assessment, and collection of the taxes under Subdivision I and Subdivision IV of this division.

The rules and regulations interpreting the law applicable to any particular year shall be effective for the same period as is the law which they interpret. Any modification or amendment to the regulations shall conform to the requirements of this article as set forth herein.

The books or records required by this section shall be kept at all times available for inspection by authorized revenue agents, auditors or other employees of the Finance Department and shall be retained so long as the contents thereof may become material in the administration of the Steamboat Springs Sales and Use Tax Law.

**Sec. 22-104. - Powers and duties of City Manager.**

The City Manager shall appoint such Persons to make such expenditures, require such reports, make such investigations, and take such other action as he deems necessary or suitable to that end. The City Manager shall determine his own organization and methods of procedure in accordance with the provisions of this article. Subject to the provisions of this article, the City Manager is authorized to appoint and prescribe the duties and powers of such officers, accountants, experts, and other Persons as may be necessary in the performance of his duty. The City Manager may delegate to any such Person so appointed, such power and authority as he deems reasonable and proper for the effective administration of this article, and in his discretion shall bond, in a sufficient amount, any Person handling money under this article.

**Sec. 22-105. - Records.**

(a) *Duties of Taxpayer.*

(1) *Retention of records.* It shall be the duty of every Person, firm or corporation liable to the City of Steamboat Springs for any Tax imposed on Sales, and Use Taxes, to keep and preserve for a period of three (3) years such books, accounts, and records as may be necessary to determine the amount of such Tax liability.

**REGULATION 22.105-A-(1)**

**Every vendor is required to keep and preserve for three years all invoices or other original records of goods or merchandise purchased, suitable records of all sales made by him, shipping documents, and such other books, accounts and records as may be necessary to determine the amount of his liability. Whatever original records of sales the vendor makes, such as invoices, sales slips or cash register tapes, must be retained. The City Treasurer or his agent may examine any invoice, books or records at any reasonable time.**

(2) *Availability of records to City Treasurer.* All such books, accounts, and records shall be open for examination at any time by the City Treasurer or his duly authorized agents. If such Person keeps or maintains his books, accounts and other records, or any thereof, outside of the State of Colorado, upon demand by the City Treasurer he shall make the same available at a suitable place within the State of Colorado, to be designated by the City Treasurer for examination, inspection, and audit by the City Treasurer or his duly authorized agents. The City Treasurer in his discretion may make, permit, or cause to be made the examination, inspection, or audit of books, accounts and other records so kept or maintained by such Person outside of the State of Colorado at the place where the same will be made available, provided such Person shall have entered into a binding agreement with the City of Steamboat Springs to reimburse it for all costs and expenses incurred by it in order to have such examination inspection, or audit made in such place.

(3) *Subpoena to secure records.* If any Taxpayer shall refuse voluntarily to furnish any of the foregoing information when requested by the City Treasurer or his employee, agent, or representative, the City Treasurer by subpoena issued under his hand, may require the attendance of the Taxpayer and the production by him of any of the foregoing information in his possession, and may administer an oath to him and take his testimony. If the Taxpayer fails or refuses to respond to said subpoena and give testimony, the City Treasurer may apply to any judge of the District Court of the State of Colorado for a citation against such Taxpayer as for contempt, and said judge may cause arrest of such Person, and upon hearing, said judge shall have, for the purpose of enforcing obedience to the requirements of said subpoena, power to

make such order as, in his discretion, he deems consistent with the law for punishment of contempt.

(4) *Subpoena to secure evidence* If the City Treasurer is unable to secure from the Taxpayer information relating to the correctness of the Taxpayer's Return or the amount of the income of the Taxpayer, the City Treasurer may apply to any judge of the District of the State of Colorado for the issuance of subpoenas to such other Persons as the City Treasurer believes may have knowledge in the premises, and upon making a showing satisfactory to the court, that the Taxpayer cannot be found, or evades service of subpoena, or fails or refuses to produce his records or give testimony, or is unable to furnish such records or testimony, the judge shall have power, to cause the issuance of subpoenas under the seal of the court to the Persons sought to be so summoned requiring them or any of them to appear before said City Treasurer and give testimony relating to said Taxpayer's Return or income; and in case any of said Persons so served with subpoena shall fail to respond thereto, the judge may proceed against such Persons as in cases of contempt.

(b) *Preservation of records by City; access to records.*

(1) *Preservation of records.* All reports and Returns of Taxes received by the Department of Finance covered by this article shall be preserved for three (3) years and thereafter until the City Treasurer orders them to be destroyed.

(2) *Confidential nature of Returns.* Except in accordance with judicial order or as otherwise provided by law, the City Treasurer, his agents, clerks and employees shall not divulge, or make known in any way any information disclosed in any document, report, or Return filed in connection with any of the Taxes covered by this article. The officials charged with the custody of such documents, reports, and Returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City Treasurer in any action or proceeding under the provisions of any such taxing statutes when the report of facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of any may admit in evidence, so much of said reports, or of the facts shown thereby, as are pertinent to the action or proceeding, and no more.

**REGULATION 22.105-B-(2)**

**Every sales and use tax return and all information therein contained together with the correspondence, papers, affidavits, assessments, protest, and hearing thereon are secret and confidential and no information relating thereto can be disclosed except in accord with this section of this article.**

(3) *Availability to Taxpayer.* Nothing in this section contained shall be construed to prohibit the delivery to a Person or his duly authorized representative of a copy of any Return or report filed in connection with his Tax, and such copies may be certified by the City Treasurer or his agent or representative and when so certified shall be evidence equally with and in like manner as the originals and may be received by the courts of this state as evidence of the contents.

(4) *Publication of statistics; Return available to City attorney.* Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or Returns and the items thereof, or the inspection of Returns by the City attorney or other legal representative of the City.

(5) *Availability to authorized parties.* Notwithstanding the provisions of this section, the City Treasurer in his discretion may furnish to the taxing officials of any other state and its political

subdivisions and to the United States any information contained in Tax Returns and related schedules and documents filed pursuant to this article, or in the report of an audit or investigation made with respect thereto provided that said jurisdiction enters into an agreement with the City Treasurer to grant similar privileges to the City and, provided further, that such information is to be used only for Tax purposes.

**Sec. 22-106. - Restrictions on employment of City employees engaged in Tax administration.**

It shall be unlawful for any officer or employee of the City engaged in any administration which is governed by this article, to engage in the Business or profession of Tax accounting or to accept employment, with or without consideration, from any Person, firm or corporation for the purpose, directly or indirectly, of preparing Tax Returns or reports required by the laws of the City of Steamboat Springs, by the State of Colorado, by any other state, or by the United States Government, or to accept any employment for the purpose of advising, preparing materials or data, or the auditing of books or records to be used in an effort to defeat or cancel any Tax, or part thereof, that has been assessed by any City of the State of Colorado, any other state, or its political subdivisions, or by the United States Government.

**REGULATION 22.106**

If a City employee who is engaged in tax administration for the City desires to gain employment simultaneously with an external entity with which a conflict may exist, approval shall be obtained from the City Treasurer in advance of such external employment.

Except as provided in (3), (4), and (5) of Section 22.105-B, any person who violates any provisions of 22.105-B-(2) of this article shall be guilty of a violation of this article. Upon conviction of such person, the City Treasurer shall determine appropriate action to be taken, which may include but is not limited to dismissal of employee from office, or a requirement that employee cease involvement with other employer.

**Sec. 22-107. - Liability of Vendor and Purchaser.**

(a) *Proof of exemption.* The burden of proving that any Vendor, Retailer, Consumer or Purchaser is exempt from collecting or paying the Tax upon any goods sold or Purchased, paying the same to the City Treasurer, or from making such Returns, shall be on the Vendor, Retailer, Consumer, or Purchaser under such reasonable requirements of proof as the City Treasurer may prescribe.

**REGULATION 22.107-A**

The vendor must establish that a sale is tax exempt and he must have records sufficient to demonstrate the validity of the exemption with reference to each sale. Exempt organizations must be able to prove to the satisfaction of the vendor they are exempt.

If the purchase is represented by the customer to be for resale, it shall be the duty of the vendor to have on file and available to any qualified representative of the City satisfactory proof that the purchase is for resale, and valid documentation of the City of Steamboat Springs or State of Colorado resale license for any customer representing to the vendor that he is purchasing for resale. The vendor may call the City to verify that the customer is properly licensed.

Wherever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales tax with respect to the transaction (C.R.S. 24-60-1301).

(b) *Vendor responsibility for collection of Tax.* Every Retailer or Vendor engaged in Business and selling at Retail as the same are defined in this article shall, irrespective of the provisions of subsection

22-181(b), be liable and responsible for the payment of an amount equivalent to the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196, of all Sales made by him of commodities or services as specified in section 22-182

(c) *Vendor responsibility for remittance of Tax.* Every Retailer or Vendor engaged in Business and selling at Retail as the same are defined in this article shall file a Return as prescribed herein with the City Treasurer on or before the twentieth (20th) day of the month for the preceding month or months under report and remit an amount equivalent to the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196, of such Sales and also any Excessive Tax collections over the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196, as provided in subsection (f) of this section. The Retailer shall add the Tax as a separate and distinct item and such Tax shall be a debt from the Consumer to the Retailer and shall be recoverable at law in the same manner as other debts.

**REGULATION 22.107-C**

**(1) The vendor of tangible personal property shall collect the sales tax on the purchase price paid for commodities and services specified in this article and account for and remit the full amount of the tax. He/she is liable and responsible for the payment of an amount equivalent to the current Rate of Tax (as defined in Sec. 22-181) of the total amount received from taxable sales made in each return period including all sales made for less than the minimum amount subject to tax.**

The application of the tax brackets on sales of more than the minimum taxable sale will normally result in the collection of tax in excess of the current Rate of Tax (as defined in Sec. 22-181) because of the "breakage." Such excess collections, if any, within the return period, shall be included in the total amount of the sales tax for which he is required to account. In computing the amount of tax he is required to remit, the vendor will multiply net taxable sales, which will include the cost of the merchandise the vendor withdraw from stock for his own business or actually collected. If the amount collected from all such sales is more than the current Rate of Tax (as defined in Sec. 22-181) of the net taxable sales, the vendor will add the difference as excess tax due the City.

The vendor shall complete a return upon his gross sales of tangible personal property during the preceding month and show exempted and nontaxable sales as permitted within this article. Return forms are furnished by the Department and call for specific information. The forms must be filled out in detail and separate sheets attached whenever necessary to show all the pertinent facts.

Every vendor must make monthly returns prior to the twentieth (20th) day of each month on the form provided by the Department, unless permission has been obtained to make quarterly or annual returns. The report, together with remittance, must be filed with the City Treasurer on or before the due date. Payments should be payable to the City of Steamboat Springs, and must be in U.S. Currency. At the discretion of the Finance Director, the taxpayer may be required to make all tax payments, whether due or to be due in the future, by certified funds, cashier's check, or cash. Refer to Regulation 22.142-C.

**(2) This article gives the City Treasurer authority to grant extensions for filing Sales Tax Returns but extensions will not be granted unless the taxpayer can show that filing on or before the due date would result in an extreme hardship.**

(d) *Purchase of Businesses.*

(1) *Acquisition of Business property.* The Steamboat Springs Tax shall be remitted on the Price paid for Tangible Personal Property which is acquired with the Purchase of a Business, and for Use in the operation of such Business. The Tax shall be based on the Price paid for such chattels

as recorded in the bill of Sale or agreement and constituting a part of the total transaction at the time of the Sale or transfer, provided the valuation is as great or greater than the fair market value of such merchandise or chattels. Where the transfer of ownership is a package deal made by a lump sum transaction, the Tax shall be paid on the book value set up by the Purchaser for income Tax depreciation purposes, or fair market value if no determination has been made. When a Business is taken over in Return for the assumption of outstanding indebtedness owed by former owners, the Tax shall be paid on the fair market value of all Taxable Tangible Personal Property acquired by the Purchaser. (See also section 22-157, Sale or termination of Business.)

(2) *Liability of Purchaser for unpaid Tax.* Purchasers of a Business are liable for any unpaid Tax of a predecessor. Vendors having outstanding accounts on which Sales Tax has not been remitted must compute and pay the Tax at the time of the Sale.

**REGULATION 22.107-D-(2)**

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

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

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

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

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

(3) *Liability of seller.* The Taxpayer shall report such Tax on the Steamboat Springs Sales Tax Return as prescribed. The seller or his agent will be held liable for Sales Tax remittance on the Sale of a Business in the event the Purchaser fails to remit the Tax due on the Purchase.

**REGULATION 22.107-D-(3)**

(a) When a business is purchased outright, or taken over in return for the assumption of outstanding indebtedness owed by former owners, or repossessed, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser, or the person repossessing the property.

(b) Vendors or consumers having outstanding accounts on which sales tax has not been remitted must compute and pay the tax at the time of the sale. Purchasers of a business are liable for any unpaid tax of a predecessor.

(c) The Sales Tax applies only if the property was purchased at retail and not for resale. When a store, hotel or other business is purchased, the new owner must pay a sales tax on the purchase price paid for the furniture, supplies, equipment and all tangible personal property acquired, which is not held as a part of the inventory or stock for resale. The Sales Tax Code and Rules and Regulations apply in determining whether the sale was a retail sale.

(d) The sale or transfer of a business with personal property between two unlicensed parties constitutes a taxable retail transaction. The seller shall be responsible for reporting, on forms prescribed by the City, and remitting the tax due. Should the seller fail to report and remit such tax, a lien shall automatically attach to such property and the purchaser shall be required to report and remit all tax due with any penalty and interest to satisfy such lien.

(Refer to Sections 22.86-(32) and as applicable to specific industry sections on "Construction and Contractors" for detailed classification of furniture, materials, fixtures, etc., for purposes of this article.)

(e) *Tax on credit Sales and similar Sales.* Whenever Tangible Personal Property is sold, including that sold in conjunction with the Sale of a Business, which is Taxable hereunder, under a conditional Sales contract or Purchase contract whereby the seller retains title as security for all or part of the Purchase Price, or whenever the seller takes a chattel mortgage on such Tangible Personal Property to secure all or part of the Purchase Price, the total Tax based on the total selling Price shall become immediately due and payable. The Tax shall be charged, or collected and remitted by the Vendor. No refund or credit shall be allowed to either party to the transaction in case of repossession.

#### REGULATION 22.107-E

The vendor may collect cash or charge the customer's account, for the total sales tax due on the total sale whether such sale be made on credit, installment or conditional sale; however, the sales tax collected or charged on either installment or conditional sales must be remitted in full by the vendor to the City Treasurer with the first sales tax return following the transaction. No refund will be allowed to either party if the purchaser fails to fulfill his obligation on an installment or conditional sales contract and the merchandise involved in the transaction is repossessed.

Whenever an article is repossessed and subsequently resold, then both such transactions constitute entirely new, separate, and distinct "sales" transactions, as defined upon which the sales tax must be computed and paid in the regular manner.

(f) *Excess collections; failure to remit collections.* If any Vendor shall, during any reporting period, collect as a Tax an amount in Excess of the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196, of his total Taxable Sales, he shall remit to the City the full net amount of the Tax herein imposed and also such Excess. If the calculation or percentage of City and state Sales Tax collections are identified separately on the invoice, the Vendor will remit Excess of City Tax collected over and above the appropriate percentage of City Net Taxable Sales and Service, if there is no separate identification of City and state Tax collections and it is not possible to determine the Excess to be remitted to each, the Vendor shall remit the proportionate amount of the Excess to the City of Steamboat Springs, with the proportion being calculated based on the City's portion of the combined Tax rate (all Taxes due to any taxing entity). The retention by the Vendor of any Excess of Tax collections of such Vendor, or the intentional failure to remit punctually to the City the full amount required to be remitted by the provisions of this article, is hereby declared to be a violation of this article.



(g) *Advertisement of absorption of Tax prohibited.* It shall be unlawful for any Taxpayer or Vendor to advertise or hold out or state to the public or to any customer, directly or indirectly, that the Tax or any part thereof imposed by this article will be assumed or absorbed by the Vendor or Taxpayer or that it will not be added to the selling Price of the property sold, or, if added, that it or any part thereof will be refunded. Any Person violating this provision of this article shall be subject to the penalties herein provided.

**REGULATION 22.107-G**

(1) Every retailer or vendor shall collect sales tax on all taxable retail sales as an item separate and distinct from the selling price. It is a misdemeanor for a vendor, with the above exceptions, (see 22.86-(35)) directly or indirectly, to hold out or state that the tax or any part thereof will be assumed, absorbed or refunded by the vendor or that it will not be added to the purchase price.

(2) Where the sales transaction includes a combination of both taxable and non-taxable property and/or service the total amount of the invoice is taxable unless separately stated. In the case of "packaged deals" whereby a flat rate is advertised and charged for combined non-taxable and taxable sales the sales ticket or receipt to the customer must clearly state the dollar amount of tax included and the seller's accounting records must clearly state the breakdown between the non-taxable and taxable sales. The taxable sales breakdown may not be less than the actual cost, to the seller, of producing such taxable sales plus the percentage of the total profit related to the taxable cost. Actual cost includes the cost of materials and all costs of preparation and delivery. If the sales tax is not separately stated and taxable and non-taxable charges are not accounted for separately, then the tax due shall be in addition to the package price charged. "Packaged deals" are defined to be the combination of distinctly different items which can be separated and sold individually. Examples include the combination of dinners with horseback rides, gondola rides, sleigh rides, paid entertainment, etc.

Only legally imposed taxes which are required to be collected from the purchaser may be identified as a tax on the invoice. Franchise fees and other licensing fees charged to businesses are costs of doing business and may not be identified as a tax on customer invoices.

**Sec. 22-108. - Assessment of penalties and interest.**

(a) *Generally.* If any Person or Taxpayer or Vendor fails, neglects or refuses to collect the Tax or to make a Return and pay the Tax as required by this article or should fail to remit the proper amount of Tax or underpays the Tax because of negligence, fraud, or on a regular basis, penalties and interests plus any costs of collection shall be added and imposed in accordance with the following provisions and in the event the Person, Taxpayer, or Vendor fails to pay the additions to Tax penalties and interest as required by this article then the City Treasurer on such information as is available, shall make an estimate of the Tax and additions thereto and shall give to the delinquent Taxpayer, Person or Vendor written Notice of final determination-assessment and demand for payment, which assessment of deficiency amount will be due and payable thirty (30) days after such notice.

(b) *Failure to file Tax Return; failure to pay Tax; deficiency due to negligence.* If any Taxpayer or Vendor fails to file a Return or to pay the Tax on any Return required by this article on the date prescribed, therefore, the City Treasurer shall make an estimate of the Tax and shall serve on the Taxpayer or Vendor a written Notice of final determination-assessment, and demand for payment. A penalty of fifteen dollars (\$15.00) or ten (10) percent, whichever is greater, and interest of one percent per month of the Tax due shall be charged on all overdue accounts. Waiver of all such charges except interest at six (6) percent per annum may be made by the City Treasurer upon presentation of justifiable cause for late payment of Taxes due. If such Tax Deficiency amount, penalty and interest is

not paid, or no request for hearing under section 22-111 is made within thirty (30) days after written Notice of final determination--assessment, and demand for payment is mailed to the Taxpayer, he shall waive his right of protest of such amount (see subsection 22-111(f)).

**REGULATION 22.108-B**

**If any taxpayer or vendor fails to file a return or to pay the tax on any return required by this article on the date prescribed therefore, the City Treasurer shall make an estimate of the tax and shall serve on the taxpayer or vendor a written Notice of Final Determination--Assessment, and Demand for Payment. A penalty of fifteen dollars or ten percent (10%) whichever is greater, and interest of one percent (1%) per month of the tax due shall be charged on all overdue accounts. Waiver of penalty charges may be made by the City Treasurer upon presentation of justifiable cause for late payment of taxes due. If such tax deficiency amount, penalty and interest is not paid, or no request for hearing under Section 22.111 is made within thirty (30) days after written notice of Final Determination--Assessment, and Demand for Payment is mailed to the taxpayer, he shall waive his right of protest of such amount (See Subsection 22.111-F).**

(c) *Mathematical error on Tax Returns.* In the event that the amount of Tax is understated on the Taxpayer's Return due to a mathematical error, the City shall notify the Taxpayer in writing of the amount of Tax in Excess of that shown in the Return which is due. At the discretion of the City Treasurer, if the Taxpayer fails to pay outstanding Tax due, they may be notified by written Notice of final determination--assessment and demand for payment of the amount of Tax in Excess of that shown in the Return which is due and has been assessed. The Taxpayer shall have no right of protest of appeal as in the matter of other assessments but shall pay the Tax due and assessed or file an amended Return to show the true amount of Tax due within twenty (20) days from such assessment.

(d) *Interest.* If any amount of Sales or Use Tax is not paid on or before the last date prescribed for payment without regard to extensions in time for payment of the Tax, interest on such amount at the rate of twelve (12) percent per annum shall be paid for the period from such last date to the date paid. In the case of Taxes in which the last date for payment is not otherwise prescribed, the last date of payment shall be deemed to be the date the liability for Tax arises, and in no event shall it be later than the date Notice and demand for the Tax is made by the City Treasurer or his representative.

**REGULATION 22.108-D**

**All cases, if there is a delay in payment for any cause beyond the due date on which the sales or use tax should have been paid, then interest at the rate of one percent (1%) per month must be paid on the amount due from the due date to the date of payment. When there is notice of final determination assessment made, interest is computed on the amount of the deficiency from the date the tax was due.**

(e) *Fraud with intent to evade Tax.* If any Taxpayer or Vendor fails to file a Return or pay the Tax on any Return required under this article on the date prescribed therefore, determined with regard to any extension of time for filing, and any part of the deficiency is due to fraud with the intent to evade the Tax, then there shall be added fifty (50) percent of the total amount of the deficiency and in such case, the whole amount of the Tax unpaid, including the additions, shall become due and payable thirty (30) days after written Notice of final determination--assessment and demand for payment by the City Treasurer and an additional one percent per month on said amount shall be added from the date the Return was due until paid.

**REGULATION 22.108-E**

**A penalty of fifty percent (50%) and interest of one percent (1%) per month of the tax due may be charged on any deficiency by the taxpayer with intent to evade the tax.**

(f) *Special penalty for returned checks.* A returned check is considered non-payment and is subject to applicable non-sufficient fund penalties and Tax penalties.

(g) *Special penalty recurring distraint warrants.* If any Person, Taxpayer or Vendor liable for the payment of a Tax imposed by this article has repeatedly failed, neglected, or refused to pay the same within the time specified for such payment, and the Department of Finance has been required to exercise its enforcement proceedings three (3) or more times through the issuance of a distraint warrant to enforce collection of any such Taxes due, the City Treasurer is hereby authorized to assess and collect the amount of such Taxes due together with all the interest and penalties thereon provided by law and also an additional amount for recurring warrants to compensate the Department for administrative and collection costs incurred in collecting such delinquent Taxes as follows:

(1) Two (2) or three (3) consecutive distraint warrants issued: fifteen (15) percent of the delinquent Taxes, interest and penalties due or the sum of twenty-five dollars (\$25.00), whichever is greater;

(2) Four (4) or more consecutive distraint warrants: thirty (30) percent of the delinquent Taxes, interest, and penalties due or the sum of fifty dollars (\$50.00), whichever amount is greater.

(h) *Special penalty for court summons.* If any Person, Taxpayer or Vendor liable for the payment of a Tax imposed by this article has failed, neglected, or refused to pay the same within the time specified for such payment, and the Department of Finance has been required to issue a court summons for the violation of this article, the City Treasurer is hereby authorized to assess and collect the amount of such Taxes due together with all the interest and penalties thereon provided by law and an additional amount equal to fifty (50) percent of the delinquent Taxes, accumulated penalties and interest or the sum of fifty dollars (\$50.00), whichever amount is greater, to compensate the Department for administrative and collection costs.

(i) *Special penalty for incorrect registration of motor vehicle.* If the City Treasurer determines that a Person has registered or caused to be registered a motor vehicle outside the City and that such motor vehicle should have been registered at an address in the City, the City Treasurer is authorized to assess a civil penalty of five hundred dollars (\$500.00) against the Person. A written Notice of the penalty assessment shall be issued, paid and protested in the same manner as provided in this chapter for the collection of Tax due. Assessment and collection of the penalty shall not preclude the collection of any Tax due or fee or the imposition of any civil or criminal penalty provided by law.

(j) *Authority to waive penalty.* The City Treasurer is hereby authorized to waive, for good cause shown, any penalty assessed as in this article provided.

(1) *Interest assessment.* Interest prescribed under this section shall be paid upon Notice and demand, and shall be assessed, collected and paid in the same manner as the Tax to which it is applicable.

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

(3) *Interest assessment period.* Interest prescribed under this section on any Tax may be assessed and collected at any time during the period within which the Tax to which such interest relates may be assessed and collected.

**REGULATION 22.108-J**

For the purpose of this section, “good cause” may include, but is not limited to, the following:

**(1) Audit Penalties.**

- (a) First Audit; and
- (b) Cooperative; and
- (c) Good payment history for twelve (12) consecutive months; and
- (d) No evidence of intent to avoid paying tax; and
- (e) Procedures are put in place to aid future compliance; and
- (f) The tax and interest is paid within thirty (30) days of the assessment.

**(2) Late Payment Penalties.**

- (a) New taxpayer (license active for less than twelve (12) months); or
- (b) One waiver per twenty-four (24) month period for accounts with a good payment history.

**Sec. 22-109. - Interest on overpayments and erroneous refunds.**

- (a) Interest shall not be allowed and paid upon any overpayment in respect of any Sales or Use Tax.
- (b) Any portion of a Sales or Use Tax, or any interest, assessable penalty, additional amount, or addition to Tax, which has been erroneously refunded, shall bear interest at the rate of twelve (12) percent per annum from the date of the payment of the refund.

**Sec. 22-110. - Refunds generally.**

- (a) *Assignment.* The right of any Person to a refund under this article shall not be assignable and such application for refund must be made by the same Person who Purchased the goods and paid the Tax thereon as shown in the invoice of the Sale thereof except in subsection (i) of this section.
- (b) *Proof of exemption.* The burden of proving that Sales, services and commodities, on which Tax refunds are claimed, are exempt from taxation under section 22-183 or were not at Retail, shall be on the one making such claim under such reasonable requirements of proof as the City Treasurer may prescribe.

**REGULATION 22.110-B**

**Refunds are granted only where there were duplicated payments, payments on business established as exempt error in compilation or through mistake either of law or fact. The burden or proof is on the claimant to establish the right to a refund.**

**Refund Claim Forms may be obtained from the City of Steamboat Springs Finance Department. Each claim for a refund will be given careful consideration and will be processed with due speed. The purchase and sale of all other articles of tangible personal property not otherwise exempt are subject to the sales or use tax imposed thereon. Exemptions are strictly construed. The list of exempt commodities cannot be increased by implication or similarity. In all cases, the proof is upon the vendor to establish that a sale is tax exempt, with delivery receipts, bills of lading, invoices with address and building permit number, or other evidence of proof that the sale was exempt.**

- (c) *Disputes regarding exemption.* Should a dispute arise between the Purchaser and seller as to whether or not any Sale, service, or commodity is exempt from taxation under this article, nevertheless, the seller shall collect and the Purchaser shall pay the Tax and the seller shall issue to the Purchaser a receipt or certificate, on forms prescribed by the City Treasurer showing the names of the seller and the

Purchaser, the items Purchased, the date, Price, amount of Tax paid, and a brief statement of the claim of exemption.

**REGULATION 22.110-C**

Where the sale is clearly and indisputably exempt, the vendor is not required to collect or remit any tax for such sale. However, if there is doubt or dispute between the purchaser and the vendor as to the taxability of a sale, then in that event, the vendor must collect and remit the tax, and the purchaser must pay the tax. The vendor must thereupon issue a receipt to the purchaser for the tax so paid, which receipt must show the date of the purchase, the name of the vendor, the name of the purchaser, the article purchased, the sale price, the amount of tax paid, and the reason for the claim of exemption. The purchaser may apply to the City Treasurer for a refund (See Subsection 22.110-B). Such claim must be made within sixty (60) days after the purchase of the goods, in writing on forms provided. The City Treasurer will determine the right to a refund, and in so determining such right, decide the question of exemption, all of which is subject to a review by the courts.

(d) *Application for refund of disputed Tax.* A refund shall be made, or a credit allowed, for the Tax so paid under dispute by any Purchaser who has an exemption as in this article provided. Such refund shall be made by the Director of Finance after compliance with the following conditions precedent: Applications from refund must be made within sixty (60) days after the Purchase of the goods whereon an exemption is claimed; and must be supported by the affidavit of the Purchaser accompanied by the original paid invoice or Sales receipt and certificate issued by the seller; and be made upon such forms as shall be prescribed and furnished by the City Treasurer which forms shall contain such information as said City Treasurer shall prescribe.

**REGULATION 22.110-D**

A claim for refund should be filed on the form provided by the City Treasurer within sixty (60) days after the purchase event for which such claim arose. In lieu of a claim for refund, the taxpayer may file an amended return or returns for the period covered by the claim. The claim for refund must be accompanied by a statement of facts upon which the application is based and such facts must be clearly set forth. The City Treasurer is authorized to make a refund when the overpayment is discovered by him (See Subsection 22.110-F). Warrants in payment of claims allowed by the City Treasurer will be drawn in the names of persons entitled to the money.

(e) *Determination by Treasurer regarding disputed Tax.* Upon receipt of such application, the City Treasurer shall examine same with all due speed and shall give Notice to the applicant by order in writing of his decision thereon. Aggrieved applicants, within twenty (20) days after such decision is mailed to them, may petition the City Treasurer for a hearing on the claim in the manner provided in section 22-111 and may appeal to the district courts in the manner provided herein.

**REGULATION 22.110-E**

Any taxpayer who may wish to contest the City Treasurer's decision to deny his claim for a refund may request a hearing before the City Treasurer on the claim. Such a hearing request shall be submitted in writing to the City Treasurer within thirty (30) days after the notice of denial is mailed to the taxpayer, and in the manner provided in Section 22.111. After the hearing, any aggrieved taxpayer may appeal the City Treasurer's determination at the hearing, to the Routt County District Court within thirty (30) days of the mailing of such determination notice, and in the manner provided in Section 22.112.

(f) *Payment of refund.* If the City Treasurer discovers from the examination of a Return within the time periods provided for the filing of refunds, or upon claim duly filed by the Taxpayer, or upon final judgment of a court, that the Tax, penalty, or interest paid by any Taxpayer is in excess of the amount due or has been illegally or erroneously collected, then the City Treasurer shall rule in favor of the

Taxpayer for refund of such illegally collected Tax, penalty, or interest, regardless of whether or not such sum was paid under protest. The City Treasurer shall issue a warrant for the payment to the Taxpayer, out of the reserve of the appropriate City fund; provided therefore; provided, that the City Treasurer shall keep in his files a duplicate of said voucher and also a statement which shall set forth the reason why such refund shall have been ordered.

(g) *Refund to offset previous Tax due.* Whenever it is established that any Taxpayer has, for any period open under the statutes overpaid a Tax imposed by this article, and that there is an unpaid balance of Tax and interest accrued according to the records of the City Treasurer, owing by the Taxpayer for any other period, so much of the overpayment of Tax plus interest allowable thereon as does not exceed amount of such unpaid balance, shall be credited thereto and any excess of the overpayment shall be refunded.

(h) *Undercollection of Tax.* If any Retailer can demonstrate to the reasonable satisfaction of the City Treasurer or his authorized agent, that consistent, diligent application and adherence by the Retailer of the equivalent of the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196, bracket system rates results in actual undercollection of the Sales Tax by the Retailer, then the City Treasurer is authorized to allow said Retailer either a credit against future Tax liability or a refund of such undercollection, as the City Treasurer may determine.

(i) *Refunds by governmental units.* The foregoing notwithstanding, however, applications for refunds submitted by the United States Government, the State of Colorado, its Departments or institutions, and the political subdivisions thereof, including the City of Steamboat Springs shall be submitted within eighteen (18) months after Purchase of the Tangible Personal Property Purchased by any Person, firm or corporation furnishing work and materials under contract, with the above governmental units on any of their properties located within the corporate limits of the City of Steamboat Springs provided, however, that the refund to the said above governmental units of all Sales and Use Taxes received by the City of Steamboat Springs in the manner aforesaid shall not exceed ninety-six (96) percent of said receipts.

(j) *Making false or fraudulent claim.* Any applicant for refund under the provisions of this section, or any other Person who shall make any false statement in connection with an application for a refund of any Taxes shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as provided herein.

(k) *Recovery of refunds from Person convicted of violation.* If any Person be convicted under the provisions of this section, such convictions shall be "prima facie" evidence that all refunds received by such Person during the current year were obtained unlawfully and the City Treasurer is hereby empowered and directed to bring appropriate action for recovery of such refunds.

(l) *Credit for Tax previously paid to another municipality.* The Sales Tax shall not apply to the Sale of Tangible Personal Property at Retail or the furnishing of services if the transaction was previously subjected to a Sales or Use Tax lawfully imposed on the Purchaser or User by another statutory or home rule municipality equal to or in excess of the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196. A credit shall be granted against the City's Sales Tax with respect to such transaction equal in amount to the lawfully imposed local Sales or Use Tax previously paid by the Purchaser or User to the previous statutory or home rule municipality. The amount of credit shall not exceed the imposed percentage rate of Sales and Use Tax as defined in Section 22-181 and Section 22-196

(m) *Limitations of actions.* An application for refund of a Sales or Use Tax paid under dispute by a Purchaser or User who claims an exemption under this article shall be made within sixty (60) days after the Purchase, Storage, Use or Consumption of the goods or services for which the exemption is claimed. An application for refund of Tax moneys paid in error or by mistake shall be made within three (3) years.

(n) *Senior citizen Sales Tax rebate.* Upon yearly application to the City Treasurer, a two hundred-dollar Sales Tax rebate shall be made available to each individual who, prior to such application, has been a Resident of the City for at least one year, who is at least sixty-two (62) years of age or who is certified by a licensed physician of the state to be one hundred (100) percent disabled and who meets the low income adjusted income limit for one Person (or two (2) Persons if a joint federal income Tax Return is filed) as published by the Farmers Home administration/Housing and Urban Development for Routt County, with the exception that individuals who had participated in the program prior to January 1, 1998, will be allowed to continue provided that they continue to meet the residency requirement.

Participants in the program must be able to demonstrate that they meet the requirements when making application for the new year. The City Treasurer shall prescribe the necessary forms and proof requirements sufficient to make a reasonable determination of qualification.

**REGULATION 22.110-N**

**New applications for rebate will be accepted beginning with January 1st of each year. The application shall be for the prior calendar year. Applicants must be at least sixty-two (62) years of age at the start of the rebate year and must have been a full-time resident of the City for the rebate year.**

**Applicants must apply for the rebate each year. Applications for the rebate year will be accepted anytime during the subsequent calendar year. Applicants who do not apply during the year subsequent to the rebate year will lose the rebate for that rebate year.**

**Applications will be mailed automatically, each year, to those having received a rebate in the prior year.**

**Sec. 22-111. - Hearings.**

(a) *Request for hearing.* Any Taxpayer may request a hearing on any proposed Tax by reason of Notice of final determination-assessment and demand for payment or by reason of denial of his claim for refund by application to the City Treasurer within thirty (30) days of the mailing of a Notice of deficiency, assessment or denial of refund. The request for hearing shall set forth the Taxpayer's reasons for, and the amount of, the requested changes in the deficiency, assessment or denial of refund.

**REGULATION 22.111-A**

**Any taxpayer may petition the City Treasurer for a hearing upon a Notice of Final Determination-- Assessment and Demand for Payment, or upon a denial of his claim for refund, in the following manner.**

**(1) The request for a hearing must be submitted in writing, within thirty (30) days of the mailing of the notice of deficiency, assessment, or denial of refund.**

**(2) The applicant must set forth the facts on which he relies, together with a statement of the law under which he claim the relief requested, but in all cases, the request for hearing shall include the following information:**

**(a) Taxpayer's name, address and account number (if any).**

- (b) The copy of the Notice of Final Determination--Assessment and Demand for Payment (if the claim arises upon such notice).
- (c) The taxable period(s) involved.
- (d) The amount of tax and/or interest and penalties, in dispute.
- (e) An itemized schedule of the findings and determinations with which the applicant does not agree.
- (f) A summary statement of the grounds upon which the applicant relies for his claim of relief.

(3) A hearing will be set within a reasonable time at a place and time fixed by the City Treasurer. The taxpayer may appear in person with or without an attorney or other representatives, and present his entire case in support of his position, including the filing of any brief or affidavits pertinent to his cause.

(4) After a consideration of the evidence and arguments presented at the hearing, the City Treasurer will make a determination within a reasonable time after the hearing and send to the taxpayer, by certified mail, a Hearing Determination Notice stating the grounds for allowance or rejection, in whole or in part, of the claim.

(5) If there is any amount of deficiency assessment of taxes found to be due and owing, the Hearing Determination Notice shall constitute an assessment. Within thirty (30) days after the mailing of the Determination Notice, the taxpayer shall pay any outstanding tax, together with any interest and penalties, or he may appeal the City Treasurer's determination to the District Court, as provided in Section 22.112. If any tax, which is due and owing, is not paid within the thirty (30) day period, and no appeal is made, the collection of the tax may be enforced at any time within six (6) years from the date of such assessment.

(6) In lieu of filing a request for hearing within the thirty (30) day period provided, the taxpayer may (a) make a written request for an extension of time for hearing or (b) file a written brief and other pertinent written materials or documents and request that the City Treasurer reconsider the deficiency or denial of the refund claim without a hearing. Any extension of time for hearing shall not exceed ten (10) additional days, or a total of forty (40) days from the mailing of the Notice of Final Determination--Assessment and Demand for Payment, or Final Denial of Refund. Any written material submitted in lieu of a hearing shall be used by the City Treasurer to reconsider the deficiency or the denial of refund, in the same manner as if the material had been presented at a formal hearing (See Subsection 22.111-E). Any brief must be submitted in duplicate for each assessment, deficiency or denial of refund, and must be subscribed and sworn to by the taxpayer or his agent under the penalty of perjury.

(7) After a hearing, the taxpayer does not have the right to have another hearing on the same matters included in his previous request for hearing.

(8) If there is no request for a hearing, any tax, together with any interest or penalties, shall be immediately due upon the expiration of thirty (30) days from the mailing of the Notice of Final Determination--Assessment and Demand for Payment.

(9) The above procedure for requesting a hearing applies to all returns, except in the case of a jeopardy assessment as provided in Subsection 22.162. In the case of a jeopardy assessment, the protest and hearing procedure is disregarded and the taxpayer has the right to appeal directly from the Notice of Final Determination--Assessment and Demand for Payment.

(b) *Hearing time and place.* The City Treasurer shall notify the Taxpayer in writing of the time and place for such hearing fifteen (15) days prior thereto. In all cases, the hearing shall be held in Steamboat Springs, Colorado, at the office of the City Treasurer.

(c) *No second hearing.* After a hearing under this section, the Taxpayer shall not be entitled to a second hearing before the City Treasurer on the matters set forth in his previous request for hearing.

(d) *Conduct of hearing.* The hearing shall be held before the Treasurer. The City Treasurer is hereby



authorized to administer oaths and take testimony. At the hearing, the Taxpayer may assert any facts, make any arguments and file any briefs and affidavits he believes pertinent to his cause.

(e) *Request for extension of time; request for reconsideration without hearing.* In lieu of filing a request for hearing within the thirty (30) day period provided, the Taxpayer may (a) make a written request for an extension of time for hearing or (b) file a written brief and other pertinent written materials or documents and request that the City Treasurer reconsider the deficiency or denial of the refund claim without a hearing. Any extension of time for hearing shall not exceed ten (10) additional days, or a total of forty (40) days from the mailing of the Notice of final determination-assessment and demand for payment, or final denial of refund. Any written material submitted in lieu of a hearing shall be used by the City Treasurer to reconsider the deficiency or the denial of refund, in the same manner as if the material had been presented at a formal hearing (see subsection 22-111(e)). Any brief must be submitted in duplicate for each assessment, deficiency or denial of refund, and must be subscribed and sworn to by the Taxpayer or his agent under the penalty of perjury.

(f) *Time limit for request for hearing.* After the expiration of thirty (30) days from the mailing of the Notice of final determination-assessment and demand for payment or denial of refund, if the Tax has not been paid or if no request for hearing, or extension for hearing has been requested, or no written brief has been filed by the Taxpayer, then the Notice of final determination-assessment and demand for payment previously mailed, shall constitute a final assessment of the amount of the Tax specified, together with interest, additions to Tax penalties or shall constitute a final denial of refund, as the case may be except only for such amounts as to which the Taxpayer has filed a protest with the City Treasurer.

(g) *Authority to adjust Tax or approved refund.* Based on the evidence presented at any hearing or filed in support of the Taxpayer's contentions at any hearing, the City Treasurer may modify and abate in full the Tax, penalty and interest questioned at the hearing or may approve a refund.

(h) *Notice of determination.*

(1) Upon rejection, in whole or in part, of the claim for refund or upon the finding by the City Treasurer that, on hearing the evidence, an assessment in whole or in part has been made against Taxpayer validly, the City Treasurer shall send a hearing determination Notice to the Taxpayer setting forth the amount of claim for refund denied or the amount of deficiency assessment of Taxes found due, stating therein the grounds for allowance or rejection in whole or in part.

(2) Unless an appeal be taken as provided in section 22-112, the Tax, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after mailing of the hearing determination Notice to Taxpayer.

(3) This section shall not prevent a Taxpayer from suing for a refund or a Taxpayer appealing the City Treasurer determination as provided for in section 22-112

### **Sec. 22-112. - Appeals.**

(a) *Right of appeal.* The Taxpayer may appeal the hearing determination Notice of the City Treasurer issued pursuant to section 22-111 provided such appeal is taken within thirty (30) days of the mailing of Notice of the hearing determination. The Taxpayer may request a hearing before the executive director of the state department of revenue or the delegate thereof as provided in C.R.S. 29-2-106.1 or may file such appeal with the District Court of Routt County.

**REGULATION 22.112-A**

**Hearing determination notice must have been issued and received by the taxpayer before appeal can be made in District Court by the taxpayer.**

(b) *Venue.* Venue and jurisdiction to hear and determine appeals is hereby conferred on the Routt County District Court.

(c) *Taxpayer and City's proof requirements.* The District Court of Routt County shall have original jurisdiction to review the proceedings, such review being conducted in accordance with Rule 106 (a)(4) of the Colorado Rules of Civil procedure.

**REGULATION 22.112-C**

**Appeal to the Routt County District Court shall be taken by filing with the clerk of the District Court a copy of the hearing determination notice received by the taxpayer, together with a written notice stating that the taxpayer appeals to the District Court and alleging the pertinent facts upon which such appeal is grounded. The notice of appeal should state the name and address of the taxpayer, the name of the court to which appeal is taken, recite the order or decision appealed from and what portion, if any, of the tax is in dispute. The notice of appeal should state the pertinent facts upon which the taxpayer relies as constituting the basis of said appeal. The pleading must conform to the Colorado Rules of Civil Procedure.**

(d) *Bond or deposit.* Within fifteen (15) days after filing of the Notice of appeal, the Taxpayer shall file with the district court a bond in twice the amount of the Taxes, interest, and other charges stated in the final determination by the City Treasurer which are contested on appeal; provided, that the Taxpayer may at his option deposit the disputed amount with the City Treasurer in lieu of posting bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action or the time for such appeal has expired, the funds deposited shall be, at the direction of the court, either retained by the City Treasurer and applied against the deficiency or returned in whole or in part to the Taxpayer. No claim for refund of amount so deposited with the City Treasurer need be made by the Taxpayer in order for such amounts to be repaid in accordance with the direction of the court.

**REGULATION 22.112-D**

**Upon filing of the notice of appeal, the City Treasurer shall be deemed to be a party to such appeal; and the clerk of the District Court shall docket the cause as a civil action. The appellant shall cause summons to be issued, and cause the same to be served upon the City Treasurer, in accordance with the manner now provided by law in civil cases. Notice of the date of trial shall be mailed to the taxpayer and to the City Treasurer at least thirty (30) days prior thereto.**

(e) *Judgment on appeal.* The final decision made in such appeal shall be entered as a judgment as in other civil cases against the Taxpayer or against the City Treasurer as the case may be.

**Sec. 22-113. - Coordinated audit procedure.**

(a) *Eligibility.* Any Taxpayer Licensed in this City pursuant to sections 22-126 through 22-130, and holding a similar Sales Tax License in at least four other Colorado municipalities that administer their own Sales Tax collection, may request a coordinated audit as provided herein.

(b) *Request.* Within fourteen (14) days of receipt of Notice of an intended audit by any municipality that administers its own Sales Tax collection, the Taxpayer may provide to the Finance Director of this City, by certified mail, return receipt requested, a written request for a coordinated audit indicating the

municipality from which the Notice of intended audit was received and the name of the official who issued such Notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their Sales Tax in which the Taxpayer holds a current Sales Tax License and a declaration that the Taxpayer will sign a waiver of any passage-of-time based limitation upon this City's right to recover Tax owed by the Vendor for the audit period.

(c) *Audit limitation.* Except as provided in paragraph (g), any Taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of section 22-170(a) may be audited by this City during the twelve (12) months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) *Notice to other municipalities.* If this City desires to participate in the audit of a Taxpayer that submits a complete request for a coordinated audit pursuant to paragraph (c), the Finance Director shall so notify the Finance Director of the municipality whose Notice of audit prompted the Taxpayer's request for a coordinated audit. The Finance Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated Notice to the Taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) *Audit coordinator.* If the Taxpayer's request for a coordinated audit was in response to a Notice of audit issued by this City, this City's Finance Director shall facilitate arrangements between this City and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Finance Director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the Taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) *Taxpayer notice.* If the Taxpayer's request for a coordinated audit was in response to a Notice of audit issued by this City, this City's Finance Director shall, once arrangements for the coordinated [audit] between the City and other participating municipalities are completed, provide written Notice to the Taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Finance Director shall also propose a schedule for the coordinated audit.

(g) *Restrictions.* The coordinated audit procedure set forth in this section shall not apply:

- (1) When the proposed audit is a jeopardy audit;
- (2) To audits for which a Notice of audit was given prior to the effective date of this section;
- (3) When a Taxpayer refuses to promptly sign a waiver of the statute of limitations per section 22-170(a) or;
- (4) When a Taxpayer fails to provide a timely and complete request for a coordinated audit as provided in paragraph (b) of this section.

**Sec. 22-114. - Intercity Claims For Recovery.**

The intent of this section is to streamline and standardize procedures related to situations where Tax

has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the Taxpayer or Vendor to correctly pay, collect, and remit Sales and Use Taxes to the City.

(a) *Definition.* As used herein, "Claim For Recovery" means a claim for reimbursement of Sales and Use Taxes paid to the wrong taxing jurisdiction.

(b) *Notification of improper Tax collections and/or remittances.* When it is determined by the Director of Finance of the City that Sales and Use Tax owed to the City has been reported and paid to another municipality, the City shall promptly notify the Vendor that Taxes are being improperly collected and remitted, and that as of the date of the Notice the Vendor must cease improper Tax collections and remittances.

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

(d) *Response to claim.* Within ninety (90) days after receipt of a Claim For Recovery, the City shall verify to its satisfaction whether or not all or a portion of the Tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the City shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a Vendor or Taxpayer, the check shall be made to the parties jointly. Denial of a Claim For Recovery may only be made for good cause.

(e) *Denial of claim.* The City may deny a claim on the grounds that it has previously paid a Claim For Recovery arising out of an audit of the same Taxpayer.

(f) *Limitation.* The period subject to a Claim For Recovery shall be limited to the thirty-six-month period prior to the date the municipality that was wrongly paid the Tax receives the Claim For Recovery.

**Sec. 22-115. - Notices of Sales and Use Tax ordinance amendment.**

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

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

(c) *Failure to file.* Failure of the City to file such ordinance or ordinance amendment pursuant to the section shall not invalidate any provision of the Sales and Use Tax ordinance or any amendment

thereto.

**Sec. 22-116. - Participation in simplification meetings; requirements.**

The Finance Director shall cooperate with and participate on an as needed basis with permanent statewide Sales and Use Tax committee convened by the Colorado Municipal League which is composed of state and municipal Sales and Use Tax officials and Business officials. Said committee will meet for the purpose of discussing and seeking resolution to Sales and Use Tax problems which may arise.

**Secs. 22-117—22-125. - Reserved.**

**Subdivision II. - Licenses**

**Sec. 22-126. - License required; issuance; term.**

It shall be unlawful for any Person to engage in the Business of selling at Retail or purchasing at Retail, as the same is defined in this article, Tangible Personal Property and services subject to the Tax imposed by this article, without first having obtained a License therefore, which License shall be granted and issued by the City Treasurer, for a one-time, twenty-five dollar (\$25.00) fee, and shall be in force and effect until terminated or revoked.

**REGULATION 22.126**

(a) Every person, retailer or lessor who comes within the definition of a retailer, as defined, shall obtain a sales tax license in order to do business in the City of Steamboat Springs. This license is issued with fee.

(b) A City Sales and Use Tax License is required for all forms of retail setting whether through stores, from 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 regularly engaged in selling at retail, even though they may be non-profit organizations and may sell only to their own members.

(c) 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 leased department shall obtain a Sales Tax License, collect the tax and remit same on a proper return.

The lessee may keep his own books and make his 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 accountings for such departments and remit the taxes due. The lessee is not relieved of his liability in case the store fails to make the proper returns or fails to remit the taxes to the City Treasurer.

(d) Doing business without a license is a misdemeanor punishable by fine or

imprisonment or both.

**(e) A license certificate will be issued for each business location and must be displayed, at all times, in a conspicuous location. The license is not transferable and must be surrendered upon revocation, suspension, termination, ownership transfer, or change of location.**

**Sec. 22-127. - Tax-exempt institutions.**

(a) No exempt institution, including quasi-governmental, religious, Charitable, or other type institutions may Purchase Tax free in Steamboat Springs, or Use in Steamboat Springs, Tangible Personal Property or Taxable property or Taxable Services Tax free unless the exempt group furnishes a copy of their State of Colorado Exemption Institution License to the Vendor prior to the allowance of a Tax free Purchase.

(b) Any exempt enterprise may be subject to audit as would be any other Steamboat Springs Retailer or Consumer.

**REGULATION 22.127-B**

**(Refer to Subsection 22.183-D-(4) and related regulation, and Specific Industry Regulations.)**

**Sec. 22-128. - Retailer Licenses.**

(a) *Application; content.* City Retailer Licenses shall be granted only upon application stating the name and address of the Person desiring such License, the name of such Business and the character thereof, the location, including the street number of such Business and such other facts as may be required by the City Treasurer. Any Person doing Business as a Wholesaler shall obtain a Retailer's License if any Sales are made at Retail as defined herein.

**REGULATION 22.128-A**

**Every person who comes within the definition of a retailer must have in his possession a valid Steamboat Springs Sales and Use Tax license. There is a fee charged for the issuance of such license. Anyone who repeatedly advertises, solicits or offers tangible personal property for sale must have a Sales Tax License and collect the tax due on such sales even though they are few and infrequent. Any person selling tangible personal property at retail in Steamboat Springs who has never obtained a Sales Tax License, or any such person who continues to make such sales after his license has been revoked, shall be deemed guilty of a misdemeanor by the City Treasurer and, upon conviction thereof, shall be punished accordingly.**

(b) *Multiple locations.* Each retail establishment to be Licensed in case Business is transacted at two (2) or more separate places by one Person, a separate License for each place of Business shall be required; however, consolidated Tax Returns may be filed for those various locations as set forth in section 22-142

(c) *Form; transfer.* Each License shall be numbered and shall show the name, residence, mailing address, and place and character of Business of the licensee and shall be posted in a conspicuous place in the place of Business for which it is issued. No License shall be transferable.

(d) *Engaging in Business without License.* Any Person Engaged in Business in City as defined in the article, without having secured a License therefore, except as specifically provided herein, shall be guilty of a violation of this article.

(e) *Revocation.* The City Treasurer may on a reasonable Notice and after full hearing, revoke the

License of any Person found by the City Treasurer to have violated any provision of this article. After revocation of the License, no further Business, as defined herein, may be conducted within the City, and the City attorney shall institute such legal action as may be necessary to preclude such conduct of a Business.

(f) *Appeal of revocation.* Any finding and order of the City Treasurer revoking the License of any Person shall be subject to Judicial Review in accordance with Rule 106 (a)(4) of the Colorado Rules of Civil Procedure.

(g) *Exemption.* No License shall be required for any Person engaged exclusively in the Business of selling commodities which are exempt from taxation under this article.

(h) *Sale or transfer of Business interest.* Any Sale, transfer or Purchase of an interest in a Business enterprise by any Persons, as defined, where the respective interest of the Person purchasing or selling as a result of the transaction has changed in any degree, requires, in the case of a Retailer or other Person required to be Licensed under this article, the issuance of a new License.

**REGULATION 22.128-H**

**A sale, purchase or other transfer of any interest in a business enterprise by any person whereby the interest of the purchaser or the seller has changed in any degree as a result of the transaction, including a lease, rental, or grant of license to use tangible personal property of a separate owner, by the new owner or lessee requires (1) the acquisition of a new license in the case of a retailer or other person required to be licensed under the article, and (2) the payment of the sales tax on the transfer of title and/or possession of tangible personal property, when such assets are within the City. Such "sale, purchase or other transfer of any interest in a business enterprise" shall include the formation of a partnership from a sole proprietorship; the incorporation of a sole proprietorship or a merger, consolidation or combining of two or more corporations, partnerships, business associations, business concerns or other organizations. (Refer as applicable to classification, for purposes of this article, of furniture, fixtures and materials in specific industry regulations "Construction and Contractors.")**

**Sec. 22-129. - Single event License.**

A Person conducting a singular Sales event may apply to the City for a License to engage in the Business of selling at Retail for a temporary period of time. The application shall state the name and address of the Person applying for such License, the name and location of the Person's organization, including the street number of such organization, and such other information as the City Treasurer may require. (Refer to section 22-143(f).)

**REGULATION 22.129**

**Those persons applying for a single event tax license may also be required to apply for a peddlers or transient-sellers license.**

**Sec. 22-130. - Occasional or isolated Sales.**

An individual having an occasional or isolated Sale of Tangible Personal Property is not required to have a Retail Sales Tax License. Such Sales must be made from the private residences of such individuals and the aggregate dollar amount of such Sales may not exceed one thousand dollars (\$1,000.00) for any one calendar year. In addition the following conditions must be met:

- (1) Neither the seller nor any member of his household may be engaged in a trade or Business where similar items are sold;

(2) An annual report of casual Sales must be filed with the City by every individual making such Sales and the Sales Tax due must be remitted on forms provided by the Treasurer, showing in detail all such Sales made during the year; and

(3) All such Returns shall be subscribed by the Taxpayer or his agent and shall contain written declaration that they are being made under the penalties of perjury in the second degree.

**REGULATION 22.130**

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

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

**Secs. 22-131—22-140. - Reserved.**

**Subdivision III. - Reports and Accounts**

**Sec. 22-141. - Authority to require records and reports.**

The City Treasurer, may require any Person, by regulation or Notice served on such Person, to make such Return, render such statement or keep and furnish such records, or make such information reports as the City Treasurer may deem sufficient to show whether or not such Person is liable under this act for payment or collection of the Tax imposed herein.

In addition, when in the opinion of the Treasurer it is necessary for the efficient administration of this section to treat any salesman, representative, peddler, or canvasser as the agent of the Vendor, distributor, supervisor, or employer under whom he operates or from whom he obtains Tangible Personal Property sold by him or for whom he solicits Business, the Treasurer may treat such agent as the Vendor jointly responsible with his principal, distributor, supervisor, or employer for the collection and payment of the Tax.

**Sec. 22-142. - Returns.**

(a) *Contents; form.* The Returns to be filed by the Taxpayer, or his duly authorized agent, shall be the standard municipal Sales and Use Tax reporting form as adopted by the executive director of the Colorado Department of Revenue and shall contain such information and be completed in such manner as the City Treasurer may prescribe.

(b) *Consolidation of Returns.* A Vendor doing Business in two (2) or more places or locations, whether



in or without the City, and collecting Taxes hereunder, may file one Return covering all such places or locations, when accompanied by a supplemental report showing the Gross Sales and Service and Net Taxable Sales and Service and Taxes collected thereon for each such place or location. Under collections and over-collections may not be offset between locations.

(c) *Reporting periods.* If the accounting methods regularly employed by the Vendor or Licensed Consumer in the transaction of his Business, or other conditions, are such that the Returns aforesaid made on a calendar month basis, will impose unnecessary hardship, the City Treasurer may, upon request of the Vendor, or Licensed Consumer, accept Returns at such intervals as will, in his opinion, better suit the convenience of the Taxpayer and will not jeopardize the collection of the Tax.

**REGULATION 22.142-C**

**Upon application for a sales tax license, a vendor requests their filing frequency. Any vendor may request to file monthly. Vendors collecting more than \$100 of City sales tax per month must file monthly. Vendors collecting less than \$100 per month may file quarterly. Vendors collecting less than \$100 in a quarter may file annually. The vendor may request, or the City may initiate a change in filing frequency to match the vendor's State of Colorado sales tax filing frequency, or if tax collection history indicates a different frequency is appropriate. The filing status chosen on the application will be adhered to, unless a change is requested in writing by the vendor, or a change is implemented by the City.**

**Approval of request for quarterly, seasonal or annual filing periods will be granted only if, in the opinion of the City Treasurer, it will not jeopardize the collection of the tax. Permission to change the time or interval for filing of reports and payment of tax may not be granted to vendors or consumers who are delinquent in filing.**

**Every vendor or consumer subject to report and pay sales tax seeking the privilege of filing seasonally or annually may be required to deposit with the City Treasurer cash, bearer bonds of the United States or of the State of Colorado, or any, political subdivision thereof, or corporate surety bond endorsed by a surety company licensed to do business in the State, and approved by the City Treasurer for the purpose of guaranteeing payment of the sales tax. Such bond or deposit required as guaranty of payment of tax shall be the Department's estimate of the amount required to indemnify the City against loss of tax, penalty and interest, but not less than one and one half (1 1/2) times the average tax for a selected previous representative period. This same rule may apply to transient vendors or their representative who have no established place of business located in Steamboat Springs.**

**If any vendor or consumer subject to report and pay sales 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 he had never been granted the alternate method of reporting and paying the tax.**

**Applications for permission to file reports and pay tax on a quarterly basis, if approved, shall take effect with the next calendar quarter which begins at least fifteen (15) days after approval. Application for permission to file reports and pay tax on an annual basis, if approved, shall take effect on January 1 of the next calendar year beginning at least fifteen (15) days after approval. Following the approval by the Director of an application to file on a quarterly or annual basis, the filing of reports and payment of the tax shall be due on the twentieth (20th) day of the month following the end of the approved reporting period.**

**If the vendor or consumer subject to report and pay sales tax is engaged in a seasonal business where his business is not operated in the City at all during certain months of the year, he may apply on the prescribed application form for permission to file the reports and remit the tax only during the months of the year in which his business is operated.**

The applicant shall state the months during which he expects to operate said business in the City, the place or places said business will be operated, and an agreement to notify the Department of any change in business equipment or facilities or of changes in locations.

(d) *Timely payment; computation of dates.*

(1) *Date received.* Timely payment shall be evidenced by the postmark date if mailed; otherwise timely payment shall be evidenced by the City cashier validation date.

(2) *Due date exceptions.* Any due date; payment date; or deadline for paying Tax due, providing information or taking other action; which falls on a Saturday, Sunday or legal holiday recognized by either the federal government or State of Colorado shall be extended to the first business day following such weekend or holiday.

### **Sec. 22-143. - Special Accounting.**

(a) *Alcoholic beverage Sales by the drink.* Any Retailer selling malt, vinous, or spirituous liquors by the drink may include in his Sales Price the Tax levied under this section; provided, that no such Retailer shall advertise or hold out to the public in any manner, directly or indirectly, that such Tax is not included as a part of the Sales Price to the Consumer.

#### **REGULATION 22.143-A**

(1) A vendor who sells malt, vinous or spirituous liquors by the drink shall, at the time of making his first retail sale of such beverage, elect either of the following methods to impose the tax:

(a) The tax may be included in the price of the drink or

(b) The tax may be separately stated and added to the price of the drink.

(2) The vendor may elect to operate under method (a) for drinks sold at the bar and method (b) for drinks sold at tables, or he may elect to operate under the same method for drinks sold at the bar and tables. Once having made the election he must continue to collect the tax in the manner elected, unless permission to change the election is first obtained from the City Treasurer. If the vendor elects to use different methods on bar and table sales, he must keep adequate records.

(3) If the vendor elects to include the tax in the price of the drink, the following method must be used to determine gross taxable sales: gross sales which include the tax are divided by the total of one hundred percent (100%) plus the applicable sales tax percentage.

(4) In the case of package sales the tax must be added to the total selling price.

(5) Vendors dispensing liquor, wine or beer by the drink who purchase ingredients which they use in mixing the drinks are not required to pay sales tax on the purchase of such ingredients.

(b) *Vending machine Sales.* Any vending machine operator may include in his Sales Price the Tax levied under this section, provided that no such Retailer shall advertise or hold out to the public in any manner, directly or indirectly, that such Tax is not included as a part of the Sales Price to the Consumer.

#### **REGULATION 22.143-B**

(1) Vendors of individual items of personal property through a coin-operated vending machine may include in the sales price the tax levied under this section and must use the following method to determine and report gross taxable sales: deduct from gross receipts, sales of individual items which sell for fifteen cents or less and divide the difference by the total of

one hundred percent (100%) plus the applicable sales tax percentage.

(2) This section does not apply to owners and operators of coin-operated devices not vending articles of tangible personal property, such as coin-operated pinball machines, electronic games, laundry facilities, pool tables, football, car wash devices, etc. Use of these coinoperated devices are exempt from the imposition of sales tax under this article.

(3) Owners of vending machines that vend articles of tangible personal property are subject to sales tax on the cost of the vending machines.

(4) Owners of coin-operated devices that do not vend articles of tangible personal property, are subject to the sales tax on the cost of such devices.

(5) The operator of vending devices shall keep accurate records of the gross receipts of each machine, the time and place of installation of each machine, the date removed from any location, and any rentals received from the owner of the premises.

(6) Where a vendor is conducting a mixed business of machine vending and non-machine vending, he must have a sales tax license for each kind of business and must report and remit the tax separately.

(c) *Combined Sales of services and Personal Property.* Every contractor or Vendor conducting a Business in which the transaction between the Vendor and the Consumer or Purchaser consists of the supply of Tangible Personal Property and services in connection with the maintenance or servicing of same, shall be required to pay the Tax levied under this article upon the full contract Price, unless application is made to the City Treasurer for permission to use a percentage basis or reporting the Tangible Personal Property sold and the services supplied under such contract. The City Treasurer is hereby authorized to determine the percentage based upon the ratio of the Tangible Personal Property included in the consideration as it bears to the total of the consideration paid under said combination contract or Sale which shall be subject to the Tax levied pursuant to the provisions of this article. The section shall not be construed to include terms upon which the Tax is imposed on the full Purchase Price as defined in subsection 22-86(42), nor shall it be construed as an allowance for the Vendor to fail to itemize to the customer the Taxable, and non-taxable portions of the bill.

#### REGULATION 22.143-C

**Additionally, on instance of sale of property with maintenance agreement thereof, no deduction for labor or service portion of that total agreement from the tax base may be without the express written approval of the City Treasurer. Examples of such combined sales and services of tangible property and services requiring the express approval of the City Treasurer above would be in contracts for the sale or lease of computers and support equipment, office copying and other office equipment sales. (Also refer to Regulation 22.107-G-(2))**

(d) *Building contractors.* Every contractor who shall build, construct, alter, expand, modify, or improve any building, dwelling or other structure, or improvement to real property in this City and who shall Purchase lumber, fixtures, or any other building materials and supplies Used, therefore, and every owner, or lessee of realty situate in the City and of improvements and structures located upon realty, situate in the City, upon which any article or articles of Tangible Personal Property acquired from sources within (or without) the City, are attached or affixed shall pay the Steamboat Springs Building Use Tax by:

- (1) Applying for the proper Building Permits issued through the regional building department;
- (2) Paying a deposit, prior to issuance of a Permit, based on a percentage of the building department's valuation of the cost of the work to be done; and

(3) Filing a final cost report with the City on the prescribed form remitting any Tax due or requesting a refund of deposit in excess of actual Tax liability.

**REGULATION 22.143-D**  
**(Refer to Specific Industry Regulation "Construction and Contractors")**

(e) *Special Food promotions.* Vendors providing special Food promotions at pricing lower than Food cost must report and pay Tax on the difference between the selling Price less Tax and the cost of the Food as "Tax on inventory taken for own Use".

**REGULATION 22.143-E**

**For the purposes of this section, "food promotions" shall include but are not limited to happy hour buffets or special food nights which are temporary in nature and not a regular menu item or regular product or service sold by the retailer.**

**The retailer electing to include tax in the selling price, once such election is made must continue to impose and collect the tax in the manner elected and shall report by including in gross taxable sales the gross receipts from promotion sales divided by the total of one hundred percent (100%) plus the applicable sales tax percentage.**

**Vendors providing special food promotions at pricing lower than food cost must report and pay tax on the difference between the selling price less tax and the cost of the food as "tax on inventory taken for own use".**

**The City Treasurer shall make the determination whether or not the vendor qualifies for the election under this section.**

(f) *Occasional Sales; single events.* Business, organizations or individuals selling Taxable Tangible Personal Property or services on an occasional or isolated basis are required to collect the Sales Tax imposed by this article and must comply with all licensing requirements per section 22-130. Vendors making such occasional or isolated Sales may elect to include in the Sales Price the Tax levied under this section, provided that such Vendor posts in a conspicuous location, so that any Purchaser may see, notice that the Tax is included in the Price, and provided that the Vendor meets the following:

- (1) The Vendor does not have a permanent Business location from which walk-in Business is conducted or orders are processed, whether located within or without of the City;
- (2) The number of consecutive days for which the Sale or activity is conducted in the City does not exceed fourteen (14) days; and
- (3) If required, a transient seller's permit is applied for and approved.

**REGULATION 22.143-F**

**Vendors wishing to make an occasional or single event sale in the City shall apply to the City Treasurer prior to conducting the sale and obtain the appropriate license or permit.**

**Vendors shall report and remit sales taxes collected within ten (10) days following the conclusion of the sale or event on the forms provided.**

**The City Treasurer shall make the determination whether or not the vendor qualifies for the election under this section.**

**Sec. 22-144. - Payment of Taxes on installment basis.**

The City Treasurer shall have the discretion to enter into an agreement with Taxpayers to allow for payment of required Taxes on an installment basis when such a method would be equitable for the Taxpayer and the City.

**Sec. 22-145. - Special Accounting—Sales by qualified non-profit organizations.**

Non-profit organizations selling Taxable Tangible Personal Property or services as defined by this Code must collect Sales Tax and Purchasers must pay Sales Tax on such Sales, subject to the conditions set forth below. It is the desire of the City Council of Steamboat Springs that the Taxes collected by qualified non-profit organizations be retained by that organization as a contribution of additional funds to be used in the course of that organization's charitable service to the community. Therefore, organizations are not required to remit or report Sales Tax collections to the City provided that the organization meets the following criteria:

- (1) The organization has been authorized in writing by the Internal Revenue Service as a Section 501(c)(3) organization or has been approved in writing by the Treasurer as being a voluntary, not for profit organization whose fund raising activities are primarily for the providing of services; and
- (2) The City Sales Tax shall be included in the stated selling Price and the total proceeds of the Sale of Taxable Tangible Personal Property or services shall be retained and expended by the qualifying organization to provide charitable services; and
- (3) The activity at which Taxable Tangible Property or Service is being sold is an occasional Business activity specifically held for fund raising.

**REGULATION 22.145**

**Occasional business activity is characterized as once annually, for a duration not to exceed three consecutive days.**

**Secs. 22-146—22-155. - Reserved.**

**Subdivision IV. - Collection Rights and Remedies**

**Sec. 22-156. - Tax to constitute lien.**

The Sales and Use Tax plus penalties, interest and costs of collection shall be a first and prior lien on the Tangible Personal Property sold, Purchased, Stored, Used, Distributed, or Consumed, and when such Tax is collected by Retailers or agents, then, the Sales or Use Tax imposed by sections hereunder shall be a first and prior lien upon the goods and Business fixtures of or Used by any Retailer under lease, title retaining contract or other contract arrangement, and shall take precedence on all such property over other liens or claims of whatsoever kind or nature.

**Sec. 22-157. - Sale or termination of Business.**

(a) *Filing of Return; withholding of Taxes from Purchase money.* Any Person who shall sell out his

Business or stock of goods, or shall quit Business, shall be required to make out the Return as provided in this article, within ten (10) days after the date he sold his Business or stock of goods, or quit Business, and his successor in Business shall be required to withhold sufficient of the Purchase money to cover the amount of said Taxes due and unpaid until such time as the former owner shall produce a receipt from the City Treasurer showing that the Taxes have been paid, or a certificate that no Taxes are due. (See also subsection 22-107(d), Purchase of Business.)

**REGULATION 22.157-A**

**Where any vendor sells his business or stock of goods, he shall complete a sales tax return and pay all taxes due within ten (10) days of such sale. Purchasers of a business or stock of goods are liable for any unpaid tax due on sales made by a predecessor, including tax on outstanding accounts on which a sales tax has not been remitted by the seller. The purchaser is required to withhold sufficient of the purchase money to cover any taxes due and unpaid, or other adequate security to protect the amount due the City.**

**Upon the sale of a business, tax must be paid by the purchaser on the purchase price of fixtures, equipment, machinery and any other tangible personal property not a part of the stock in trade of the business. Refer also to Section 22.107-D.**

(b) *Liability for payment of Tax.* If the Purchaser of a Business or stock of goods shall fail to withhold the Purchase money as above provided and the Taxes shall be due and unpaid after ten-day period allowed, he, as well as the seller, shall be personally liable for the payment of the Taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or Business fixtures of or Used by any Person under lease, title retaining contract or other contract arrangement, by Purchase, foreclosure Sale, or otherwise, takes same subject to the lien for any delinquent Sales Taxes owed by such Person, and shall be liable for the payment of all delinquent Sales Taxes of such prior owner, not, however, exceeding the value of the property so taken or acquired.

**Sec. 22-158. - Status of unpaid Tax in bankruptcy, receivership, etc.**

Whenever the Business or property of any Taxpayer subject to this article shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for property Taxes, all Taxes, penalties and interest imposed by this article and for which said Retailer is in any way liable under the terms of this article, shall be a prior and preferred lien against all the property of said Taxpayer, and no sheriff, receiver, assignee, or other officer shall sell the property of any Person subject to this article under process or order of any court, without first ascertaining from the City Treasurer the amount of any Taxes due and payable under this article, and if there be any such Taxes due, owing or unpaid, it shall be the duty of such officer to first pay the amount of said Taxes out of the proceeds of said Sale before making payment of any moneys to judgment creditor or other claims of any nature whatsoever.

**Sec. 22-159. - Unpaid Taxes on construction improvements.**

(a) *Liens.* The full amount of unpaid Taxes arising from and required to be reported on Personal Property affixed to real property under this article, together with interest, penalties, and collection costs as herein provided, shall be and constitute a first and prior lien, which lien shall have precedence over all other liens of whatsoever kind and nature, except as to liens for general Taxes created by state law.

(b) *Prerequisite for final inspection or issuance of certificate of occupancy.* No final inspection shall be made by the City building inspector, or, no certificate of occupancy shall be issued unless all Taxes due as provided in the City Retail Sales and Use Tax Code, on all lumber, fixtures, and any other building materials and supplies Used in or connected with the construction, reconstruction, alteration, expansion,

modification or improvement of any building, dwelling or other structure or improvement to real property within the City have been paid or arrangements therefore made with the City Treasurer.

**Sec. 22-160. - Notice of final determination-assessment and demand for payment.**

(a) If any Person or Taxpayer or Vendor fails, neglects, or refuses to collect the Tax or make a Return and pay the Tax as required by this article or should fail to remit the proper amount of Tax or underpays the Tax because of negligence, fraud or on a regular basis, the City Treasurer shall make an estimate based upon such information as may be available and shall add thereto the additions to Tax, penalty and interest as set forth in section 22-108 herein and promptly thereafter give to the delinquent Taxpayer written Notice of such estimated Taxes, penalty and interest which Notice of assessment shall be served personally or by certified or registered mail and which Notice of final determination-assessment and demand for payment shall be due and payable thirty (30) days from such service.

(b) The provisions as to hearings and appeals as set forth in sections 22-111 and 22-112 shall apply to such Notice of final determination-assessment and demand for payment.

**Sec. 22-161. - Notice of lien.**

(a) If any Taxes, penalty or interest imposed by this article and shown due by Returns filed by the Taxpayer or as shown by assessments duly made as provided herein, are not paid within twenty (20) days after the same are due, the City shall issue a Notice to the Taxpayer by certified mail, setting forth the name of the Taxpayer, the amount of the Tax, penalties and interest, the date of the accrual thereof, and Tangible Personal Property of the Taxpayer.

(b) Said Notice shall be on forms prescribed by the City Treasurer and shall be verified by him or his duly qualified representative whose duties are the collection of such Tax, and may be filed in the office of the clerk and recorder of any county in the state in which the Taxpayer owns real or Tangible Personal Property, and the filing of such Notice shall create such lien on such property in that county and constitute Notice thereof. After said Notice has been filed, or concurrently therewith, or at any time when Taxes due are unpaid, whether such Notice be filed or not, the City Treasurer may issue a distraint warrant as provided in section 22-163

**Sec. 22-162. - Jeopardy assessment and distraint.**

(a) If the City Treasurer finds that collection of the Tax will be jeopardized by delay in his discretion, he may declare the Taxable period immediately terminated, determine the Tax, and issue Notice and demand for payment thereof, and having done so, the Tax shall be due and payable forthwith, and the City Treasurer may proceed immediately to collect such Tax as provided in subsection 22-161(b).

(b) In any other case wherein it appears that the revenue is in jeopardy, the City Treasurer may immediately issue demand for payment; and, regardless of the provisions of section 22-111 and 22-112, the Tax shall be due and payable forthwith and, in his discretion, the City Treasurer may proceed immediately to collect said Tax as provided in section 22-163

(c) Collection under either subsection (a) or (b) of this section may be stayed if the Taxpayer gives such security for payment as shall be satisfactory to the City Treasurer.

**REGULATION 22.162**

**The provisions of Subsection 22.162-A, B, and C, shall include, but not be limited to, cases where a**

taxpayer intends to leave the City, where properties are being moved from the City, where properties are sold and the proceeds transported beyond the borders of the City and where funds are being dissipated. In any case where the City Treasurer finds it necessary to immediately collect the tax, he may declare the taxable period closed and immediately demand payment of the tax and levy upon any property or money, unless bond is given by the taxpayer in an amount sufficient to secure payment to the City Treasurer. The assessment is due and payable at the time specified in the notice of assessment.

If the tax has not been paid in full or no return has been filed, or whenever the examination of a return discloses a deficiency, and the City Treasurer believes that the collection of the tax or deficiency will be jeopardized by delay, a jeopardy-assessment will be made and a distraint warrant issued immediately.

### **Sec. 22-163. - Seizure and sale of property.**

(a) *Issuance of distraint warrant.* The City Treasurer may issue a warrant under his own hand directed to any employee, agent, or representative of the Department of Finance, sometimes in this section referred to collectively as "agent," or "revenue collector," or "sheriff" of any county of the state, commanding him to distraint, seize, and sell the Personal Property of the Taxpayer, except such Personal Property as is exempt from execution and Sale by any statute of this state, for the payment of the Tax due together with penalties and interest accrued thereon and cost of execution.

(1) When any deficiency in Tax is not paid within thirty (30) from the mailing of Notice of final determination-assessment and demand for payment therefore and no hearing has been requested and no appeal from such deficiency assessment has been docketed with any district court of this state within said period; or

#### **REGULATION 22.163-A-(1)**

The City Treasurer may issue a warrant for the distraint, seizure and sale of personal property of any taxpayer, within statutory limitations, (1) when any deficiency in tax is not paid within thirty (30) days from the mailing of a Notice of Final Determination--Assessment and Demand for Payment and no hearing has been requested nor an appeal docketed within this period; or (2) when an amount of tax, penalty, or interest is not paid within thirty (30) days from the mailing of the Notice of Final Determination for payment thereof; or (3) immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in Section 22.162. Such warrant shall be issued for the payment of the tax due together with penalties and interest accrued thereon and the cost and expenses incurred in the collection, distraining, execution and sale thereto.

(2) When any other amount of Tax, penalty, or interest is not paid within thirty (30) days from the mailing of assessment and demand for payment thereof; or

(3) Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in section 22-162

(b) *Account of goods distrained; Notice of Sale; redemption of property.* The agent charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which signed by the agent making such distraint, shall be left with the owner or possessor, or at his usual place of abode with some member of his family over the age of eighteen (18) years, or at his usual place of Business with his stenographer, bookkeeper, or chief clerk, or if the Taxpayer is a corporation, shall be left with any officer, Manager, general agent, or agent for process, with a note of the sum demanded and the time and place of Sale; and shall forthwith cause to be published a Notice of the time and place of Sale, together with a description of the property to be sold in a legal Newspaper within the county wherein distraint is made, or, in lieu thereof and in the discretion of the City Treasurer the agent or sheriff shall cause such Notice to be publicly posted at the court house of



the county wherein such distraint is made, and copies thereof to be posted in at least two (2) other public places within said county. The time fixed for the Sale shall not be less than ten (10) days nor more than sixty (60) days from the date of such notification to the owner or possessor of the property and the publication or posting of such notices. Said Sale may be adjourned from time to time by said agent or sheriff if he deems it advisable, but not for a time to exceed in all ninety (90) days from the date first fixed for the Sale. When any Personal Property is advertised for Sale under distraint as aforesaid, the agent or sheriff making the seizure shall proceed to sell such property at public auction, offering the same at not less than a fair minimum Price, including the expenses of making the seizure and of advertising the Sale, and if the amount bid for the property at the Sale is not equal to the fair minimum Price so fixed, the agent or sheriff conducting the Sale may declare the same to be Purchased by him for the City. The property so Purchased may be sold by the agent or sheriff under such regulations as may be prescribed by the City Treasurer. In any case of distraint for the payment of Taxes, the goods, chattels, or effects so distrained shall be restored to the owner or possessor if, prior to the Sale, the amount due is paid, together with the fees and other charges or may be redeemed by any Person holding a chattel mortgage or other evidence of right of possession.

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

(d) *Filing and release of lien.* Any employee, agent, or representative of the City Manager to whom a warrant has been issued may file a Notice of lien in such forms as the City Treasurer may prescribe with the Person in possession of any Personal Property or right to property belonging to the Taxpayer, and if not previously recorded, the filing of such Notice of lien shall operate from the date of such filing. The City Treasurer may release said lien as to any part or all of the property or rights to property covered by any such lien upon such terms as he may deem proper.

(e) *Release of lien.* Any lien for Taxes as shown on the records of the county clerk and recorder as herein provided, upon payment of all Taxes, penalties and interest covered thereby, shall be released by the City Treasurer in the same manner as mortgages and judgments are released.

**Sec. 22-164. - Recovery by action of law.**

(a) *Generally.* The City Treasurer may also treat any such Taxes, penalties, interest, or collection costs due and unpaid as a debt due the City from the Taxpayer. In case of failure to pay the Tax, or any portion thereof, or any penalty or interest thereon when due, the City Treasurer may receive at law the amount of such Taxes, penalties, interest, and collection costs. Venue for such an action shall be in the County or District Court of Routt County having jurisdiction over the amounts sought to be collected. The Return of the Taxpayer or the assessment made by the City Treasurer as herein provided, shall be

prima facie proof of the amount due.

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

(c) *Civil action to enforce lien.* In any case where there has been a refusal or neglect to pay any Tax due the City of Steamboat Springs and statement or Notice shall have been filed, which under law, creates a lien upon any real property for such Tax, the City Treasurer may cause a civil action to be filed in the district court of the county in which is situated any real property which is subject to said lien, to enforce the lien of the City of Steamboat Springs for such Tax upon the real property situated in that county or in any other county in the state which may be subject to such lien or to subject any real property or any right, title, or interest in real property to the payment of such Tax. The court shall decree a Sale of such real property and distribute the proceeds of such Sale, according to the findings of such court in respect to the interest of the parties and of the City of Steamboat Springs the proceedings in such action and the manner of Sale, the period for and manner of redemption from such Sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

**Sec. 22-165. - City as party defendant.**

In any action affecting the title to real estate or the ownership or rights to possession of Personal Property, the City of Steamboat Springs may be made a party defendant for the purpose of obtaining an adjudication or determination of its lien upon the property involved therein, and in any such action service of summons upon the City Treasurer or any Person in charge of the Department of Finance or any other Person permitted by law, shall be sufficient service and binding upon the City.

**REGULATION 22.165**

**Any person having a lien upon or any interest in any real estate referred to in Section 22.164-C, under or by virtue of any instrument which shall have been duly filed on record in the office of the county clerk and recorder of the county in which such real estate is located prior to the filing of the statement or notice which created a lien upon such real property for such taxes, or any person purchasing such real estate at a sale to satisfy such lien or interest may make a written request to the City Treasurer to file a civil action as provided in Section 22.164-C. If no such civil action shall have been commenced as provided in Subsection 22.164-C within two (2) months after receipt by the City Treasurer of such written request, such person or purchaser may file a civil action in the district court of any county where any such real property is situated asking for a final determination of all claims of the City of Steamboat Springs to and all liens of the City of Steamboat Springs upon the real estate in question. Service of the process in such action upon the City of Steamboat Springs shall be made upon the City of Steamboat Springs to be so sued. The court shall in such civil action adjudicate the matters involved therein in the same manner as in the case of civil actions filed under Section 22.164-C.**

**Sec. 22-166. - Certificate of discharge.**

(a) *Generally.* If any property, real or personal, under the law, shall be subject to a lien for the

payment of any Tax due the City of Steamboat Springs, the City Treasurer may issue a certificate of discharge of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining unsatisfied in respect to such Tax and the amount of all prior liens upon such property.

(b) *Partial satisfaction of liability.* If any property, real or personal, under the law, shall be subject to a lien for the payment of any Tax due the City of Steamboat Springs the City Treasurer may issue a certificate of discharge of any part of the property subject to the lien if there be paid over to the City Treasurer, in part, satisfaction of the liability in respect to such Tax an amount determined by the City Treasurer which shall not be less than the value, as determined by him, of the interest of the City in the part to be so discharged.

(c) *Determination of values.* In determining such values, the City Treasurer shall give consideration to the fair market value of the part to be so discharged and to such lien thereon as have priority to the lien of the City.

(d) *Effect.* A certificate of release or of partial discharge issued under subsection (a) of this section shall be held conclusive in order that the lien of the City upon the property release therein is extinguished, but shall not extinguish, nor release, any portion of the lien nor property not specified in the release.

**Sec. 22-167. - Summons to court for violation of article.**

The City Treasurer or his duly authorized agent may, at the discretion of the City Treasurer summons to Steamboat Springs Municipal Court any Person who may be in violation of this article as set forth in section 22-169 and elsewhere herein. (See section 22-108(h) for Special Penalty.)

**REGULATION 22.167**

**(The provisions pertaining to the methods of enforcing collection through a distraint warrant, Subsection 22.163-A-(1), and the accompanying rules and regulations, shall be also applicable to any summons to Court.)**

**Sec. 22-168. - Closing agreements.**

(a) *Satisfaction of liability.* For the purpose of facilitating the settlement and distribution of estates, trusts, receiverships, other fiduciary relationships, and corporations in the process of dissolution or which have been dissolved, the City Treasurer may agree with the fiduciary or director upon the amount of Taxes due from the decedent, or from the decedent's estate, the trust, receivership, or other fiduciary relationship, or corporation, for any of his or its taxable periods, under the provisions of the Taxes covered by this article and except upon a showing of fraud, malfeasance or misrepresentation of a material fact, payment in accordance with such agreement shall be full satisfaction of the Taxes for the taxable periods to which the agreement related.

**REGULATION 22.168-A**

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

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

(b) *Personal liability.* Except as provided in subsection (d) of this section, any personal representative of a decedent, or of the estate of a decedent, or any trustee, receiver, or other Person acting in a fiduciary capacity, or any director of a corporation in the process of dissolution or which has been dissolved, who distributes the estate or fund in his control without having first paid any Taxes covered by this article due from such decedent, decedent's estate, trust estate, receivership, or corporation, covered by this article and which may be assessed within the time limited by this article.

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

(d) *Limitation of liability.*

(1) In case the Tax imposed by this article is due from a decedent, of or his estate, or by a corporation, in order for personal liability under subsection (b) of this section to remain in effect, determination of the Tax due shall be made and Notice and demand therefore shall issue within eighteen (18) months after written request for such determination, filed after the filing of the decedent's final Return or filed after the filing of the Return of the decedent's estate with respect to which such request is applicable, by any personal representative of such decedent, or by the corporation, filed after the filing of its Return; but a request under this provision shall not extend the period of limitation otherwise applicable.

(2) This subsection (d) will not apply in the case of a corporation unless;

- a. Such request notifies the City Treasurer that the corporation contemplates dissolution at or before the expiration of such eighteen-month period;
- b. The dissolution is begun in good faith before the expiration of such eighteen-month period; and
- c. The dissolution is completed.

(3) Upon the expiration of said eighteen-month period, without determination being made and Notice and demand being issued, the personal representative or representatives of the decedent, and the directors of the corporation no longer will be liable under the provisions of subsection (b) of this section.

**Sec. 22-169. - Evasion of collection or payment of Tax.**

(a) *Violations.* It shall be a violation of this article for any Retailer, Vendor, Consumer, Purchaser, or any other Person subject to the Tax levied by the City Retail Sales and Use Tax Code to refuse to make any Return provided to be made by this article, or to make any false or fraudulent Return, or any false statements in any Return, or to fail or refuse to make payment to the City Treasurer of any Taxes collected or due the City, or in any manner to evade the collection and payment of the Tax, or fail or refuse to pay such Tax or evade the collection and payment of the Tax, or any part thereof, imposed by this article, or for any Person or Purchaser to fail or refuse to pay such Tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the Tax imposed by this article. Any corporation, partnership, association or Person making a false Return or a Return containing a

false statement shall have violated this article and shall be subject to prosecution and the imposition of penalties as provided by law. Any Person in violation of this article shall be subject to these same penalties.

(b) *Penalty.* Any Person, corporation, partnership, or association who shall violate any of the provisions of this article shall be guilty of any violation thereof and shall be punished by fine and or imprisonment in accordance with section 1-15 of this Code, and if any such Person is an employee or officer of the City, such violation shall be grounds for dismissal from his office or employment.

(c) *Continuing violations.* Each and every twenty-four (24) hours' continuation of any violation shall constitute a distinct and separate offense.

**Sec. 22-170. - Time limit for action to collect.**

(a) Except as provided in this section, the Taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this article shall not be assessed, nor credit taken, nor shall any Notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the Tax was or is payable; nor shall any lien continue after such period, except for Taxes assessed before the expiration of such period, Notice of lien with respect to which has been filed prior to the expiration of such period, in which case such lien shall continue only for one year after the filing of Notice thereof. In the case of a false or fraudulent Return with intent to evade Tax, the Tax together with interest and penalties thereon, may be assessed, or proceedings for the collection of such Taxes may be begun at any time. Before the expiration of such period of limitation, the Taxpayer and the Treasurer may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing. In the case of failure to file a Return, the Sales Tax or Use Tax may be assessed and collected at any time.

**REGULATION 22.170-A**

**Assessments, distraints, warrants, notice of lien, or writs for collection cannot be made or filed more than three (3) years after the tax was payable, unless a written extension is made. However, any notice of lien filed prior to the expiration of such three (3) year period shall continue for one (1) year after the filing of the notice thereof. There is no statute of limitations in the case of a false or fraudulent return with an intent to evade the tax.**

(b) For purposes of this section a Tax Return filed before the last day prescribed by law or by regulation promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(c) Where, before the expiration of the time prescribed in this section for the assessment of Tax, both the City Treasurer and the Taxpayer have consented in writing to any assessment after such time, the Tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(d) Nothing in this section shall be construed to limit any right accrued or to revive any liability barred by any statute at the date this article becomes effective.

**REGULATION 22.170-D**

**The statute of limitations on assessments of Steamboat Springs Sales and Use Tax shall be three (3) years from the date the tax was payable, except as hereinafter noted. Exceptions to the preceding**

rule are as follows:

**(1) Where there is a written agreement between the taxpayer and the City Treasurer to waive the statute of limitation.**

**(2) When the taxpayer fails to file a return or files a false or fraudulent return with intent to evade the tax, the tax may be assessed and collected at any time.**

**(3) Whenever the taxpayer feels that the time may be too short in which to prepare full information, records, and evidence, or to prepare and complete a protest and hearing thereon for the correct determination of an assessment for sales or use tax, he may apply for a waiver of the three (3) year period of limitation within which the assessment must be made. This will avoid the necessity of an immediate assessment. The City Treasurer or the taxpayer may initiate the procedure for the execution of waiver. When both have signed the waiver, the period for completing the assessment is thereby extended in accord with the terms thereof.**

### **Sec. 22-171. - Trust status of Tax possession of Retailer.**

All sums of money paid by the Purchaser to the Retailer as Taxes imposed by this article shall be and remain public money, the property of Steamboat Springs in the hands of such Retailer and he shall hold the same in trust for the sole use and benefit of the City of Steamboat Springs until paid to the City, and for failure to so pay to the City such Retailer shall be punished as provided by law.

#### **REGULATION 22.171**

**All sums of money paid by the purchaser to the retailer as sales or use taxes shall be and remain public money. The retailer is a trustee of such moneys and must account for such moneys. The use of recognized accounting procedures to properly segregate and account for such funds will be considered proper trusteeship of such funds. Failure to properly account for such funds and pay them to the City Treasurer when due shall be punishable as provided by law.**

**Secs. 22-172—22-180. – Reserved.**

## **DIVISION 3. - SALES TAX**

### **Sec. 22-181. - Imposed; rate.**

(a) *Imposition of Tax.* There is hereby levied and there shall be collected and paid a Tax on the Purchase Price paid or charged for Tangible Personal Property and Taxable Services when Purchased or sold at Retail, by every Person exercising the taxable privilege as defined in section 22-87, by the Sale, lease, rental, Purchase, Use, Storage, Distribution or Consumption of Tangible Personal Property and Taxable Services.

(b) *Rate of Tax.* Commencing on January 1, 2010 and continuing through December 31, 2019, the amount of the Tax hereby levied is four and one-half percent (4.5%) of the Purchase Price as herein defined of such Tangible Personal Property and Taxable Services sold or Purchased at Retail; Commencing on January 1, 2012 and continuing through December 31, 2016, an additional one quarter percent (0.25%) of the Purchase Price as herein defined of such Tangible Personal Property and Taxable Services sold or Purchased at Retail; after December 31, 2016, the amount of Tax hereby levied shall be four and one-half percent (4.5%) of the Purchase Price unless the qualified electors of the City shall authorize an extension. After December 31, 2019 the amount of the Tax hereby levied shall be four (4) percent of the Purchase Price unless the qualified electors of the City shall authorize

an extension. Said Tax shall be computed in accordance with schedules or systems approved by the executive director of the Colorado Department of Revenue.

**REGULATION 22.181-B**

**All sales at retail, unless otherwise exempt, are subject to the tax imposed. 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.**

**Sec. 22-182. - Taxable transactions, commodities and services.**

- (a) It shall be a violation of this article for any seller to fail to collect or any Purchaser to fail to pay a Tax levied by this article, and on Sales on which exemption is disputed.
- (b) Should a dispute arise between the Purchaser and seller as to whether or not any such Sale is exempt from taxation hereunder, nevertheless, the seller shall collect and the Purchaser shall pay such Tax; the Purchaser thereafter may apply to the City Treasurer for a refund of such Taxes paid as provided herein.
- (c) There is hereby levied and there shall be collected and paid, a Tax as stated in section 22-181, by every Person exercising the taxable privilege defined in section 22-86 hereof as follows:

(1) *Tangible Personal Property.* On the Purchase Price paid or charged upon the Sale, Purchase, lease, rental, or grant of License to Use, or on the Use, Storage, Distribution or Consumption of Tangible Personal Property Purchased at Retail as herein defined, and on the subsequent lease, rental or Sale of Tangible Personal Property by any Person to every Consumer or Purchaser regardless that the Person so purchasing and subsequently leasing, renting or selling that Personal Property paid the Tax imposed herein on his initial Purchase and Use of the said property so acquired which is subsequently leased, rented or sold;

**REGULATION 22.182-C-(1)**

**The Steamboat Springs Sales Tax is imposed upon the sale, lease, rental or grant of license to use (including royalty agreements), or on the use, storage, distribution or consumption of tangible personal property, as defined, and upon the services set forth as taxable herein. Unless otherwise exempt, all sales of tangible personal property at retail in this City are subject to the imposition of the tax. "Tangible personal property" is defined in 22.86-(54).**

**Goods purchased tax free for resale which are taken from stock/inventory to be used or consumed by the taxpayer, either personally or in rendering a service, are taxable at cost. The tax is in reality imposed upon the purchaser. However, the duty is imposed upon the seller to add the tax to the sales price and to collect and remit the tax to the City.**

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

**If a purchaser buys property to be used exclusively in the rental or leasing business and does not utilize that property for his 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 he does use the property for his own use for any period of time whatsoever, either prior or subsequent to any rental or lease term, a tax shall be paid on the original purchase price, or the fair market value of the property in addition to the tax due on the separate transaction of rental or lease to any other person.**

(2) *Telecommunication, telephone and telegraph service.*

a. Upon Telecommunication Services, including Access Services sold by local telephone exchange companies to providers of Telecommunication Services for Use in providing such services, whether furnished by public or private corporations or enterprises, for all intrastate Telecommunication Services originating from or received on the telecommunication equipment in the City if the charge for the service is billed to Person(s) in the City or billed to an affiliate or division of such Person(s) in the City on behalf of a Person in the City.

b. Upon Access Services sold by local telephone exchange companies to providers of Telecommunication Services for Use in providing such services, whether furnished by public or private corporations or enterprises for all interstate Telecommunication Services originating from or received on telecommunication equipment in the City if the charge for the service is billed to a Person in the City, or billed to an affiliate or division of such Person in the City on behalf of a Person in the City;

**REGULATION 22.182-B-(2)**

**Telecommunication, telephone and telegraph service is taxable, whether furnished by or through governmental, public or private corporations or enterprises. Telephone services are taxable when sold by mutual companies.**

**The term "service" includes but is not limited to access services, additional listings, joint use of service, non-talking service circuits, leased circuits and facilities, local exchange service, and 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 telephone or telegraph services, irrespective of whether there is actual consumption or not. In the case of discount or penalty, the tax attaches to the amount actually paid. 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.**

**Only in the case of exclusively governmental purchase of telephone and telegraph service is the sale of such service exempt. This exemption extends to no other category of business operation or to any other persons purchasing such service within Steamboat Springs.**

(3) *Gas, electric and heating services.* On the Purchase Price paid or charged for steam or other heat, for gas and electric services, for steam, heat, gas and electricity furnished and sold for domestic or commercial Consumption and not for Taxable resale;

**REGULATION 22.182-C-(3)**

**Gas and electric etc., service, whether furnished by or through governmental, public, private, mutual, or cooperative corporations or enterprises, is taxable when furnished and sold for domestic and commercial consumption. The tax attaches to all amounts actually paid by the user or consumer for gas or electric service, whether or not there is actual consumption, and regardless of the manner in which the payment is made.**

**Such services, whether furnished by municipal, public or private corporations or otherwise, is taxable when sold for domestic, or commercial consumption. Sales of gas, electricity or other fuels for industrial use are exempt. Refer to Section 22.183-(11)(p).**

**Steam or other heat, gas and electric services, sold for exclusive governmental use, are exempt.**



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

**Gas and electric service connections, installations or connection charges are taxable on the full amount charged with no deductions for labor to install or connect such "service."**

(4) *Pay, cable and subscription television service.* On the Purchase Price paid or charged for pay, cable, or subscription (including microwave) television services sold, Purchased, leased, rented, furnished or Used;

**REGULATION 22.182-C-(4)**

**The City Sales Tax is due on all "pay", "cable" or "subscription" television services sold to the full amount of the charge for such services rendered. The tax is due on the total charge for service connections, installations and correction charges and all and any other similar charges made for such services.**

(5) *Room and accommodation services.* On the Purchase Price paid or charged on the lease, rental or on the transaction of furnishing rooms or Accommodations, subject to section 22-183(d)(11)a.;

**REGULATION 22.182-C-(5)**

**The Steamboat Springs Sales Tax is imposed upon the transaction of furnishing rooms or accommodations where the rental period is for a term of less than thirty (30) days or for daily or weekly rentals which accumulate to equal or exceed thirty (30) days. (Refer to Section 22.183-11(a)) The furnishing of rooms or accommodations in any hotel, apartment hotel, guest house, guest ranch, private home, mobile home, auto camp, trailer court or park, or any other place furnishing rooms and accommodations for a consideration is a taxable sale. The term "purchase price paid" includes the amount of money received or due, or property at fair market value taken in exchange of money, for the rental of the room.**

**Purchase price includes 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. (Refer to Regulation 22.86-(54))This includes but is not limited to cleaning fees, pet fees, change fees, resort fees, service fees, booking fees etc.**

**All charges/fees that become part of the rent are considered taxable. Clearly stated elective/optional services that are requested by the customer are not considered part of the rental price. Example: base cleaning fee charged to all customers is taxable, optional cleaning/maid service is nontaxable.**

**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.**

**Governmental and "exempt" organizations shall not transfer their exemption status to any person who rents rooms or accommodations from or through them. Any such organization which rent rooms or accommodations to their members or guests, regardless of how the charge is made, must apply for and obtain a license and must collect and remit the tax due.**

**Regardless of whether rooms or accommodations are paid for by drafts on "exempt" institution funds, that room or accommodation service shall not be considered to be in the exempt capacity of the institution unless such service is being provided directly to recipients of such organizations charity as defined in Section 22.86-(10) and, therefore, the tax must be charged and collected either from the individual renting, for example, hotel or motel rooms and any accompanying food service,**

etc., or from the exempt institution, by the vendor for subsequent remittance to the City of Steamboat Springs. Only drafts for payment to the vendor on the funds of a governmental entity are alone sufficient for exemption.

(6) *Meal service, cover, door and other related charges.* On all cover charges, door or other similarly termed and related charges, and on the Purchase Price paid for or charged for all meals furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carry-out shops, and other like places of Business at which prepared Food or drink is regularly sold, including Sales from pushcarts, motor vehicles, and other mobile facilities.

Meals sold in School cafeterias are exempt from taxation. Meals served by senior citizen organizations are exempt from taxation, with prior approval of the City Treasurer.

**REGULATION 22.182-C-(6)**

The sale of meals shall be taxable whether "paid for" by money or its equivalent, coupons or by other consideration including the consideration of labor. Cover charges, door charges, admission charges or minimum service charges, etc., if any, shall be included in the gross taxable sales amount and are not to be excluded as non-taxable services unless specifically identified for paid entertainment and separately stated. Meals furnished by hotels, motels, boarding houses, inns, etc., to guests under the so-called American Plan, or when sold in combination with other services, are taxable as retail sales and the proportionate value of the meal shall be determined and the tax collected and paid thereon.

The sales tax may be charged on each individual cover, door, or service charge or the sales tax may be incorporated in each individual cover, door or service charge. Once the election is made, the owner must continue to report the sales tax in the elected manner. Purchase of products which are to be served as a part of or together with the taxable meal, are nontaxable to the vendor. Such non-taxable items include purchases of food and drink, and paper cups, paper napkins, paper plates, paper straws, and other products furnished with the meal or refreshment for one-time use only.

Equipment and fixtures used for the preparation of the meal or furnished as part of the eating facilities, and other item not consumed with the meal such as linen napkins, glassware, silverware, etc., are taxable to the vendor. Private clubs making sales of meals or refreshment to members and guests are taxable in the same manner as "public" restaurants, etc.

Meals regularly sold at industrial boarding houses, commissaries, private clubs, cafeterias of industrial or commercial companies, and All other such places, are taxable. Meals sold at cafeterias or dormitories operated by or for colleges, universities, private and public school systems and other institutions serving meals to staff, faculty, and pupils or others, are not subject to the collection of the Steamboat Springs Sales Tax on such meal service.

Lodges, charitable or religious organizations, and other similar organizations, must collect the tax on meals served. If meals are served exclusively to members of the lodge, club, charitable or religious organizations the sales tax must be paid on such meals or service based on the total cost of preparation and serving of meals. If such organizations sell or serve meals to members of the public who are not members of that organization sales tax must be collected on the full selling price of the meal or service unless the selling price is less than the cost of the meal and service, then the cost shall be the basis for the collection of sales tax. Only meals provided to non-members qualified to receive the organizations charitable services may receive meal service tax exempt. Clearance should be obtained from the City Treasurer with regard to whether Sales Tax will apply.

The tax shall be collected on meal tickets when they are purchased and not when the meals are served. Persons regularly engaged in the business of catering must be licensed and collect the tax. All sales of meals by the above listed establishments to their employees are taxable. When

employees receive meals in return for their labor or services rendered, the tax is due on such transaction equally, as on any other sale or transfer of tangible property, as defined. The tax will be based on the total cost to prepare and serve such meals.

Gift certificates or gift cards used to pay for a meal do not reduce the taxable price of such, as they are considered a form of payment. The restaurant, etc., must include in its net taxable sales, the sale price of meals paid for by a gift certificate or gift card. All sales of fermented malt beverages, malt, various or spirituous liquors are taxable.

(7) *Personal Property rentals.* On the Purchase Price paid or charged or for consideration given for the furnishing of Tangible Personal Property when the right to possession or Use of any Tangible Personal Property is granted under a written or verbal lease or contract, and such transfer of possession would be Taxable under this article if an outright Sale were made, then such lease or contract shall be considered the Sale of such article, and the Tax shall be computed and imposed on each individual lease or contract payment as they occur as though an outright Sale Taxable under this article were occurring upon each payment. The payment of the Sales Tax shall be made by the lessee or contracting party to the lessor or other contracting party. The lessor, as trustee, shall make payment of any Sales Tax obligation to the City in the manner provided by this article; (Refer to sections 22-183(d)(11) k. and l. for exempt transactions.)

**REGULATION 22.182-C-(7)**

Rentals and leases of tangible personal property, subject to the Steamboat Springs Sales Tax, shall include but not be limited to ski equipment, bicycles, ice skates, video tapes and players, autos, trucks, trailers, construction equipment and machinery, tools and household goods.

Rentals and leases of tangible personal property, subject to the Steamboat Springs Sales Tax, shall not include gross receipts from coin operated services and amusements including laundry machines, car washes, electronic games and pool tables (Refer to Specific industry regulations for Vending and Amusement Devices).

Also excluded from the tax are personal property rentals with an operator. The operator must operate the property directly and must control the property at all times. Additionally, the property must be of the type which normally requires an operator including but not limited to excavating equipment, heavy machinery, taxis or hot air balloons. Equipment rented or leased without an operator is taxable.

(8) *Bad debts collection.* On the amount of collection, during the current taxable period, of bad debts that had, during a previous taxable period, been deducted.

**REGULATION 22.182-C-(8)**

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

(d) Every Retailer located within or without the City shall collect the Tax imposed by this article notwithstanding that the Purchase order or Sale is delivered to the Retailer outside the City as a result of solicitation by the Retailer, the Purchase order or Sale is made outside the City before the Tangible Personal Property enters the City, the property is procured or manufactured outside the City and shipped directly to the Purchaser, said property is mailed to the Purchaser in the City from a point outside the City, or said property is delivered directly to the Purchaser at a point outside the City, provided however that the property is intended to be brought into the City for Use, Storage or Consumption.

**Sec. 22-183. - Exempt transactions and commodities.**

(a) It shall be a violation of this article for any seller to fail to collect, or any Purchaser to fail to pay, a Tax levied by this article and on Sales on which exemption is disputed.

(b) Should a dispute arise between the Purchaser and seller as to whether or not any such Sale is exempt from taxation hereunder, nevertheless, the seller shall collect and the Purchaser shall pay such Tax; the Purchaser thereafter may apply to the City Treasurer for a refund of such Taxes paid as provided herein.

(c) The Purchase and Sale of articles of Tangible Personal Property not otherwise exempt are subject to the Sales Tax imposed herein as well as those specific services cited as Taxable in section 22-182, the list of exempt commodities or articles cannot be increased by implication or similarity. In all cases, the burden of proof is upon the Taxpayer to establish that a Sale is Tax-exempt.

**REGULATION 22.183-C**

**The purchase and sale of all articles of tangible personal property and taxable services to all persons not otherwise exempt is subject to the sales tax imposed thereon. Exemptions are strictly construed. The list of exempt commodities cannot be increased by implication or similarity. In all cases, the burden of proof is upon the vendor to establish that the sale is tax exempt, with delivery receipts, bills of lading, invoices with purchaser's address, building permit number, City exempt institution license number or other pertinent evidence. Where a taxpayer claims an exemption under the article, the burden is upon him to clearly establish the right to such exemption.**

**It is the duty of the vendor to collect and the purchaser to pay the tax unless the transaction is clearly exempted by the article. 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 article, the vendor will collect and the buyer will pay the tax, and the vendor shall thereupon give to the buyer a receipt or certificate on such form as may be prescribed by the Department of Finance, stating therein a description of the transaction. The buyer may then make application to the Department of Finance for a refund.**

**The Sales Tax Code fundamentally imposes the tax upon tangible personal property which is purchased, consumed and used and exempts only that which is purchased for resale. In addition thereto, the article expressly permits the exemptions set out hereafter.**

(d) The following are exempted from the Tax imposed by this division:

(1) *Nontaxable service Sales.* The amount equal to the consideration received for labor or services sold, if the consideration for such services are separately stated from the consideration received for the Tangible Personal Property in the Retail Sale, or that proportionate percentage approved by the City Treasurer on combined Sales of services and Tangible Personal Property, that is deductible as the service or labor portion of that total Sale, or the total amount paid on the Sale or Purchase of exclusively nontaxable services.

**REGULATION 22-183-D-(1)**

**Under the Steamboat Springs Sales Tax Code, all sales, rentals, and leases of tangible personal property including any services or labor used to effectuate the sale are taxable to the full extent of the purchase price or sale price charged or paid. This means that the tax would fall on the aggregate value in money of anything or things paid or delivered or promised to be paid or delivered by lessee, or any purchaser, to a retailer or any person in the consummation of a lease or a retail sale as defined without any deduction therefrom on account of the cost of the property sold, cost of materials used, the labor or service cost or any other expense whatsoever.**

**Labor and service must be included in total taxable purchase price as follows:**

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Labor and/or service sales included in the sale of tangible personal property are taxable under the City Sales Tax Code to the full extent of that purchase price paid or charged, and such labor or service is not separable and may not be deducted or segregated from the taxable sale which involved to any degree or extent whatsoever the transfer or utilization of tangible personal property, herein, under the following conditions precedent wherein that labor and/or service is ordinary and necessary to:

- (a) Make, manufacture, process, form, shape, fashion, fabricate, forge or make to order, improve upon and/or install, raw materials, processed or manufactured tangible personal property, including those delivered as a component part of a building or any other structure, or appurtenance thereto. Such component may include, but not be limited to, anything from a bathroom rough-in to a packaged, or prefabricated house, or;
- (b) Convert tangible personal property from its original, pre-processed or premanufactured state into another nature as a component of tangible personal property, or as another article of tangible personal property which, when installed or placed, may lose its separate identity or become a part of other tangible personal property, or real property, or;
- (c) Devise, develop or produce property rights inherent and which are of marketable value or continued or general usefulness, or;
- (d) Sell or lease tangible personal property together with an agreement or contract to maintain the usefulness of such property.

Labor and Service may be excluded wholly or in part from total purchase price:

- (a) The labor and/or service sales separately sold or rendered or contracted to be rendered at a future date or upon contingency, and which are separately identifiable, and the value of which is stated in all documents relating to the transaction and which do not meet any of the tests stated above or are not specifically exempted elsewhere in this article are subject of claim of exemption from taxability under the article. The identification and burden of proof for such exemption from taxability is upon the vendor or furnisher of such labor and/or service.
- (b) Remake, remanufacture, reprocess, reform, reshape, refashion, refabricate, reforge or repair to order to bring to a state of usefulness anew, tangible personal property, the ownership of which may reside in the purchaser, or;
- (c) Labor or service utilized in the conveyance or sale of tangible personal property when installed, attached or affixed to real property, or otherwise used in the refurbishing, constructing, replacing or repairing of real property is deductible as the non-taxable portion of any such work that may involve a retail sale as defined, conditioned upon the limitations and qualifications as set out in 22.86-(42), 22.86-(44), 22.182-C-(1), 22.182-C-(7) and Specific industry "Construction and Contractors Rules and Regulations."
- (d) On any such labor or service charges utilized in installation etc., as above, of tangible property to real property the vendor may petition the City Treasurer for the allowance to apply the current Rate of Tax (as defined in Sec. 22-181) to that percentage of the total sale as tangible property bears to such total sale, in these combined sales of labor services and tangible personal property. (Refer to Section 22.183-(11)(h))
- (e) Where there is no conveyance or utilization of any tangible personal property whatsoever on any "sale" including no utilization of rented or leased tangible property with or without an operator thereof, then such exclusively service sales are not taxable, subject to the review approval of the City Treasurer, according to

provisions of Section 22.87 and regulation thereof.

Nothing contained in these regulations is intended or is to be construed as the limiting of legislative intent of taxability as stated in the article in Sections 22.87-A and 22.87-B. Procedure for obtaining a written opinion of the City Treasurer as to the exemption from this article is stated in the regulation Section of 22.87-A and 22.87-B

(2) *Sales for Taxable resale (Wholesale).*

a. *Component parts.* The Purchase Price paid or charged on the Sales to and Purchase of Tangible Personal Property by a Person engaged in Manufacturing or compounding for Use, profit or Sale, shall be deemed a Wholesale Sale when it meets all of the following conditions:

1. Is actually and factually transformed by the process of manufacture;
2. Becomes, by the Manufacturing processes, a necessary and recognizable ingredient, component and constituent part of the finished product; and
3. Its physical presence in the finished product is essential to the Use thereof in the hands of the ultimate Consumer.

**REGULATION 22.183-D-(2) (a)**

**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 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, integral or component part of the finished product, wholly or partially, 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 non-operational activities; (3) items used by persons who are designated under this article as being ultimate consumers of materials that they purchase for their business operation; (4) 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 (such as wastage), are taxable to the user or consumer on their proportionate value.**

**Abrasives, used by a cutlery manufacturer, explosives, foundry patterns, designs and drawings 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 are for resale or become an integral or component part of the 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.**

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**Manufacturers, compounders and processors must include in their gross taxable sales the sale price of any products produced, processed, compounded or manufactured by them which are withdrawn from their stock for their own use or consumption and not ultimately sold at retail. (Refer to Regulation 22.183-D-(2)(d)). The taxable price shall include the cost of labor, materials, parts and all other charges and fees, including profit.**

**This exemption does not apply to purchases by miners for use in their mining, reduction or milling operation, by railroads, by transportation services, or by industrial or commercial users, unless they are engaged in manufacturing or compounding. Refiners who make a product instead of merely removing impurities from a product are manufacturers.**

b. *Commercial packaging materials.* The Sales to and Purchases of Tangible Personal Property for Use as Commercial Packaging Materials by a Person engaged in Manufacturing or compounding for Sale, profit or Use, shall be deemed a Wholesale Sale. (See section 22-86(24).)

**REGULATION 22.183-D-(2) (b)**

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

**The sale of containers etc., as listed above, to a person performing service, is taxable. Retailers or vendors of such containers, etc., have the burden of proving that the sale is not taxable. In all doubtful cases, they should require the purchaser to give a written statement of facts showing the exempt use before selling tax-free.**

**The Supreme Court decision overturning State regulation governing State taxability of returnable containers has no effect on the Steamboat Springs Code which specifies that such returnable containers are definitely taxable to the manufacturer.**

**Containers, labels and shipping cases which are returnable to the person who sells and delivers merchandise in them are taxable. In such a case, the manufacturer or compounder is the user or consumer of such returnable containers and he must pay the tax on his purchase of such containers including, but not limited to, those which are identified by a permanent trademark, serial number, or identifiable shape.**

**Deposits required by the vendor on returnable containers are included in the gross taxable price charged. Rule as to returned goods 22.183-D-(8)(b) applies on the return of such containers. Such containers sold to persons performing a service are also taxable.**

c. *Newsprint, printer's ink.* The Sales to and Purchases of newsprint and printer's ink for Use by publishers of Newspapers and commercial printers shall be deemed to be Wholesale Sales.

**REGULATION 22.183-D-(2) (c)**

**The sale of newsprint and printer's ink shall be exempt from the sales tax if the sale is to and the purchase is by publishers of newspapers, as defined in Subsection 22.183-(11)(c) of the article and the accompanying regulation, and commercial printers for their use and consumption in the printing process of a product which ultimately is to be sold at retail.**

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

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In addition, a commercial publisher or printer may purchase tax-free for resale any tangible personal property which may be used or consumed in the printing process and which shall become an ingredient or component part of the printed article to be sold at retail. (Refer to Subsection 22.183-D-(2)(a) of the article and the accompanying regulation.)

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

- a. Paper:
  - 1) Newsprint
  - 2) Stock on which finished product is printed and delivered to the customer.
- b. Ink:
  - 1) Printer's ink
  - 2) Ink additives
  - 3) Overprint Varnish
- c. Chemicals:
  - 1) Anti-offset sprays (Liquid or powder)
  - 2) Fountain etch solution
  - 3) Gum solution
  - 4) All component chemicals when used for above
- d. Materials:
  - 1) Padding compound
  - 2) Stitching wire or staples
  - 3) Bookbinder's tape
- e. Commercial printers or publishers may purchase tax-free for resale other materials if both of the following conditions exist:
  - 1) The printer must segregate charges made for such materials to his customer and collect the City Sales Tax on those charges irrespective of the fact that the sales of the printed product may be exempt from the tax for various reasons, such as deliveries out of the City, sales in interstate commerce, sales for resale, etc.,
  - 2) The printer must apply for and file with his suppliers a letter of exemption from the City listing the specific materials that he will segregate and invoice in e. 1) above.

This list of exempt purchases cannot be increased by implication or similarity.

- 2. Printed matter which is partially printed, invoiced to the customer and then held in stock for further imprinting is taxable on the full price, including the cost of the subsequent imprinting. This subsequent imprinting before delivery is the completion of the initial sale and is not deemed to be a separate transaction.
- 3. Imprinting on a customer's product is taxable to the full extent of the purchase price to the customer.

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

The sales tax shall be imposed on the retail selling price of all printed matter not otherwise exempt. When stamped envelopes or governmental posters are purchased and printed for the customer or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the sales tax basis.



d. *To other Licensed Retailers.* The Sale by Wholesalers or Retailers to a City of Steamboat Springs or State of Colorado Licensed Retailer, jobber, dealer or other Wholesaler for purposes of Taxable resale, and not for the Retailer's, jobber's, dealer's or Wholesaler's own Consumption, Use, Storage or Distribution, shall be deemed to be Wholesale Sales.

**REGULATION 22.183-D-(2) (d)**

The sales 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 sold at wholesale.

"Retail Sales" are defined as "all sales made within the City, except wholesale sales." A wholesale sale by a wholesaler to a user or consumer and not for resale is a retail sale and is taxable unless otherwise exempt. A sale will be assumed to be a retail sale if made to anyone not having a City of Steamboat Springs or State of Colorado resale license.

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

(3) *Delivery outside City.*

a. *Shipments out of state.* The Sales of Tangible Personal Property shall be exempted from the operation of this division if both the following conditions exist:

1. The Sales are to those who reside or do Business outside the state; and
2. The articles Purchased are to be delivered to the Purchaser outside the state by common, contract, or commercial carrier, who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided, however, that the article so Purchased and so delivered is to be Used, Stored, Distributed or Consumed outside the state.

**REGULATION 22.183-D-(3) (a)**

Sales involving interstate commerce are exempt only in cases where the assessment of the tax would be unconstitutional.

Tangible personal property located within the City at the time of sale and delivered to the purchaser by the vendor or by common carrier who is employed to effect delivery by the vendor at a destination and for use outside of the State is not taxable. The vendor's sales tickets showing the name and address of the consignee, the vendor's shipping records, bills of lading or other proof satisfactory to the City Treasurer must be retained to substantiate any exemption allowed for sales in interstate commerce.

All sales to railroads and other common carriers doing an interstate business, to telephone and telegraph companies, and to all other agencies engaged in interstate commerce, are taxable in the same manner as are sales to other firms, persons or corporations, provided such sales are not purchased for immediate transportation by interstate commerce. (Refer also to 22.183-D-(3)(b)). Intrastate Sales.)

b. *Deliveries to nonresident outside City.* The Sales of Tangible Personal Property shall be exempted from the operation of this article if both the following conditions exist:

1. The Sales are to those who reside or do Business outside the City; and
2. The articles Purchased are to be delivered to the Purchaser outside the City by common, contract, or commercial carrier who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided however, that the article so Purchased and so delivered is to be Used, Stored, Distributed or Consumed outside the City.

**REGULATION 22.183-D-(3) (b)**

**Any sale of tangible personal property to a purchaser residing or doing business outside of the City are exempt, provided that the delivery thereof is made to such purchaser by a carrier employed by the vendor, by the conveyance of the seller or vendor, or by mail.**

**When tangible personal property is located within Steamboat Springs at the time of sale and is delivered within the City either to a purchaser or his agent, including but not limited to a common contract or commercial carrier, then the sale falls within the article and is taxable, 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. (Refer to 22.183-D-(3)(a))**

(4) *Bad debts charged off.* The amount of gross Sales which are represented by accounts not secured by conditional Sale contract or chattel mortgage and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income Tax imposed by the laws of the State of Colorado may be credited upon a subsequent payment of the Tax herein. However, if any such accounts are hereafter collected by the Taxpayer, the Tax shall be paid upon the amount so collected. Provided, such credit shall not be allowed with respect to any account or item therein arising from the Sale of any article under a conditional Sale contract, other title retention agreements for all or part of the Purchase Price or from the Sale of any article when the seller takes a chattel mortgage on the Tangible Personal Property to secure all or part of the Purchase Price.

**REGULATION 22.183-D-(4)**

**Gross taxable sales may be reduced by any worthless accounts actually charged off as bad debts for income tax purposes during the reporting period to the extent that such accounts were previously, or are currently, included in gross taxable sales subject to the imposition of the sales tax.**

**No refund or credit shall be allowed to either party to a transaction in the case of repossession by the vendor of collateral securing the purchase price or any part of the purchase price.**

(5) *Trade-ins for taxable resale.* The amount equal to the fair market value of any exchanged or traded in property which is to be resold thereafter in the usual course of the Retailer's Business, if included in the full Price of an article sold, shall be exempted from the operation of this division.

**REGULATION 22.183-D-(5)**

**The fair market value of the property taken in trade is excluded from a taxable sale price when such trade-in property is to be resold in the usual course of the retailer's business when in the State of Colorado. There is no such allowance for trade-in value on the trades or sales between unlicensed individuals.**

Where a trade-in of used personal property, such as furniture, automobiles, hardware, electrical appliances, farm equipment, machinery, etc., is received by a vendor upon the sale of any tangible personal property to a consumer, the tax will apply on the net sale price of such tangible personal property to the consumer, provided the article taken in the trade is to be resold in the vendor's regular course of business in Colorado. Pursuant to the foregoing rule, any such transaction should be shown on the Steamboat Springs Sales Tax Return as follows: (1) the full sale price shall be reported on line one, "Gross Sales and Service," and (2) the agreed value of the article taken in trade shall be shown as a deduction from the gross taxable sales under Line three, Letter E in order to arrive at "Total Net Taxable Sales and Services" on Line 4.

No Sales Tax exclusion is allowable unless a traded-in property is placed in stock for resale in the retailer's regular course of business. Otherwise, he must collect the tax on the full sale price of the goods sold without any deduction for the trade-in.

(6) *Sales of gasoline or cigarettes.*

a. *Sale of gasoline.* The Purchase Price paid or charged on commodities or motor fuel which has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933, article 27 of title 39, C.R.S. 1973.

**REGULATION 22.183-D-(6) (a)**

There shall be an exemption from the City Sales Tax on the sale, use or consumption of any motor fuel, which is defined and subjected to tax under the provisions of Title 39, Article 27 Colorado Revised Statutes, 1933 as amended, such section being commonly known as the Motor Fuel Tax Statute. This exemption applies even though such motor fuel tax is refundable or has in fact been refunded as in the case of farmers or other non-highway consumers.

Subsequent amendments to the law cited above result in jet aviation fuel and special fuel being subject to sales tax.

b. *Sales of cigarettes.* The Sale or Purchase of cigarettes shall be exempted from the operation of this division.

**REGULATION 22.183-D-(6) (b)**

The sale of cigarettes in the City of Steamboat Springs is not subject to the Steamboat Springs Sales Tax, however, sales of cigars and tobacco products, other than cigarettes, are taxable under the division.

(7) *Sales to governmental units; Sales to religious, Charitable and quasigovernmental organizations.*

a. *Sales to federal government, the state, and its subdivisions.* The Purchase Price paid or charged on direct Sales to, and direct Purchases by the United States Government; to the State of Colorado, its departments or institutions, and the political subdivisions thereof, including Steamboat Springs in their governmental functions and activities only.

**REGULATION 22.183-D-(7) (a)**

1. Only the below named organizations in the Regulation Subsection 1. a, b, c and d. "The United States Government" and "The State of Colorado, Its Departments, Institutions, and Subdivisions" are immune and exempted from the imposition of the City Sales Taxes.

All other organizations, who purport to perform Governmental Functions

but who are not empowered to levy taxes by the State of Colorado, must qualify for exemption under this article as set forth in article Section 22.183-D-(7)(b)) "Religious, Charitable and Quasi-Governmental" exemption Rules and Regulations and these organizations may not purchase or use City Tax-free unless they do so qualify and do (1) apply for, (2) receive, and (3) furnish to the vendor from whom they are purchasing a State of Colorado Exempt Organization License. In the absence of such license such organizations will be assessed the City current Rate of Tax (as defined in Sec. 22-181).

For the purposes of this Subsection, the term:

a. "United States Government and its Departments" shall mean any constitutional branches of the Federal Government and their constituent departments, offices, bureaus, boards and commissions established or confirmed by Congressional action, and all components of the armed forces of the United States, and any other qualified United States Government Department.

b. "State of Colorado...Departments" shall mean the State Department of Agriculture, Auditing, Banking, Civil Air Patrol, Education, Employment, Executive, Game Fish and Parks, Highways, Institutions, Insurance, Judiciary, Law, Public Health, Public Welfare, Rehabilitation, Revenue, Savings and Loan, State, State Patrol, Treasury, and Veterans Affairs, and any other qualified State of Colorado Department.

c. "State of Colorado...Institutions" shall mean the State children's home, State hospital, community mental health clinics, State reformatories, State penitentiary, University of Colorado, Colorado State University, Colorado State College, School of Mines, and Colorado School for Deaf and Blind, and any other qualified State of Colorado Institution.

d. "State of Colorado...political subdivisions" shall mean any county or city and county, city or town, school district or junior college district, local improvement and special district, special district, or any other independent local entity having authority under the general laws of the State of Colorado to levy taxes or impose assessments such as fire, irrigation, drainage or conservancy.

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

a. Sales to officers or employees of such governmental entities-for their personal use are taxable.

b. Purchases by students, faculty, employees and staff of schools and school districts, colleges and universities for their personal use, are taxable. This would include the sale of such item as class rings, yearbooks and Christmas cards, and the rental of caps and

gowns. The schools, colleges or universities must assess and collect a tax on items such as uniforms, art and shop materials, book replacement, towels, and like items including meeting and other room accommodations and banquets catered and served by them for which a charge is made.

c. All sales on federal areas are taxable if the transaction does not involve an exempt federal instrumentality. Private concessionaires shall collect the tax on all sales to military personnel, federal employees and other persons who are not exempt. Commissaries, post exchanges, and all other exempt instrumentalities are liable for the tax on sales made to persons who are not authorized by federal regulations to purchase therefrom.

d. All federal or state chartered banks, including national, state and industrial banks, on all of their purchases not for resale, and on all of their sales are taxable.

3. Any sales at retail, i.e., to the ultimate consumer, of taxable tangible personal property requires the vendor to license with Steamboat Springs to collect and remit the City Sales Tax whether that "vendor" is a governmental or any other entity whatsoever, public, or private, to the same degree and with the same liability as any other City licensed vendor. The tangible personal property so vended may include, but not be limited to, foodstuffs or meals, gas and electric services, telephone service, rooms or other accommodations whether sold separately or in any degree or combination of "combined service" books, pamphlets, photocopies, or other reproduced materials computer usage time rentals, supporting equipment rentals, and the taxable tangible property vended along with the computer service, used or new office furniture, fixtures, or other equipment, etc.

b. *Sales to religious, Charitable and quasigovernmental organizations.* The Purchase Price paid or charged on direct Sales to, and direct Purchases by religious, Charitable, and quasi-governmental corporations, in the conduct of their regular religious, Charitable, and quasi-governmental capacities only, provided that the said organizations and corporations have applied for, been assigned, and do furnish to the Vendor their State of Colorado Exempt Institution License Number. In the event no such exempt number is furnished, the Vendor is to charge the Tax.

**REGULATION 22.183-D-(7) (b)**

1. No vendor may sell to any religious, charitable or quasi-governmental organization tax-free unless that religious, charitable or quasigovernmental organization does apply for, and is issued and does display a State of Colorado Exempt Institution License to that vendor. Vendors should have a record of the State of Colorado Exempt institution License numbers of every such purchaser to whom he sells tax-free.

2. 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 this latter type of taxes is a matter of local legislative action and any exemption granted is to be strictly construed, and interpreted.

3. Sales to ministers, priests, rabbis, employees, staff members, faculty and students of religious or charitable organizations for their personal use are

**taxable. Internal groups, clubs and other organizations of charitable or religious organizations are taxable.**

**4. Sales to or sales by non-profit organizations or associations are taxable. Such organizations or associations shall include, but not be limited to, business associations, labor associations, consumer associations, clubs, fraternities, sororities, country clubs, sporting associations, recreation associations, parent-teacher associations, student organizations, fraternal organizations, cooperatives, and all other professional, club, business and other such association. All sales to the employees, faculty, staff, representatives, members, etc., of the above organizations are taxable to the full extent of the purchase price paid or charged.**

**5. All federal or state chartered banks are taxable, including national, state and industrial banks, on all of their purchases not for taxable resale, and on all of their sales.**

**6. The City of Steamboat Springs under the above conditions and definitions, provides that any such institutions or organization wishing to buy tax-free, any tangible personal property or services must apply for a State of Colorado Exempt Institution License Number.**

**a. Such exempt license number is not a blanket authorization for total exemption, but only for exemption of activities specified by the City.**

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

**(8) *Returned goods; discounts.***

**a. *Returned goods.*** The amount equal to the Sale Price of property returned by the Purchaser when the full Sale Price including the Tax levied is refunded, either in cash or by credit.

**REGULATION 22.183-D-(8) (a)**

**Gross taxable sales may be reduced by the sale price of any property returned during the reporting period, where such sales price was previously or currently included in gross taxable sales, but only when the full sale price, including the tax, is refunded either by cash or credit to the customer.**

**The deduction from gross sales for returns may not exceed total gross sales for the period. in such cases, any difference may be accounted for by amending prior period returns or applying the deduction against gross sales in subsequent periods.**

**b. *Discounts and allowances.*** The amount of discount from the original selling Price if such discount or decrease in Purchase Price and the corresponding decrease in Sales Tax due is actually passed on to the Consumer. An anticipated cash discount to be allowed for payment on or before a given date is not an allowable adjustment to the selling Price in determining Gross Taxable Sales on any Vendor's Return prior to the date when the customer actually receives the discount. Any adjustments in Sale Price such as allowable discounts, rebates, and credits cannot be anticipated and the Tax must be based upon the original Price unless such adjustments have actually been made prior to the filing of the Return wherein such Sale is reported. Provided, if the Price upon which the Tax was computed and paid to the City by the Vendor is subsequently readjusted, prior to the payment of the Tax by the Purchaser, a

proper credit may be taken against the Tax due on the next subsequent Return.

**REGULATION 22.183-D-(8) (b)**

No credit for discount will be allowed to a vendor unless the decrease in sales tax is actually passed on to the consumer. A cash discount actually given for a payment on or before a given date is an allowable adjustment to the selling price in determining gross taxable sales.

If any vendor makes an overpayment of the tax, or is entitled to a credit on his tax payments on account of mistake, errors or canceled sales, credit for the amount of overpayment due from the City may be taken on the subsequent return and filed within a reasonable time thereafter, unless such person is no longer engaged in business, in which event he should apply for a refund.

Where any taxable article is returned to the vendor thereof for adjustment, replacement, or exchange, under a guarantee as to quality or service, and a new article is given pursuant to the guarantee, free or at a reduced price, the tax shall be computed on the actual amount paid to the vendor for the new article.

When any article sold is returned and the sale rescinded in the same tax period, no Sales Tax is due on the transaction if a full refund is issued.

The deduction from gross sales for discounts and allowances may not exceed total gross sales for the period. In such cases, any difference may be accounted for by amending prior period returns or applying the deduction against gross sales in subsequent periods.

- (9) *Prescription drugs and Prosthetic Devices and Medical Supplies.* The Sale or Purchase of Medical Supplies for human Consumption and Prescription Drugs for Animals.

**REGULATION 22.183-D-(9)**

(a) The sale and purchase of prescription drugs for both humans and animals are exempted from the imposition of the sales tax. (See Sections 22.86-(21) and 22.86-(41) for definition of prescription drugs.)

Prescription drugs for animals do not include special diets prescribed by veterinarians. Special diets are taxable even if the diets are distributed or sold by the veterinarian.

(b) The sale and purchase of prosthetic devices are exempted from the imposition of the sales tax. (See Section 22.86-(43) for definition of prosthetic devices.)

1. Standardized or stock devices or appliances, whether or not mass produced, which are designed for use by the mass populace or may be used for purposes other than the treatment of medical disorders are not prosthetic devices.
2. The sale or purchase of medical supplies for human use or consumption are exempted from the imposition of sales tax. The medical supplies must be used directly in treating the patient. (See Section 22.86-(33) for definition of medical supplies).
3. Physicians, surgeons, dentists, veterinarians and other licensed practitioners of the healing arts, and hospitals, clinics and the like, shall pay the tax on the sale price of their purchases of any equipment, instruments, furniture, fixtures or office supplies used or consumed in the ordinary and usual course of the business or practices.

(c) The list of exempted drugs, prosthetic devices, and medical supplies cannot be increased by implication or similarity. If there is any doubt as to the taxability on the sale or purchase of any

particular item, the taxpayer should exercise the option provided for under Regulation 22.87-B herein and inure as to the exempt status of such item, in all cases, the burden of proof is upon the taxpayer to establish that a sale or purchase is tax exempt.

(d) Veterinarians are primarily engaged in the business of rendering professional services, the gross receipts from which are not subject to sales tax, to owners of domestic animals through care, medication, and treatment of such animals. All items of tangible personal property other than prescription drugs which are used in the rendition of such professional services are deemed consumed by the veterinarian and thus are taxable to him. In order for items such as bandages and dressings to be considered consumed in the rendition of professional services they must be applied by the veterinarians or persons in his employ. Drugs, medicines, and services will be considered consumed in the rendition of professional services only when either (a) administered directly by the veterinarian or persons in his employ or, (b) dispensed by him upon actual diagnosis of illness or disease or in prevention thereof.

Where veterinarians sell tangible personal property to consumers, which sales are separate and apart from the rendition of professional services as heretofore set out, they are required to register, collect and remit sales tax.

(10) *Food stamp or federal special supplement program Sales.* The Sales and Purchases of Food, as specified in 7 U.S.C. § 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 and; the Sales and Purchases of Food, as specified in 42 U.S.C. § 1786, as such section exists on October 1, 1987, or is thereafter amended, which is Purchased with WIC vouchers or checks pursuant to the Federal Special Supplemental Program for Woman, Infants, and Children are exempt from the Steamboat Springs Sales Tax.

**REGULATION 22.183-D-(10)**

All sales and purchases of food in the City are taxable except for qualified purchases under the Federal Food Stamp and Federal Special Supplement Programs.

The following is a partial list of food and nonfood items which qualify under the Federal Food Stamp program and is intended as a guide, refer to the specific United States Code section for more detail. The Federal Food Stamp Program definition includes, 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., Mercial, 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).

Seeds and plants which produce food for human consumption are exempt from sales tax only when they are purchased with food stamps.

Items which are considered nonfood items under the Federal Food Stamp Program and thus are subject to sales tax include:

(a) Nonfood item 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);

(b) Alcoholic beverages but excluding cooking wine, wine vinegar, and non-alcoholic



cocktail mixes;

**(c) Tobacco and tobacco products (except cigarettes which are exempt from the sales tax by virtue of CRS 39-26-114(1)(a)(IV));**

**(d) Foods which are hot at the point of sale and which are kept above room temperature to make them palatable and suitable for immediate consumption, food marketed to be heated on the premises whether or not hot at the point of sale, and other food sold for consumption on the premises;**

**(e) Items not intended for human consumption (e.g., laundry starch, pet foods, other animal foods, and seeds marketed or packaged as bird seed);**

**(f) Items specifically labeled as being for use other than human consumption (e.g., decorative dye for hard cooked eggs);**

**(g) Food preservation equipment and items (e.g., pressure cookers, canning jars and lids, paraffin, freezer containers, and wrapping paper);**

**(h) Medicines (except that prescription drugs are exempt from the sales tax by virtue of Section 22.183-D-(9) of this article);**

**(i) Therapeutic products and deficiency correctors such as vitamins and minerals which are marketed in various forms such as tablets, capsules, powders and liquids; products such as cod liver oil which is used primarily as a source of vitamins A and D; and other such items which are primarily used for medicinal purposes or as health aids. (These products serve as supplements to food or food products rather than as food and, therefore, are not eligible. Because essential vitamins and minerals occur naturally in foods, a good diet will include a variety of foods that together will supply all nutrients needed. Since these products serve as deficiency correctors or therapeutic agents to supplement diets deficient in essential nutrition rather than as foods they are not eligible.);**

**(j) Health aids (e.g., patent medicines and other products used primarily as health aids and therapeutic agents, including aspirin, cough drops or syrups, cold remedies, and antacids); and**

**(k) Coffee and related food products sold to offices and commercial establishments as part of a "coffee" service.**

**(11) Other deductions.**

a. *Monthly rentals of rooms.* The Sales and Purchases of commodities and services under the provisions of section 22-182(c)(5) hereof to any occupant who is a permanent Resident of any hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, or any other place and who enters into or has entered into a written agreement for occupancy of a room or rooms or Accommodations for a period of at least thirty (30) consecutive days during the calendar year or preceding year. This exemption shall not apply to the Sale or Sales of any goods, services or commodities other than the furnishing of rooms and Accommodations, unless such goods, services or commodities are otherwise exempt from the Tax as provided herein.

**REGULATION 22.183-(11) (a)**

**Rooms or accommodations permanently occupied and which occupancy is secured by a written agreement are exempt from the tax. "Permanently occupied" is defined as being a period of thirty (30) or more consecutive days. A written agreement includes a hotel or motel registration or a rental receipt indicating an advance commitment to occupy the accommodation for a period of at least thirty (30) days. Daily or weekly accommodations which accumulate to exceed thirty (30) days are**

taxable.

**Accommodations include rentals of banquet rooms, meeting rooms, display rooms, etc., especially set forth herein.**

**Any lease or rental of rooms and accommodations for less than thirty (30) days are subject to the sales tax.**

b. *Finance charges.* The amount paid by any Purchaser as, or in the nature of, interest or finance charges on account of credit extended in connection with the Sale of any Tangible Personal Property if the interest or Finance charges are separately stated from the consideration received for the Tangible Personal Property transferred in the Retail Sale, and if included in report of Gross Sales and Services are deductible therefrom.

c. *Newspapers.* The amount paid or charged for Newspapers as legally defined by the Colorado Revised Statutes, 1973, § 24-70-102 shall be exempted from the operation of this division.

**REGULATION 22.183-(11) (c)**

**Only newspapers published on a daily through weekly basis and admitted to the United States mails as second class matter under the provisions of the Federal Act of March 3, 1979, or any amendments thereof are exempt from the imposition of the Steamboat Springs Sales Tax. (See C.R.S. 109-1-2 reprinted below):**

**"Every newspaper printed and published daily, or daily except Sundays and legal holidays, or which shall be printed and published on each of any five (5) days in every week excepting legal holidays and including or excluding Sundays, shall be considered and held to be a daily newspaper; every newspaper printed and published at regular intervals three (3) times each week shall be considered and held to be a tri-weekly newspaper; every newspaper printed and published at regular intervals twice each week shall be considered and held to be a semiweekly newspaper; and every newspaper printed and published at regular intervals once each week shall be considered and held to be a weekly newspaper." (See Subsection 24-70-102 Colorado Revised Statutes, 1973, as amended.) This exemption on sale of newspapers may not be extended to include taxable publications following: magazines, and magazines included in newspapers usually appearing on Sundays, Trade Publications or Journals, Credit Bulletins, Advertising Pamphlets, and advertising pamphlets and Circulars in newspapers, Circulars, Directories, Maps, Racing Programs, Reprints, Newspaper Clipping and Mailing Service or Listings, Publications that include an Updating or Revision Service, Books and Pocket Editions of Books or other Newspapers not otherwise qualifying under the first paragraph of this Regulation above are all taxable.**

**The tax will be collected and remitted on both "over the counter" sales in this City, and on sale of subscriptions to City resident made by any salesman, agent, independent contractor or any other person securing such order for subscription in this State or by any other company or person maintaining any representatives, offices or owning any property in this State, no matter the method of sale and how delivery is to be made to the customer in this City, nor no matter that such publication is shipped or mailed and delivered in the City from outside the City or State.**

**No matter that the magazines, etc., in the third paragraph under this Regulation above are admitted in the United States Mails as Second Class Matter, they are not exempt from the imposition of the Steamboat Springs Sales Tax.**

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

**Vendors must collect the tax on all sales to publishers of equipment or materials, except on the sales of newsprint and printer's ink which are expressly exempt. (Refer to article and Regulation Subsection 22.183-D-(2)(c).)**

d. *Cattle, sheep and other animals; farm auctions.* The Sale or Purchase of meat cattle, sheep, lambs, swine and goats and Purchases of mares and stallions for breeding purposes; and all Farm Close-out Sales (see section 22-86(26)).

**REGULATION 22.183-(11) (d)**

**The sale or purchase of meat cattle, sheep, lambs, poultry, swine and goats are exempt from the tax. All sales or purchases of mares and stallions for breeding purposes only are exempt. Sales of insecticides, chemicals used for destroying weeds, pests, or insects, veterinary supplies, machinery, equipment, and general supplies used by agricultural producers are taxable.**

e. *Sales to contractors who have deposited the Tax.* The Sales to and Purchases by contractors of building materials only for installation, Use or Consumption on job sites or building construction addresses, on which a City Building Permit or other document has been issued which indicates that the Tax has been deposited or obligated for, whether it be for Steamboat Springs or any other municipality, provided that:

1. The Construction Materials were included items in determining the valuation of the construction for purposes of issuance of the City Building Permit;
2. The Vendor records for every invoice of Sale the job site address and City Building Permit number;
3. The contractor presents a validated copy of the Building Permit and has deposited the Tax with the City on the estimated basis based on a percentage of the building or construction valuation on the issuance of that permit.

**REGULATION 22.183-(11) (e)**

**Contractors who have deposited the construction use tax as imposed by Section 22.197-B of this article shall not be required to pay sales tax to the vendor for materials purchased for the project for which such deposit has been made. The contractor must provide to the vendor proof that a deposit for such tax has been made, or is obligated to be made.**

**The contractor is exempt from paying sales tax to the vendor only for qualifying construction materials. Tools, parts, equipment, and consumables are taxable and the contractor must pay tax to the vendor at the time of purchase. (See Section 22.86-(16) for definition of construction materials.) This exemption applies to municipal use taxes paid to other municipalities by the contractor. The contractor must provide to the vendor evidence that municipal tax has been paid or is obligated to be paid to another municipality for construction materials which will be used in that other municipality.**

**This exemption does not apply to construction projects located outside City limits. A contractor who takes delivery of materials within the city for a project outside of the city**

**must pay the city sales tax on those materials. Only material subject to another city's use tax or materials delivered by the vendor outside of the city are exempt from the city sales tax for jobs located outside of Steamboat Springs. The building permit expires as an exemption certificate upon the issuance of a certificate of occupancy.**

**(See Specific Industry Regulations Section 22.SI-21.)**

f. *Sales to contractors for exempt organizations.* Sales of Construction and building materials to contractors and subcontractors for Use in the building, erection, alteration, or repair of structures, highways, roads streets, and other public works owned and used by:

1. The United States government, the State of Colorado, its departments and institutions, the political subdivisions thereof in their governmental capacities only;
2. Charitable Organizations in possession of a Colorado Exempt Institution License number, and used in the conduct of their regular charitable functions and activities (refer to section 22-86(10)); or
3. Schools, other than Schools held or conducted for private or corporate profit (refer to section 22-86(52)); shall be exempted from the operation of this division.

**REGULATION 22.183-(11) (f)**

**Contractors shall, prior to issuance of a City Building Permit, obtain a Colorado Exempt License for Contractors indicating that the contractor is exempt from sales and use tax for the purchase of building materials only, used in construction for exempt organizations.**

**The Building Department shall issue a City Building Permit exempt of use tax and the contractors' vendors shall record on the invoice of sale the job site address and City Building Permit number.**

**(Refer to the Specific Industry Section for full details in regard to proper payment of the tax by contractors.)**

g. *Livestock feed; seeds; orchard trees.* The Sale or Purchase of feed for livestock or poultry, all Sales and Purchases of seeds for resale crop production and all Sales and Purchases of orchard trees.

**REGULATION 22.183-(11) (g)**

**"Livestock" means domestic animals as found on a farm or ranch such as cattle, sheep, swine, goats and horses. "Livestock" does not include animals such as dogs, cats, and birds kept as pets for pleasure and recreation. Also excluded are dogs for sled operations.**

**"Poultry" means domesticated birds kept for eggs or meat.**

**All sales of livestock feed, seeds for crop production and orchard trees purchased for the purposes of production for agricultural resale are exempt from sales tax.**

**Purchases of feed, seeds or trees for domestic/home food production are fully taxable.**

**"Feed for livestock" means all materials which are distributed for use as feed or for mixing in feed for "livestock" as defined above; but, "feed for livestock" does not include individual doses or injections of non-prescription drugs used or sold for use for other than nutritional purposes.**

h. *Factory built housing.* Forty-eight (48) percent of the Purchase Price of factory-built housing defined as; any structure, or component thereof, designed primarily for residential occupancy, either permanent or temporary, including a mobile home which is wholly or in substantial part made, fabricated, formed, or assembled in Manufacturing facilities for installation, or assembly and installation, on the building site, shall be exempt from taxation.

**REGULATION 22.183-(11) (h)**

**(Refer to Specific Industry Regulations: "Manufacturers and Prefabricators Acting as Contractors" and "Modular, Mobile or Sectional Homes")**

i. *Vending machines.* The Sale of Personal Property through coin-operated vending machines with an individual selling Price of fifteen (\$0.15) cents or less are exempt from the Tax imposed by this division.

**REGULATION 22.183-(11) (i)**

**A vendor making vending machine sales of individual items of merchandise at a selling price of fifteen cents or less and also making vending machine sales at a price of more than fifteen cents must be licensed and may purchase tax free all items so vended. He must include the sales price of all vended items in the gross sales on his sales tax return, but may deduct the tax-free sales of fifteen cents or less to determine taxable sales.**

j. *Consumable items for Food Vendors.* Any Sale of any article, container or bag to a Retailer or Vendor of Food, meals, or beverages, which is to be furnished to a Consumer or user for Use with other articles of Tangible Personal Property which have been Purchased at Retail; such articles, containers or bags are exempt if:

1. A separate charge is not made for the article, container or bag to the Consumer or user, together with the Food, meals or beverages Purchased; and
2. Sales Tax is paid on the Retail Purchase.

k. *Commercial Linen Services.* The lease or rental by commercial Linen Services of linens are exempt from the Tax imposed by this division.

l. *Non-vending coin operated devices.* The gross Sales from the Use of non-vending, coin-operated devices are exempt from the Tax imposed by this division.

m. *Sale of firewood.* Firewood sold at Retail or Wholesale to be used to provide heat is exempt from taxation under this division.

(12) *Building materials used for renovation of historic buildings.* Sales of building materials used for the preservation or restoration of structures or buildings located within Routt County and listed in the Routt County Historic Register. This exemption shall only apply to materials used for rehabilitation projects which preserve the historic character and significance of such structure or building and comply with the U.S. Secretary of the Interior's Standards for Rehabilitation and any other applicable state or local design guidelines.

a. The exemption provided by this paragraph shall not affect a seller's obligation to collect and a Purchaser's obligation to pay the Sales Tax levied by this division.

b. Persons paying the Sales Tax on materials exempted under this paragraph may obtain a refund of the Sales Tax paid by application to the City Treasurer. Such applications shall be processed by the City Treasurer in accordance with the provisions of section 22-110 and shall be supported by a written certificate from the Steamboat Springs Historic Preservation Advisory Commission that the completed rehabilitation project preserves the historic character and significance of the structure or building and complies with the U.S. Secretary of the Interior's Standards for Rehabilitation and any other applicable state or local design guidelines.

c. Any other provision of this Code notwithstanding, application for a refund under this subsection shall be made within sixty (60) days of the date of Steamboat Springs Historic Preservation Advisory Commission approval of the completed project.

**Secs. 22-184—22-195. - Reserved.**

**DIVISION 4. - USE TAX**

**Sec. 22-196. - Imposed; rate.**

There is hereby imposed, commencing on January 1, 2010, and continuing through December 31, 2019, on the privilege of Storing, Using or Consuming Construction and building materials of every kind and form and all Automotive Vehicles Purchased outside of the City for Use or Consumption within the City, a Use Tax levied at the current Rate of Tax as defined in Sec. 22-181(b) of the Retail Purchase Price of said Construction and building materials and motor vehicles.

**Sec. 22-197. - Taxable transactions, commodities and services.**

The Tax imposed by this division is applicable as follows:

(a) *Automotive Vehicles.* On the Purchase Price paid or charged on the Sale or the Purchase for Use or Storage of an Automotive Vehicle or Mobile Machinery and Self-Propelled Construction Equipment to a Resident of this City (refer to subsections 22-86(7) and 122-86(34) for definitions).

**REGULATION 22.197-A**

**The use 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 as defined within Steamboat Springs whether the seller is engaged in business or is making an isolated sale or trade.**

**Automotive vehicle dealers who are licensed under the article 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. (Refer to Specific Industry "Automotive Dealers" 22.SI-7)**

PART II - STEAMBOAT SPRINGS REVISED MUNICIPAL CODE  
Chapter 22 - TAXATION

Any resident of Steamboat Springs who purchases a motor vehicle, trailer, or semi-trailer, etc., whether new or used, outside of the City for use within the City must pay the use tax of the current Rate of Tax (as defined in Sec. 22-181) on the purchase price of any vehicle upon registration of the said vehicle in Routt County. Any resident who registers a vehicle at an address other than his principal residence or place of business within Steamboat Springs for the purpose of evading the sales or use tax shall be considered in violation of the article and subject to the penalties set forth herein.

If the owner of a motor vehicle is, or was, a non-resident of Steamboat Springs and establishes as a matter of fact that he purchased the motor vehicle for use outside of the City, and he registered, took title and licensed the motor vehicle, and actually used said motor vehicle for a bona fide purpose and for a substantial period of time, outside the City prior to the time he becomes a resident and/or uses the vehicle within the City, he is not obligated to pay the use tax imposed by the City. However, initial registration of the motor vehicle inside of Steamboat Springs will constitute a taxable use and the tax will be due. Vehicles purchased by nonresidents and legally registered outside of the City, are exempt; except that vehicles registered outside of the City and owned by non-exempt persons are subject to the use tax when garaged or used for business in Steamboat Springs.

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

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

Any resident of Steamboat Springs who may or may not have dual residency both within and without the City who registers any automotive vehicle in the City must pay the tax on the full amount of such taxable purchase price. There will not be an allowance or pro ration made for that vehicle's percentage use within and without the City. In addition, any resident who maintains his/her domicile outside of the City who also owns or operates a place of business within the City shall pay the use tax on the full purchase price of any vehicle used in any degree to conduct such business in the City.

Only governmental institutions purchasing automotive vehicles, auto sales or leasing agencies purchasing vehicles for "resale" may purchase without payment of the current Rate of Tax (as defined in Sec. 22-181) use tax on such purchase price.

Parts and accessories for automotive vehicles are considered to be of the same nature as other tangible personal property and, accordingly, are taxable under Steamboat Springs Code as to purchase, sale or use inside the City. If automobiles are exchanged or traded between individuals who are not licensed or engaged in the business of selling automobiles in the City and in the State of Colorado, then the retail value of each automobile is the purchase price on which Sales and Use Tax shall be paid by each owner.

Purchases of motor vehicles for the sole and exclusive use of qualifying businesses located in a designated Steamboat Springs enterprise zone are exempt from the motor vehicle use tax. Businesses must qualify for exemption by having been designated as an enterprise zone business under the criteria established per applicable City ordinances. Exemption from motor vehicle use tax may also be obtained per criteria set forth in Section 22.198-F. To receive an enterprise zone exemption the qualifying purchaser must apply to the City Treasurer for exemption for each vehicle purchased. The City Treasurer will verify the qualifications of the purchaser and determine whether or not all criteria are satisfied. Once approved the City Treasurer will notify the Routt County Clerk of the approved exemption.

(b) *Construction Materials.* On the Purchase Price paid or charged on the Sale or Purchase of Construction Materials for Use or Consumption within the City limits of Steamboat Springs. Every contractor who shall build, construct, alter, expand, modify, or improve any building, dwelling or

other structure, or improvement to real property in this City and who shall Purchase lumber, fixtures, or any other Construction Materials and supplies Used therefore, and every owner, or lessee of realty situate in the City and of improvements and structures located upon realty, situate in the City, upon which any article or articles of Tangible Personal Property acquired from sources within (or without) the City, are attached or affixed shall pay the Steamboat Springs Construction Use Tax as the ultimate Consumer.

- a. An estimated deposit for construction Use Tax will be paid directly to the City Treasurer or his/her designee prior to the issuance of any construction permit for Use in the City.
  - b. The estimated construction Use Tax deposit will be computed by taking fifty (50) percent of the estimated cost of construction times the current Use Tax rate.
  - c. Should the estimated deposit exceed the Tax due on the actual cost of Construction Materials Used for the construction approved by the associated Building Permit, the construction contractor having applied for and received such permit may apply to the City Treasurer for a refund of all Excess Tax paid by submitting, in writing, a request for such refund and by providing any documentation as required by the City Treasurer.
  - d. Nothing here mentioned shall preclude the City from performing an audit of construction costs to ascertain the actual Tax liability for Construction Materials. However, upon the issuance of a certificate of occupancy, the estimated Use Tax deposit assessed and paid with the issuance of a Building Permit plus any subsequent adjustments will be accepted as full payment for the extinguishment of all Use Tax liability associated with the materials and fixtures incorporated into the real property as allowed by the permit.
- (c) *Factory built housing.* On fifty-two (52) percent of the Purchase Price paid for factory-built housing defined as: any structure, or component thereof, designed primarily for residential occupancy, either permanent or temporary, including a mobile home, which is wholly or in substantial part made, fabricated, formed, or assembled in Manufacturing facilities for installation, or assembly and installation, on a building site within the City, upon which the Steamboat Springs Sales Tax has not been previously paid.

**REGULATION 22.197-B**

(Refer to Specific Industry Regulation for "Construction and Contractors", Section 22.SI-21.)

**Sec. 22-198. - Exempt transactions, commodities and Persons.**

- (a) *Use or Storage of Automotive Vehicle by nonresident.* The Use or Storage in the City of Automotive Vehicles is exempt hereunder if:
- (1) The owner is or was, at the time of Purchase, a nonresident of Steamboat Springs; and
  - (2) He Purchased the vehicle outside of this City for Use outside of this City, and actually so Used it for a substantial and primary purpose for which it was acquired; and
  - (3) He registered, titled and licenses said motor vehicle outside of the City.
- (b) *Sales to the federal government, the state, and its subdivisions.* The Purchase Price paid or charged on direct Sales to, and direct Purchases by the United States Government; to the State of Colorado, its departments or institutions, and the political subdivisions thereof, including Steamboat



Springs in their governmental functions and activities only.

**REGULATION 22.198-B**

**(Refer to Regulation 22.183-D-(7)(a)(1))**

(c) *Sales to religious, Charitable, and quasi-governmental organizations.* The Purchase Price paid or charged on direct Sales to, and direct corporations, in the conduct of their regular religious, charitable, and quasi-governmental capacities only, provided that the said organizations and corporations have applied for, been assigned, and do furnish to the Vendor their State of Colorado Exempt Institution License Number. In the event no such exempt number is furnished, the Vendor is to charge the Tax.

**REGULATION 22.198-C**

**(Refer to Regulation 22.183-D-(7)(a)(2))**

(d) *Construction Use Taxes collected by other municipalities.* Sales Tax shall not apply to the Sale of Construction and building materials if such materials are picked up by the Purchaser and the Purchaser presents the Retailer a Building Permit or other documentation evidencing that a municipal Use Tax has been paid or is required to be paid.

(e) *Storage of Construction and building Materials.* The Use Tax shall not apply to the Storage of Construction and building Materials.

(f) *Business not liable for auto Use Tax on Use in City.* The Use or Storage in the City of pick-up trucks, commercial vans, heavy equipment and other commercial vehicles are exempt hereunder if:

- (1) The vehicle is titled and registered to a Business entity located within a designated enterprise zone of Steamboat Springs; and
- (2) The vehicle is essential for the carrying on of the Business's usual and ordinary activities; and
- (3) The vehicle is for the sole and exclusive Use of the Business not to include personal non-business activities.

(g) *Building materials used for renovation of historic buildings.* The Use Tax imposed by subsection 22-197(2) shall not apply to building materials Used for the rehabilitation of structures or buildings located within Routt County and listed in the Routt County Historic Register. This exemption shall apply only to materials Used in rehabilitation projects which preserve the historic character and significance of such structure or building and comply with U.S. Secretary of the Interior's Standards for Rehabilitation and any other applicable state or local design guidelines.

- (1) The exemption provided by this subsection shall not affect any Person's obligation to pay the estimated Use Tax provided in subsection 22-197(2).
- (2) Persons exempt from the payment of the Use Tax may obtain a refund of the estimated Tax paid by application to the City Treasurer. Such applications shall be processed by the City Treasurer in accordance with the provisions of section 22-110 and shall be supported by a written certificate from the Steamboat Springs Historic Preservation Advisory Commission that the completed rehabilitation project preserves the historic character and significance of the structure or building and complies with the U.S. Secretary of the Interior's Standards for Rehabilitation and any other applicable state or local design guidelines.

(3) Any other provision of this Code notwithstanding, application for a refund under this subsection shall be made within sixty (60) days of the date of Steamboat Springs Historic Preservation Advisory Commission approval of the completed project.

**Secs. 22-199—22-210. - Reserved.**

## **DIVISION 5. - PUBLIC ACCOMMODATIONS TAX**

### **Sec. 22-211. - Findings.**

The City Council hereby finds and declares that the creation of City capital improvements and amenities which will enhance the viability of the City as a premiere destination resort is of primary importance in maintaining the community identity, environmental desirability and economic health of the City. The City Council further finds that it is appropriate to fund amenities to be Used by tourists, and which will promote tourism within the City, by revenue generated from activities enjoyed by tourists and citizens in the City and that it is therefore necessary and appropriate to impose a Tax on lodgings in the City in order to preserve, promote and enhance the community identity, environmental desirability and economic health of the City.

### **Sec. 22-212. - Imposed; rate; Tax cumulative.**

On and after May 1, 1987, there is and shall be paid and collected an excise Tax of one percent on the Price paid for the leasing or rental of any hotel room, motel room, or other public accommodation located in the City. Said public Accommodations Tax shall be in addition to the Sales Tax currently charged for said leasing or rental.

### **Sec. 22-213. - Taxable transactions, commodities and services.**

Leasing or rental of any hotel room, motel room, or other public accommodation in any hotel, apartment hotel, motel, lodging house, condominium, guest house, guest ranch, mobile home or trailer court or park or any similar place to any Person, who, for a consideration, Uses, possesses or has the right to Use or possess such room or other accommodation for a total continuous duration of less than thirty (30) days (refer to section 22-182(c)(5)).

#### **REGULATION 22-213**

**(Refer to Regulation 22.182-C-(5) and 22.183-(11)(a))**

### **Sec. 22-214. - Exempt transactions and commodities.**

(a) *Lodging term of thirty (30) days or more.* The Sales and Purchases of commodities and services under the provisions of subsection 22-182(c)(5) hereof to any occupant who is a permanent Resident of any hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, or any other place and who enters into or has entered into a written agreement for occupancy of a room or rooms or Accommodations for a period of at least thirty (30) consecutive days during the calendar year or preceding year. The following entities and transactions are exempt from the duty to pay Tax under this article but not the duty to collect and remit the Tax

levied hereby:

(b) *Sales to federal, state and local governments.* The United States Government, the State of Colorado, its departments and institutions, and the political subdivisions thereof including the City, when acting in their governmental capacities and performing governmental functions and activities.

(c) *Sales to religious, Charitable and quasi-governmental organizations.* Religious, Charitable, and quasi-governmental organizations but only in the conduct of their regular religious, Charitable, and quasi-governmental capacities and only if such organizations have obtained an exempt organization license and furnish the exempt Tax license to the Person who rents or leases public Accommodations to the organization.

**REGULATION 22-214-C**

**Accommodations exempt from taxation include sales to Federal, State, Local governmental agencies or the political subdivisions thereof. Vendors providing accommodations to these organizations may accept a draft on the agency's funds for payment as proof of exemption. Agency employees using personal funds or drafts for payment shall be charged tax even if the employee is to be reimbursed for such expenditures. The agency making such reimbursement may apply to the City for a refund.**

**Exempt organizations including religious, charitable, and quasi-governmental organizations shall be required to pay and vendors required to collect tax on all accommodations unless a proper exempt organization license is presented by the organization to the vendor. A draft on the organizations funds is not acceptable as proof of exemption. Individual members of the organization presenting cash or personal drafts for payment shall be required to pay the tax. (Refer to Section 22.183-D-(7)(b)(1) and (2))**

**It shall be the responsibility of the vendor to be assured that the organization requesting exemption is indeed using the accommodation being provided in the conduct of their regular religion, charitable or quasi-governmental capacities. For example, accommodations being paid for by a draft on the organizations funds and for which such organization is being reimbursed by the individual members are taxable under this section of the article. Vendors who are unsure of taxability should collect the tax and have the taxpayer apply to the City for a refund.**

**Secs. 22-215—22-219. - Reserved.**

**DIVISION 6. - EXCISE TAX ON NEW CONSTRUCTION**

**Sec. 22-220. - Short title.**

This division shall be known as the excise Tax on New Construction.

**Sec. 22-221. - Intent and findings.**

The City Council hereby finds and declares that:

- (1) New Construction, including renovations and expansions to existing structures, should be charged for the impacts that such New Construction places on the City's existing capital improvements and infrastructure;
- (2) Continued demands on the City's capital improvements and infrastructure, without commensurate financial contribution, would adversely affect the public health, welfare, safety,

peace, and prosperity in the community;

(3) Charging 1.2% of the value of the New Construction is rationally related to the City's legitimate governmental purpose of ensuring that the level and quality of the City's capital improvements and infrastructure are not diminished as New Construction occurs;

(4) As the value of New Construction increases, there is a corresponding increase in demand on the City's capital improvements and infrastructure;

(5) An excise Tax will help defray the costs of replacing, and improving the City's existing capital improvements and infrastructure to keep pace with the increased demands caused by New Construction and will permit the accrual of funds for the construction of new capital improvements and infrastructure as needed;

(6) An excise Tax is a better way of mitigating the impacts of New Construction than the current impact fee; and

(7) It is in the best interest of the public health, safety and general welfare of the citizens of the City of Steamboat Springs to create an excise Tax on New Construction so that New Construction will help pay for the impacts that it creates.

**Sec. 22-222. - Definitions.**

*Building Permit:* A Building Permit issued by the Routt County Regional Building Department ("building department") permitting the construction of a building or structure within the City of Steamboat Springs.

*City:* The City of Steamboat Springs, Colorado.

*City Council:* The City Council of Steamboat Springs, Colorado.

*Excise Tax Payer:* A Person commencing New Construction who is obligated to pay the excise tax in accordance with the terms of this division, or who would be obligated to pay the excise tax except for an exemption provided for in this division.

*New Construction:* New Construction shall mean any activity that requires the issuance of a Building Permit, including, without limitation, the construction of residential, multi-family, commercial, industrial, and any other construction activity. New Construction shall include, without limitation, renovations or expansions, or both, to existing structures.

*Qualifying Unit:* Every newly constructed single-family, duplex, or multi-family unit with a value, as calculated for purposes of issuing a Building Permit, of two hundred fifty thousand dollars (\$250,000.00) or less.

Capitalized terms used in this division, not defined in this section, shall have the meaning defined in other sections of the Steamboat Springs Municipal Code.

**Sec. 22-223. - Excise Tax.**

As a condition precedent to the issuance of a Building Permit for any New Construction, the Person seeking the issuance of the Building Permit, the Excise Tax Payer, shall pay an excise tax to the City equal to 1.2% of the valuation of the New Construction, as that value is established by the building department .

**Sec. 22-224. - Separate fund.**

The Director of Financial Services ("Director") shall deposit the proceeds of the excise tax on New Construction into the City's capital project fund to be used in accordance with the provisions of this division.

**Sec. 22-225. - Dedication of funds.**

The revenues generated from the excise tax shall be used only for the construction of capital improvements and infrastructure needs of the City, including, without limitation, new capital improvements and major repairs, replacement of existing capital improvements and infrastructure, and for no other purpose.

**Sec. 22-226. - Exemptions.**

The following categories of New Construction are exempt from the payment of the excise tax established in this division:

- (1) New Construction to be built by the federal government, the State of Colorado, the City, Routt County, or the RE-2 School District.
- (2) New Construction of a dwelling unit in which the Excise Tax Payer will reside in the dwelling unit, if the Excise Tax Payer meets all of the following requirements:
  - a. If the dwelling unit is also a Qualifying Unit, the first one hundred fifty thousand dollars (\$150,000.00) of the Building Permit value shall be exempt from the excise tax;
  - b. The dwelling unit will be the sole residence of the Excise Tax Payer or the Person(s) purchasing from the Excise Tax Payer; and
  - c. The Excise Tax Payer, or Person(s) purchasing from the Excise Tax Payer, must be employed or self-employed in Routt County. Where the Excise Tax Payer is unable to verify to the satisfaction of the City, at the time of the issuance of the Building Permit, that the Purchaser of the dwelling unit qualifies for an exemption under the provisions of this section, the Excise Tax Payer shall pay the excise tax but may apply for and receive a rebate of the exemption amount at the time of Sale of the dwelling unit to a Person(s) qualifying for an exemption under this section.
- (3) The City Council shall have the authority, in its sole discretion, to adopt regulations requiring the recapture of exempted and unpaid excise tax if, within three (3) years of the issuance of a Building Permit for a Qualifying Unit, the Qualifying Unit is sold (a) to a Person for whom the Qualifying Unit is not the "sole residence", or (b) to a Person who is not employed or self-employed in Routt County.

**Secs. 22-227—22-235. - Reserved.**

**ARTICLE IV. - TELEPHONE OCCUPATION TAX**

**Sec. 22-236. - Interpretation of article.**

The tax provided in this article is upon occupations and Businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this article shall be construed to mean that any telephone utility company is issued a franchise by the City.

**Sec. 22-237. - Tax in lieu of other occupation taxes and in lieu of free service to City.**

The tax provided in this article shall be in lieu of all other occupation taxes or taxes on the privilege of doing Business in the City on any telephone utility company subject to the provisions of this article, and in addition shall be in lieu of any free service furnished the City by any such telephone utility.

**Sec. 22-238. - Levy.**

There is levied on and against each telephone utility company operating within the City a tax on the occupation and Business of maintaining a telephone exchange and lines connected therewith in the City and of supplying local exchange telephone service to the inhabitants of the City. The amount of the tax levied shall be one dollar and fifty cents (\$1.50) per telephone account per quarter beginning with the second calendar quarter for the year 1979. The amount of tax due and payable for each calendar quarter shall be computed on the basis of the number of telephone accounts for which local exchange service is provided within the corporate limits of the City. The computation shall use the number of telephone accounts in existence as of the first day of the calendar quarter: January 1, April 1, July 1 or October 1.

**Sec. 22-239. - Time of payment.**

The tax levied by this article shall begin to accrue on the first day of each calendar quarter and shall be due and payable by the last day of each calendar quarter.

**Sec. 22-240. - Statement of accounts.**

Each telephone utility company subject to this article shall file with the City Finance Department, in such form as the Finance Department may require, a statement showing the total telephone accounts for which local exchange service was provided within the corporate limits of the City on the first day of each calendar quarter. Such statement shall accompany payment for the appropriate calendar quarter.

**Sec. 22-241. - Failure to pay.**

If any telephone utility company subject to the provisions of this article shall fail to pay the taxes as provided in this article, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten (10) percent of the amount of taxes due, shall be, and is declared to be, a debt due and owing from such company to the City.

**Sec. 22-242. - Inspection of records.**

The City and its officers, agents or representatives shall have the right, at all reasonable hours and times, to examine the books and records of the telephone utility companies which are subject to the provisions of this article, and to make copies of the entries or contents thereof.

**SPECIFIC INDUSTRY REGULATIONS**

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

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

Please refer to the specific industry regulations following and to the Handbook Index for any references to your particular business operation. Please also refer to Regulation 22.87-B (page 32) of this handbook. Every assistance will be given taxpayers to this City as well as assistance to retailers and others who are made responsible for the collection of the taxes required to be paid to effect the purposes of this Sales and Use Tax Code.

## **ADVERTISING AGENCIES, COMMERCIAL ARTISTS, DESIGNERS**

### **REGULATION 22.SI-1**

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

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

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

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

approved layout is used as camera copy for reproduction.

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

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

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

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

Tax applies to retail sales of signs, show cards and posters, and to charges for painting signs, show cards, and posters whether the materials are furnished by the painter or by the customer. Tax does not apply to charges for painting or lettering on real property. The painter or letterer is the consumer of the materials used in such work, and tax applies with respect to the sale of such property to him.

## **AGRICULTURAL PRODUCERS**

### **REGULATION 22.SI-2**

"Agricultural Producer" means a person regularly engaged in the business of using land for the production of crops or livestock. The term includes farmers, market gardeners, commercial fruit growers, livestock breeders, feeders, dairymen, poultry men and other persons similarly engaged. "Agricultural Producer" does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows, or harvests plants or plant products exclusively for his own consumption.

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.

Fertilizer purchased by an agricultural producer is not subject to tax. "Fertilizer" includes compounds of nitrogen, phosphorus, potassium, trace elements or similar materials or substances which provide essential plant food elements and which become ingredients of the growing plant. "Fertilizer" 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; therefore, purchases of such things are taxable. Similarly, insecticides, fungicides, germicides, herbicides, and similar materials or substances may not be purchased tax free.



## **ALCOHOLIC BEVERAGE SALES**

### **REGULATION 22.SI-3**

Sales of fermented malt beverages, vinous, or spirituous liquors by the package and by the drink are subject to tax. A vendor may elect to include the tax in the selling price of the drink or to add the tax to the price of the drink. Once having made the election he must continue to impose and collect the tax in the manner elected. In the case of package sales the tax must be added to the total selling price. A special accounting basis is allowed when the above items are sold by the drink. (Refer to Section 22.143-A)

Vendors dispensing liquor, wine or beer by the drink who purchase ingredients which they use in mixing the drinks are not required to pay sales tax on the purchase of such ingredients.

## **AMUSEMENT DEVICES, AMUSEMENT PLACES, CARNIVALS, ETC.**

### **REGULATION 22.SI-4**

The use of any amusement devices including bowling, billiards, carnival ride, or any other such devices which are non-coin operated, utilized in the city limits for which a charge is made are exempt from sales tax. These devices are also subject to the sales tax on their subsequent rental or lease to other persons as well as on the original purchase.

Gifts and premiums as applied to games dispensing prizes to the customer. The operator of a game who delivers a prize to the customer is regarded as the retailer of the merchandise delivered as prizes, and the tax applies to the operator's total gross receipts, derived from such merchandise transfers.

Similarly, the tax applies to the entire receipts from the operators of "grab bag" concessions by which the customer always receives some tangible personal property.

## **ANIMAL LIFE**

### **REGULATION 22.SI-5**

Tax does not apply to "wholesale sales" of animal life of a kind the products of which ultimately constitute food for retail consumption, as for example, cattle, sheep, swine, baby chicks, hatching eggs, fish, and bees. Tax applies to retail sales and rentals of any form of animal life. If the animal is an ancillary part of the service being provided, then the transaction is not taxable.

## **AUCTIONEERS**

### **REGULATION 22.SI-6**

Persons engaged in the business of making retail sales at auction of tangible personal property owned by such person or others are retailers, and are, therefore, required to hold sellers' permits, except if acting for a known or disclosed principal licensed to sell such tangible personal property. (Refer to Section 22.86-(6))

The tax is measured by the gross receipts from such sales. The amount upon which tax is computed includes the amount charged for merchandise returned by a customer at an auction sale, if the sale is made under an agreement or understanding at the time of sale that the property will not be delivered or that any amount paid will be returned to the bidder. The gross amount of sales includes the full amount charged to the buyer regardless of whether the buyer accepts delivery of all goods.

## **AUTOMOTIVE DEALERS AND DEMONSTRATION VEHICLES**

### **REGULATION 22.SI-7**

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

**(a) A vehicle actually sold to a salesman, partner, or other official of the dealer's company is subject to the sales tax on the selling price or, if there is a trade-in allowance, on the net selling price of the vehicle.**

**(b) A motor vehicle dealer who uses a vehicle for other than promotion of business, as defined in (c) 3. below, shall pay a use tax upon the dealer's net invoice price.**

**(c) The dealer's use of an inventory or stock vehicle is not subject to a use tax if this vehicle is available for and in fact used for the promotion of business. Definitions of terms used in this rule:**

**1. "Available for use in the promotion of the business of selling vehicles by the dealership" means that the vehicle is on the dealership premises during a substantial portion of the normal business hours.**

**2. "In fact use" means that the vehicle not only must be available but actually must be used by the dealership in the promotion of its business.**

**3. "Promotion of business" means any effort to sell motor vehicles, but does not include vehicles used in the dealer's service or repair business.**

**(d) Any vehicle removed from the dealer's inventory and listed as a capital asset, which is later depreciated or expensed, shall be declared as purchased by the dealer and is subject to the sales and use tax.**

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

## **AUTOMOTIVE REPAIRS**

### **REGULATION 22.SI-8**

**Parts and accessories for automotive vehicles are considered to be of the same nature as other tangible personal property delivered and accordingly are taxable. The repair and installation of automobile air conditioning equipment; body repair and painting, brake service, transmission service, electric service, engine service and repair, radio and stereo service and repair, installation and repair of seat covers, carpets, tops, and upholstery, undercoating and rust proofing as well as any other automobile services and installation are taxable to the full amount of the charge made to the customer with deduction therefrom allowed on account of service or labor, if such service or labor is separately itemized to the customer on his sales invoice.**

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

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

## **BARBERS, BEAUTY SHOP OPERATORS**

**REGULATION 22.SI-9**

Barbers, beauty shop operators, and other personal service proprietors, are the consumers of the supplies and other property used in performing their services and must pay sales taxes on the purchases of such supplies. They are retailers, however, of any such supplies or of used articles or other tangible personal property which they sell to consumers in the regular course of business. Barber shops and beauty parlors are primarily engaged in rendering services and their sales of services are usually not considered subject to the sales tax. Sales of tonics, skin preparations, and other cosmetics when made by the bottle, jar or package are sales of tangible personal property and subject to the tax. However, unless the barber shop or beauty parlor maintains an inventory of a value of \$50.00 or more, it will be deemed to be isolated or casual and not a regular engaging in business, and barber and beauty supply houses are authorized to collect the sales tax on all sales to such barber shops and beauty parlors. If the inventory of package goods which is to be resold is in excess of \$50.00, however, the shop must have a Sales Tax License. Shops engaged in sales of wigs are required to obtain a Sales Tax License and collect the tax on such sales.

**BOWLING ALLEYS**

**REGULATION 22.SI-10**

The amount charged for the utilization, lease or rental of bowling alleys and pinsetters is not taxable under this article. Amounts charged for the sale, lease or, rental of bowling balls, bowling shoes, or other accessories are taxable.

**BROADCASTING STATIONS AND OTHER MEDIA**

**REGULATION 22.SI-11**

Purchases of tangible personal property by broadcasting stations are subject to tax if title to the property is acquired by the stations and the property is not to be resold in the regular course of business. Such purchases include equipment, materials and supplies for transmission (phonographic records, blank discs, etc.), relay, studio, business office and general station facilities. Advertisements for a vendor making retail sales of tangible personal property to Steamboat Springs residents through a broadcasting station or by direct orders to the advertiser must state that sales tax must be added to the sales price remitted by Steamboat Springs residents.

**BUILDING OWNERS AND LESSORS-SALES OF BUILDINGS AND FIXTURES**

**REGULATION 22.SI-12**

Any structure or other real property when detached from the land is considered to be tangible personal property and is taxable as such.

Sales of materials from disassembled structures are taxable as a retail sale unless the materials are to be used as construction materials on a project for which a building permit has been issued. If the materials are to be used as construction materials, the construction use tax shall apply. Structures which are purchased and subsequently detached from the land to be relocated to another site are considered by intent to have been purchased as tangible personal property if detached within one year of purchase and therefore are taxable. Use tax shall be paid at the time of issuance of a building permit for the new location and shall be based upon the purchase price paid for such structure.

Structures which are purchased and subsequently detached from the land to be relocated to another site after a period of greater than one year shall not be considered taxable if the purchaser has owned and occupied the structure for the prior twelve months and continues to occupy the structure for the twelve months subsequent to relocation.

(Refer also to Special Industry Regulations on "Modular, Mobile or Sectional Homes")

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

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

## **BURGLAR ALARM, FIRE ALARM SYSTEMS**

### **REGULATION 22.SI-13**

Leased or rented burglar or fire alarm systems monitored, silent or audible, are taxable to the full amount charged for such rental or lease service rendered. Rental or lease service charges include, but are not limited to, monitoring, maintenance, installation, materials and equipment. Burglar and fire alarm systems sold outright and installed by the vendor are a retail sale and taxable on the full amount of such total charged to the customer. Any charges for labor are not subject to the sales tax if separately stated.

## **CEMETERIES**

### **REGULATION 22.SI-14**

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 Contractor's Rules.

## **CLEANERS-DRY CLEANERS-LAUNDRIES-(NON-COIN OPERATED)**

### **REGULATION 22.SI-15**

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

## **CLEANERS-DRY CLEANERS-LAUNDRIES-(COIN-OPERATED)**

### **REGULATION 22.SI-16**

The sales or use tax shall apply to the purchase of coin-operated laundry, dry cleaning and cleaning machinery and equipment. In addition, gross receipts received from any vending machines on the premises, including but not limited to soaps, bleaches, beverages, candy, etc., are subject to sales tax.

## **COINS AND BULLION**

### **REGULATION 22.SI-17**

Where any coin or currency is exchanged in the open market at the current exchange rate, the transaction is not subject to the sales tax. However, where coins are commemorative or otherwise, and the coins, although legal tender in the issuing country and also acceptable as legal tender in

other countries, are purchased at rates not reflecting actual currency value (as for numismatic or coin collecting purposes or where the precious metal content of the coins determine their value), the transaction is the sale of tangible personal property subject to the sales tax.

Sales of bullion are subject to sales tax. Bullion sold within Steamboat Springs and physically or constructively transferred into the City is subject to the sales tax. Sales of gold and silver commodity contracts are not subject to sales tax unless delivery of the commodity is taken in the City.

REGULATION 22.SI-18 – Reserved.

## COMPUTER SOFTWARE

### REGULATION 22.SI-19

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

A software program is one in which instructions and routines (programs) are determined necessary to program the customer's electronic data processing equipment to enable the customer to accomplish specific functions with his EDP system.

The software may be in the form of:

- (a) Systems programs (except for the instruction codes which are considered tangible property in paragraph 1 above) - programs that control the hardware itself and allow it to compile, assemble and process application programs.
- (b) Applications programs - programs that are created to perform business functions, or control, or monitor processes.
- (c) Pre-written programs (canned) - programs that are either systems programs or application programs and are not written specifically for the user.
- (d) Custom programs - programs created specifically for the user.

To be considered exempt "software", one of the following elements must be present:

1. Preparation or selection of the program for the customer's use requires an analysis of the customer's requirements by the vendor, or
2. The program requires adaptation, by the vendor, to be used in a specific output device. For example, a software vendor offers for sale a pre-written sort program which can be used in several computer models. Prior to operation, instructions must be added by the vendor which specify the particular computer model in which the program will be utilized.

Software, meeting the criteria in (1) or (2) above, whether placed on cards, tape, disc pack, or other machine readable or entered into a computer directly is deemed to be intangible personal property and such sale is exempt from sales and use taxes. Software or programs which do not meet the criteria are subject to tax.

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

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

A software retailer or supplier that sells prepackaged programs for use with home television games or other personal computer equipment, when such programs are fully usable by the customers without modification, is considered to be a vendor of tangible personal property and subject to sales tax on the purchase price of such property.

## **CONSIGNED MERCHANDISE SALES**

### **REGULATION 22.SI-20**

Regardless of the status of the consigned inventory for the purpose of any other tax and regardless of whether the retail customer knows that inventory is not owned by the vendor, the vendor is (1) the retailer of the property and (2) liable for the tax due on the retail sales.

## **CONSTRUCTION AND CONTRACTORS**

### **REGULATION 22.SI-21**

A building use tax shall apply to all construction which takes place within the City limits of Steamboat Springs. The use tax takes precedence over any other municipalities sales or use tax at the time a valid Steamboat Springs construction permit is issued. A deposit for use tax will be collected at the time of application for permit.

The City Sales Tax will be paid on the total purchase price paid or charged for any materials, fixtures, and fabrication labor sold in the City. Where a contractor or any person buys any materials fixtures, and machinery and equipment in the City the City Sales Tax is due, even though ultimate utilization of such items is to be outside the City. The contractor purchasing and the vendor selling and delivering such items will be held strictly liable for such tax remittance unless the purchaser presents the retailer with a building permit or other approved documentation evidencing that a local use tax has been paid or is required to be paid.

Contractors are the consumers of materials used by them in fulfilling construction contracts and the tax applies to the sale of such materials to the contractors.

#### **(a) General Definitions**

1. The term "contractor" as used herein includes both general contractors, and sub-contractors and includes contractors engaged in such building trades as carpentry, bricklaying cement work, steel work, plastering sheet metal work, roofing, tile and terrazzo work, electrical work plumbing, heating, air conditioning and painting. For the purposes of this article, interior decoration, landscaping and fencing contractors are not considered contractors and must be licensed and collect taxes as retailers.

2. The term "construction contract" as used herein means a contract for erecting, remodeling, or repairing a building or other structures on land and includes lump-sum, cost-plus, and time-and-material contracts. The term "construction contract" does not include a contract for the sale and installation of furniture, business machinery and equipment.

3. The term "cost of construction" as used herein means the total cost to construct including but not limited to; architectural design fees, engineering costs, excavation costs, structural, electrical plumbing and mechanical costs, driveways and sidewalks, utility fees, permit fees, and contractor's profit.

4. The term "materials" as used herein means tangible personal property

which when combined with other tangible personal property loses its identity to become an integral and inseparable part of the completed structure. "Materials" include such things as:

Bricks Builders' hardware Caulking material  
Cement Conduit Electric wiring  
and connections  
Flooring Glass Gravel  
Insulation Lath Lead  
Lime Lumber Macadam  
Millwork Mortar Oil  
Paint Paper Piping, valves and  
pipe fittings  
Plaster Putty Reinforcing mesh  
Roofing Sand Sheet metal  
Siding Steel Stone  
Stucco Tile Trim  
Wall board Wall coping Wall paper  
Weatherstripping Wire netting and Wood preserver  
Screen

Note: After completion of construction of any structure and in the event of any subsequent, sale of such structure, no City sales tax shall apply to such transfer on the "materials" incorporated into such structure because of the inseparable nature of the "materials" in the real property.

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

Lighting fixtures	Elevators, hoists, and conveying units	Awnings and venetian blinds
Plumbing fixtures	Burglar Alarm and fire alarm fixtures	Air conditioning units
Signs	Furnaces, boilers and heating units	Refrigeration units
Carpeting	Vault doors and equipment	
Signs	Cabinet, counters, and lockers (prefabricated)	
	Telephone switchboards and instruments	

Note: After completion of construction of any structure and in the event of any subsequent sale of such structure, no City Sales Tax will apply to such transfer on the "fixtures" included at such structure that do not lose their identity as accessories when placed or installed including the above.

6. The term "furniture and business machinery and equipment" as used herein means property to which each of the following conditions apply:

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

Use tax on "furniture and business machinery and equipment", as defined here, shall be collected by the vendor and paid by the purchaser at

time of purchase. "Furniture" is not assessed sales tax as part of application for construction permits.

Examples of "Machinery and Equipment" are:

Portable machines, equipment and tools  
Furniture, appliances, display cases (free standing), and drapes, etc.  
Vehicles, temporary storage sheds, decorating items, i.e. mirrors  
Lathes, drills, presses, cranes, and other machines and  
Apparatus which may be fastened to the realty but which can be removed without damage to the structure or without substantially impairing its use.  
Note: After completion of construction of any structure and in the event of any subsequent sale of such structure, City Sales Tax will apply to such transfer on the "furniture and business machinery and equipment" (including trade fixtures) included at such structure as either not "attached" to the realty or, if "attached," is readily removable as a unit.  
Construction Machinery and Equipment Rentals - The total purchase or sales price charged to or, by any contractor for the rental or use of any construction machinery and equipment are taxable.

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

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

7. The term "construction machinery, equipment supplies and tools", means any tangible personal property sold, leased or rented and used by the contractor or any person in making improvements or performing services.

This would include such property as:

Backhoes Bulldozers Cranes  
Graders Hand tools Trucks  
Compressors Fork Lifts Power  
Tools

Consumable supplies which do not become a permanent part of a structure or other real property (i.e. tape, saw blades, sand paper, particle masks, drill bits) are sales taxable to the contractor when purchased and are not covered by the use tax deposit assessed with the issuance of the building permit.

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

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

#### **(b) Application of the Tax to Individual Building Contractors**

This section explains the provisions of the Sales Tax law to the operation of construction contractors. Building contractors come within the definition of construction contractors. If, however, in the case of time-and-material contract the contractor bills his customer an



amount for "sales tax" computed upon his marked-up billing for materials, it will be assumed, in the absence of convincing evidence to the contrary, that he regards himself as setting the material so billed, and tax will apply to the amount of the billing for materials. Classes of contracts are Lump-Sum, Cost-Plus, and Time-and-Material. In each case the contractor is regarded as the consumer of "materials" and the retailer of "fixtures" as these items are defined in 22.SI-21-(a) 4 and 5.

The tax applies to the sale or purchase of tangible personal property used in the above operations on lump-sum and cost-plus construction contracts as follows:

**1. Contract for the Erection and Installation of Building on Land - As to tangible personal property which is defined as materials (22.SI-21-(a) 4, the tax is due upon the cost of such materials to the contractor. The cost to the contractor includes charges for processing or fabricating material furnished by the contractor.**

**As to tangible personal property which is defined as fixtures (22.SI-21-(a) 5 the contractor must pay tax on the retail selling price of the fixtures. Where the construction contract is for a lump sum, the selling price of fixtures is regarded as the cost price so that a contractor having paid tax, or reimbursed his vendor for tax, on the cost of the fixtures which he purchased would have no further liability in connection therewith, provided he did not fabricate them. If fixtures are fabricated in whole or in part by the contractor, the tax is due on the prevailing price at which similar fixtures in similar quantities ready for installation would be sold to other contractors. Where a construction contract provides for a specific price for the fixtures, the tax applies to that price.**

**2. Property which is Used in the Repair or Remodeling of Existing Buildings - In this category, the tax applies to the cost of the materials used in the remodeling or repair work and to the selling price of the fixtures in the manner described in "Contract for the erection and Installation of Buildings on Land" above.**

**3. Sale of Packaged Prefabricated Buildings without installation - The tax applies to the total sales price of buildings sold without installation or erection. This represents a sale of tangible personal property and not a contract for the improvement of real property.**

**4. The Erection, Installation, and Leasing of Buildings - Where a contract is taken for the erection and installation of a building on the customer's land and the payment thereof is received on the basis of an agreed number of lease installments, the tax applies to the fixtures and materials in the same manner as a regular construction contract for the erection and installation of a building. (See "Contract for the Erection and Installation of Buildings on Land" above).**

**5. Sale and Installation of Machinery and Equipment - A contract for the sale and Installation of machinery and equipment is a sale of tangible personal property and tax applies to the total sales price of machinery and equipment installed in the buildings as part of the contract. The tax does not apply to installation charges separately stated. As to "machinery and equipment" in Government Contracts, see below.**

**6. Landscaping and Fencing - The contractor or owner installing landscaping or fencing (22.SI-21) shall be the consumers of landscaping and fencing used by them in completing installation and the tax applies to the sale of such landscaping and fencing by the retailer. Plants and other landscaping materials are not construction materials and are therefore not covered by the use tax deposit assessed with the issuance of a building permit.**

**Subcontractors** - Where a prime contractor engages a subcontractor to fulfill all or part of his contract to improve real property, the subcontractor is the retailer of, and is responsible for reporting the tax on the sale of all fixtures furnished and installed by him. He is the consumer of materials furnished and installed by him, and the tax applies to the sale of the materials to him exactly as if he were the prime contractor.

**Freight** - in making purchases subject to tax, the freight charges by the seller to the contractor may be subject to tax, even though separately stated from the charge for the property purchased.

**Sales to Contractors for Government Contracts** - Where a contract with the Government is for the construction of improvements on or to real property, tax applies to the cost of the tangible personal property purchased for use in the performance of the contract including construction machinery, equipment, supplies, and tools.

If a building is sold to the Government without erection or installation, no tax is due on the sale, it being an exempt sale to the Government. Sales of "machinery and equipment" to the Government are not subject to tax.

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

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

1. It is not used by the contractor in making the improvements (as distinguished from construction machinery, equipment and tools, such as steam shovels, cranes, trucks, and hand or power tools, actually used to perform construction work, see above 22.SI-21-(a) 7.
2. It is either not attached to the realty or, if attached, is readily removable as a unit (as distinguished from "fixtures,") See above 22.SI-21-(a) 5.
3. It is installed for the purpose of performing a manufacturing operation or some other function not essential to the structure itself.
4. Title to the property passes to the Governments before the contractor makes any use of it.

(Examples of machinery and equipment are shown in 22.SI-21-(a) 6)

**Methods of Payment-Construction Sales and Use Tax for the City of Steamboat Springs.**

**(c) Contractor Tax Liability and Method of Payment**

1. Estimated deposit - all contractors providing construction for which a construction permit is required, must pay a use tax deposit based on 50% of the valuation times the current tax rate. The tax will apply to only the following, included at the job site:

- a. Materials (Refer to 22.SI-21-(a) 4 and;
- b. Fixtures (Refer to 22.SI-21-(a) 5
- c. Fabrication Labor (Refer to 22.SI-28)

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The tax (regardless of any deposit on the above) will still be due on all sales, rentals, and leases for use on that job site, on the following:

- a. Furniture and business machinery and equipment (refer to 22.SI-21-(a) 6 and on;
  - b. Construction machinery, equipment supplies and tools (refer to 22.SI-21-(a) 7,
  - c. Landscaping and fencing.
2. Estimated cost of construction (residential)- the estimated cost of construction for one or two family residential structures for the purposes of estimating the construction use tax deposit shall be computed by applying a cost modifier as determined per Paragraph 5 of this section to the building cost valuation as assigned by the building department. The building department shall use a sliding scale per square foot residential cost range as defined in paragraph 5 below to determine the base cost valuation for the computation of permit fees and taxes.
3. Cost of construction (commercial)- the cost of construction for multifamily, commercial and industrial structures for the purposes of estimating the construction use tax deposit shall be the total cost to construct the designated project. Payment of the estimated use tax deposit for multifamily, commercial and industrial projects may be made in two installments with approval of the City Treasurer. Only estimated deposit assessments in excess of five hundred thousand dollars (\$500,000) will be considered for the installment method. One half of the use tax is due at the issuance of the building permit, with the balance to be paid with in six months of the issuance date. The school district's portion of the use tax must be paid in full at the issuance of the building permit.
4. Cost of-construction (Remodels)- the cost of construction for remodels of existing structures for purposes of estimating the construction use tax deposit shall be the total cost to construct the designated project, or in the case of an owner remodel, the use tax deposit, shall be collected based on an estimate of the total material cost as provided by the owner subject to the approval of the building department.
5. The residential base cost valuation range and the residential cost modifier shall be determined and published by a committee consisting of a building official, a local contractor, a local appraiser, a local architect, a City Finance Department representative and a Routt County Finance Department representative. The committee shall meet at least once every three years to review the base cost valuation range and the cost modifier for reasonableness in relation to the then existing costs of construction in the Steamboat Springs and Routt County area.
6. A builder may, at anytime, appeal to the City Treasurer for an adjustment of the estimated use tax deposit by providing documentation to the City Treasurer supporting that the total project material costs will be less than those estimated per paragraphs (1), (2) or (3), above.
7. At the time of final building inspection, the building department will verify that all construction work is in substantial conformance with the approved plans and specifications. Adjustments to the valuation will be made for major deviations from the scope of work as originally specified and valued. Permit fees, plan check fees, and use tax will be adjusted accordingly. Upon the issuance of a Certificate of Occupancy, the estimated use tax deposit assessed and paid with the issuance of a building permit plus any subsequent adjustments will be accepted as full payment for the extinguishment of all use tax liability associated with the materials and

fixtures incorporated into the real property as allowed by the permit.

8. Should the estimated deposit exceed the tax due on the actual cost of construction materials used for the construction approved by the associated building permit, the construction contractor having applied for and received such permit may apply to the City Treasurer for a refund of all excess tax paid by submitting, in writing, a request for such refund and by providing any documentation as required by the City Treasurer.

The sales tax (regardless of any deposit on materials or fixtures) will still be due on all sales, rentals, and leases for use on that job site, on the following:

- a. Furniture and business machinery and equipment (refer to 22.SI-21-(a) 6 and on;
- b. Construction machinery, equipment supplies and tools (refer to 22.SI-21-(a) 7;
- c. Landscaping and fencing.

**(d) Supplier Tax Liability and Methods of Collection**

**1. Supplier will not Levy City Tax**

The supplier will not levy any tax on any contractor when the contractor furnishes to the supplier and the supplier records on the sales invoice (maintaining a copy of such invoice for audit purposes) the City building permit number and job site address, which address must be within the corporate limits of the city to be exempted from the tax, on the following:

- a. Materials (refer to 22.SI-21-(a) 4); and
- b. Fixtures (refer to 22.SI-21-(a) 5).
- c. Fabrication Labor (Refer to 22.SI-28).

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

Only when such materials, fixtures, fabrication labor, and machinery are to be used outside the city and are delivered outside the city by the conveyance of the vendor or by the common, contract or commercial carrier employed to effect delivery by the vendor, are such purchases exempt from Tax. Proof must be retained that the property was carried outside the City by such means.

**2. Supplier will levy City Tax**

The supplier will levy the tax on all sales, leases and rentals delivered in this City to the contractor or his agent of the following:

- a. Materials (refer to 22.SI-21-(a) 4); and
- b. Fixtures (refer to 22.SI-21-(a) 5).
- c. Fabrication Labor (Refer to 22.SI-28).

When such materials, fixtures, and fabrication labor are for use outside the corporate limits of the City and sales invoices show address outside the City or to the contractors office, but not job site address in the City, or show no address or the name of the contractor, but are merely made out to cash, then the sale is taxable.

The supplier will additionally levy the tax in all cases for all sales, rentals and leases delivered or used in this City for the following:

- a. Furniture and business machinery and equipment (refer to 22.SI-21-(a) 6); and
- b. Construction machinery, equipment, supplies and tools (refer to

**22.SI-21-(a) 7).**

Regardless that the contractor deposited the tax on any issuance of a City Building Permit.

**CONTAINER MANUFACTURERS**

**REGULATION 22.SI-22**

Electricity, gas, coal, fuel oil and coke are taxable when purchased by a person manufacturing or compounding for sale, profit or use, containers, labels and shipping cases non-taxable on their sale or purchase under provisions of Section 22.183-D-(3)(b)) of this article. Additionally all purchases of tools, equipment and supplies and all other tangible personal property except those expressly exempted under Section 22.183-D-(3)(b)) of this article are taxable to such manufacturers or compounders.

**CONTAINERS**

**REGULATION 22.SI-23**

Sales of containers, labels, tags, cartons, packing cases, wrapping paper, twine, bogs, shipping cases, bottles, cans, similar articles and receptacles sold to manufacturers, producers, wholesalers, jobbers, retailers, or other licensed vendors, for use as containers, labels, and shipping cases for articles sold by them, are not taxable if such containers, etc. are being resold, even though no separate charges are made for them. Deposits on returnable beverage bottle containers are not subject to tax. Containers and packaging materials used by moving and packaging businesses are considered to be consumed by such businesses in providing moving and or packaging services. Purchases of containers and packaging materials by moving and packaging businesses are taxable to the moving or packaging business. Moving or packaging businesses which retail containers and or packaging materials must obtain a sales tax license and must collect sales tax on such retail transactions.

**COUPONS**

**REGULATION 22.SI-24**

Retailers accept coupons from their customers for a reduction in the regular selling price of an article. These coupons are classified as either manufacturer's coupons or store coupons. A manufacturer's coupon is issued by the manufacturer of an article and allows the customer a reduction in the sales price of the product upon presentation of the coupon to the retailer. Because the retailer is reimbursed by the manufacturer for the amount of the reduction, sales tax applies to the full selling price before the deduction for the manufacturer's coupon.

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

**DENTISTS AND DENTAL LABORATORIES**

**REGULATION 22.SI-25**

A purchase made by a dental laboratory, which becomes a constituent part of a prosthetic device to be resold to a dentist, is exempt from sales and use tax. Purchase of supplies and materials that do not become constituent parts of a prosthetic device are taxable.

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

General business equipment, all hand instruments, dental equipment, furnishings, and office supplies are taxable.

## **DISTRIBUTING AND WELCOMING SERVICES**

### **REGULATION 22.SI-26**

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

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

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

## **EATING AND DRINKING ESTABLISHMENTS AND CATERERS**

### **REGULATION 22.SI-27**

The sale of meals and beverages is subject to sales tax, and any person making such sales must acquire a Sales Tax License and collect sales tax based upon the total consideration paid thereon. Caterers and other persons similarly engaged are liable for sales tax on the total selling price of items sold and/or charges for service essential to providing meals and beverages.

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.

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

The vendor of meals and drinks must pay the tax on purchases of most products used or consumed in the operation of his business, including fixtures, linens, silverware and glassware.

The purchase of plastic and paper products such as tablecloths, towelettes, napkins, soda straws, plates, knives, forks, spoons and cups are exempt from sales tax if included in the price of the food or drink and not separately stated to the customer.

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

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 exempt from sales tax on their purchases of food, but must pay sales tax on all non-food items.

Nontaxable gratuities include cash tips (money left by the patrons for use of those providing the service), charge tips (amounts added to sales check by the patrons for use of those providing the service), banquet tips and tips separately stated and added to the sales check by the vendor at a flat rate, and the amount is distributed by the vendor to persons who actually rendered the service. Vendors who use food and or supplies from resale inventory for complimentary or promotional purposes must remit City Sales Tax on such items. Sales tax shall apply on the cost to the vendor of such items and shall be reported on the sales tax return as "tax on resale inventory taken for own use". Where the vendor has charged for such items at a price less than cost, the vendor must remit sales tax on the difference between the gross selling price and the cost of the goods sold.

Refer to Specific Regulation on Gas and Electric Services for special deduction for gas and electric used in food preparation.

## FABRICATION LABOR

### REGULATION 22.SI-28

Fabricating includes any operation or series of operations which change the form, state, or composition of tangible personal property from that in which it was acquired by the fabricator, regardless that the fabricator provided those materials, or that the materials were furnished either directly or indirectly to the fabricator, and regardless of where the fabrication labor occurred.

Fabrication labor or services expended in the creation, assembly, production, make-to-order, configuration, printing or imprinting of tangible personal property is part of the taxable purchase price even if the cost or charges for such labor or services are segregated from the cost or charges for materials.

The gross value of all the materials and fabrication labor together with the profit thereon is included in the taxable sales price.

Charges for freight, delivery and transportation are also subject to City sales tax. Reasonable charges for installing tangible personal property may be excluded from the taxable purchase price if separately stated.

REGULATION 22.SI-29 – Reserved.

## FIDUCIARIES

### REGULATION 22.SI-30

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 and setting of tangible personal property, including the liquidation of the assets of a bankrupt, insolvent, or deceased person, must acquire a store or sales tax license in the fiduciary's name and otherwise meet the collection and reporting requirements.

## FINANCIAL INSTITUTIONS

### REGULATION 22.SI-31

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

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

(a) The sales of these premiums and gifts at their reduced price are treated as retail sales and the financial institutions first collect the sales tax from the depositor.

(b) The difference between the bank's purchase price and the cash price paid by the depositor will be taxable to the financial institutions. If an item is given to the depositor, the item's purchase price (cost) will be reported on the appropriate line of the Sales Tax Return.

## FLORISTS

### REGULATION 22.SI-32

All sales at retail by a florist are taxable and all orders taken by florists within Steamboat Springs and telegraphed to florists outside the City are taxable. When a florist within Steamboat receives a

telegraphic order from a florist outside Steamboat Springs, the sale is exempt. When a florist has more than one location in the city, inter-office transactions and deliveries are not to be telegraphic orders.

## **FOUNDATIONS AND OTHER EXEMPT INSTITUTIONS**

### **REGULATION 22.SI-33**

These institutions are exempt from paying taxes on their purchases if they have a State of Colorado Exempt Institution License; however, they are subject to the City of Steamboat Springs tax collection provisions for their sales of tangible personal property.

## **FRANCHISES**

### **REGULATION 22.SI-34**

The sales tax shall apply on taxable tangible personal property supplied under a franchise agreement. When both intangible rights and tangible personal property are furnished under the franchise and the charges are not segregated, the sales tax will apply on the entire franchise payment.

## **FREIGHT, DELIVERY AND TRANSPORTATION**

### **REGULATION 22.SI-35**

(1) Where tangible personal property is sold "F.O.B. shipping point" and the purchaser at that point assumes the risks of ownership, and transportation costs do not appear on the seller's invoice, the cost of transportation paid by the purchaser to the carrier is not subject to the tax.

(2) Where tangible personal property is sold on a delivered or "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.

(3) Where tangible personal property is sold on a delivered or "F.O.B. destination" basis, the tax shall be computed on the total charges, even though the seller bills the purchaser separately for the freight charges.

(4) Where the seller delivers the shipment 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 charge.

(5) Where the seller has prepaid the transportation charges which appear on the seller's invoice as an additional charge, or a separate invoice charge is made, the tax shall be computed on the total charges unless a satisfactory showing is made to the executive director that the seller was acting as a bona fide agent of the purchaser to effect transportation by the carrier of the purchased goods.

## **FURNITURE-SALES, LEASES, REPAIRING, REFINISHING, ETC.**

### **REGULATION 22.SI-36**

Furniture sales, leases, and rentals are taxable on the full amount charged. Charges for repairing, refurbishing, refinishing, and upholstering, and other services, are exempt from tax if the invoice itemizes separately the materials used and labor charged.

## **GARAGE SALES**

### **REGULATION 22.SI-37**



All tangible personal property, whether new or used, sold at garage sales or bazaars are taxable under the article and the party or parties vending such items shall collect and remit sales tax to the City. If such sales are conducted on an occasional or isolated basis and not as regular business, licensing and collection procedures per Sections 22.129 and 22.143-F may apply.

## **GARAGED VEHICLES IN CITY**

### **REGULATION 22.SI-38**

Any resident of Steamboat Springs who purchases a motor vehicle, trailer, or semi-trailer, etc., whether new or used, outside of the City for use within the City must pay the Use Tax of the current Rate of Tax (as defined in Sec. 22-181) on the purchase price of any vehicle upon registration of the said vehicle in Routt County. Any resident who registers a vehicle at an address other than his residence or place of business within Steamboat Springs for the purposes of evading the sales or use tax shall be considered in violation of the article and subject to the penalties set forth herein.

Vehicles registered outside of the City and owned by non-exempt persons are subject to the Use Tax when garaged or used for business in Steamboat Springs. (Refer to Section 22.86-(28) and 22.86-(7))

## **GAS AND ELECTRIC SERVICES**

### **REGULATION 22.SI-39**

Gas and electric services, whether furnished by municipal, public, or private corporations or enterprises, are taxable when furnished for domestic and commercial consumption, but are not taxable when sold for resale.

The tax applies to all amounts paid for taxable gas or electrical services, irrespective of whether there is an actual consumption; the tax is imposed on all payments, whether in the form of a minimum charge, a flat rate, or otherwise.

Sales of electricity, coal, coke, gas, and fuel oil are exempt when sold for the following uses: processing, construction, manufacturing, mining, refining, irrigation, telegraph, telephone and radio communication, street and railroad transportation services, and all industrial uses.

"Industrial uses" means the use of electricity, coal, gas, fuel oil, and coke in a continuing business activity of manufacturing or producing tangible personal property or services. Persons performing services, as well as stores, office buildings and other commercial users, are not industrial users and are required to pay the sales tax.

Electricity sold for commercial lighting purposes is taxable, but electricity sold for industrial use is exempt. Example: electricity used to light a restaurant to prepare meals is exempt; electricity used to light chicken houses to stimulate egg production is exempt; electricity used to light an industrial plant to enable it to produce is exempt.

The following methods are available for industrial users to claim credit for sales tax on their purchases of gas and electricity used for industrial uses, as defined above:

(a) If usage is more than 75% exempt, the user may submit a completed "Sales Tax Exempt Certificate" (available from the City Finance Department) to the utility provider and to the City of Steamboat Springs. The utility provider will then cease charging the user City sales tax on their utility usage. If usage is greater than 75% but less than 100%, the user must remit the City sales tax on the non-exempt portion by completing line 7 (tax on resale inventory taken for own use) of their December sales tax return.

(b) If usage is less than 75% exempt, the user must pay City sales tax on their monthly utility bills. In January of each year the user may submit a claim

for refund for City sales tax paid on the exempt portion of utility usage.  
Refund claim forms may be obtained from the City Finance Department.

The following methods are available for restaurant operators to claim credit for sales tax on their purchases of gas and electricity used in processing food for immediate human consumption.

(a) If the sales of processed food exceed 25% of the total sales revenue, the restaurant may receive credit based on 55% of the City of Steamboat Springs sales tax paid on their purchase of gas and electricity.

(b) If the sales of processed food are 25% or less of total sales revenue, or the restaurant is metered for gas and electricity purposes as part of another business operation, such as a hotel, motel, bowling alley, gas station, etc., then the allowable credit shall be based on 1/2 of 1% of the total processed food sales by the restaurant.

For purposes of determining the applicable percentage of food sales, the term "food sales" shall include only sales of edible foodstuffs which are processed and sold for immediate consumption, but shall not include sales of alcoholic beverages. The second method may be used even though the applicable percentage of food sales exceed 25%.

The credit shall be claimed on an annual basis on the January sales tax return for the previous year. Quarterly filers may take the credit on the first return of the calendar year. In the case of a seasonal business, the credit shall be claimed on the June sales tax return. The computation for claiming this credit should be made on forms prescribed by the Department of Finance.

## GROCERIES-RESTAURANTS

### REGULATION 22.SI-40

(a) Food items taxable under the Steamboat Springs Sales and Use Tax Code are the following:

1. On all meals or food or food products consumed on the premises of the vendor.
2. On all meals, food and food products prepared or offered by the vendor at the place of sale for immediate consumption by the purchaser including take out restaurant or drive-in restaurant foods. The term meal shall include fountain lunches, sandwiches, non-alcoholic beverages, hot popcorn, warm hot dogs, hot coffee and other types of prepared food served for immediate consumption, no matter how simple the menu.  
  
"Prepared" shall mean any act of making ready for immediate consumption and shall include, but shall not be limited to, combining to two or more ingredients (or product items), heating, cooling, freezing, dividing (to single portions) or any other act normally attributed to functions classified as food service type operations.
3. On all alcoholic beverages, both by the package and by the drink. Alcoholic beverages to include fermented malt beverages, malt, vinous, and spirituous liquors.
4. On all food products that are not for human consumption, including pet foods (but excluding from the tax, feed for livestock and poultry).
5. On all food products vended from any vending device.
6. On all sales of any product for human consumption in liquid, powdered, granular, tablet, capsule, lozenge, or pill form: (a) which is described on its

package or label as a food supplement, or dietary adjunct, and to any such product; (b) which is described or designed to remedy specific dietary deficiencies or to increase or decrease one or more of the following areas of human nutrition: (1) Vitamins; (2) Proteins; (3) Minerals; (4) Caloric intake.

7. Sales of consumable products, as an example, but not limited to, household cleaning, hardware, non-prescription drugs, paper, paper products, cosmetics, apparel, animal food and other items of tangible personal property sold, not property classified as food for human consumption are taxable.

8. All food items for human consumption are subject to the Steamboat Springs tax whether sold by a retail grocery store, supermarket, dairy, bakery, food home delivery service or roadside produce stand, for consumption off the premises.

"Consumed off the premises" shall mean food and food products sold in the form, unit and quantity which are customarily purchased and customarily requiring additional preparation for consumption in the home or place of domicile.

## **GIFTS, PREMIUMS AND PRIZES**

### **REGULATION 22.SI-41**

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

Purchases of tangible personal property for use as gifts, premiums or prizes, for which no valuable consideration is received from the recipient, are subject to tax on the total purchase price; the purchaser is deemed to be the user-consumer of such property.

A person purchasing tangible personal property to give away in any manner, is a user or consumer and is liable for the tax thereon; such property includes advertising gifts and articles given as prizes, premiums, or to goodwill.

## **HOTELS AND MOTELS**

### **REGULATION 22.SI-42**

Supplies such as toilet tissue, soap, shoe shine cloths, clothes bags, matches, facial tissue, coffee and other items available in the rooms for guests use are not subject to sales or use tax at the time of purchase by the hotel or motel.

Purchases of linens, furniture, pool equipment and supplies, and similar items are subject to sales or use tax . Rentals of linens from a commercial linen operator are not taxable.

Charges made to guests for telephone calls (both local and long distance) and for viewing of movies or pay TV are subject to the City's sales tax. Credit will be allowed for any city taxes paid by the hotel or motel owner to the supplier of such services.

If a hotel or motel operates a restaurant or lounge, see the rule for "Eating and Drinking Establishments".

## **ICE**

**REGULATION 22.SI-43**

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 the sales tax.

Persons selling ice to manufacturers, carriers, or any other consumer for the purpose of cooling or keeping perishable items of property or for other uses are making 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 a part of the water content of the sausage and luncheon meats, 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, the purchase is subject to tax.

**INITIAL USE OF PROPERTY**

**REGULATION 22.SI-44**

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

(Example: A junkman may not buy a new car tax-free under the theory that the car is going to be junked someday and resold through his business for scrap.)

**INSURANCE COMPANIES**

**REGULATION 22.SI-45**

Insurance companies and agencies must pay the City Sales or Use Tax on all tangible personal property purchased for use, storage, distribution or other consumption in the City. This includes Fair Market Value of tangible personal property used, consumed or stored in Steamboat Springs by Inter-Company transfers.

**JANITORIAL SERVICES**

**REGULATION 22.SI-46**

Items such as hand soaps, paper towels, toilet tissue and disinfectants which are furnished under a service contract and which are billed to the customer as a separate and distinct item from the service that is performed, are considered retail sales of tangible personal property. Sales tax shall be collected from the customer and remitted by the janitorial service. If such consumable items are not separately stated but are included in the janitorial service contract, the janitorial service shall be deemed to be the user or consumer of the products and shall pay sales or use tax at the time of purchase.

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

**LEASED DEPARTMENTS**

**REGULATION 22.SI-47**

Leased departments in department stores, for the purpose of licensing under the Colorado Chain Store License Law, are separate and distinct stores, just the same as if the various businesses conducted in such departments were conducted in separate and distinct buildings. The fact that the various departments happen to be in one building or on one floor of a building does not alter the fact that ownership and control of merchandise is different in each leased department. where a store has leased departments to persons for retail sales of tangible personal property, each leased

department shall make separate monthly returns. The lessee shall keep his own books and make his own sales tax collections on retail sales. If the lessor store keeps the books for the lessee departments and makes collections on account of their sales, the lessor store shall make separate returns for such departments and shall pay the taxes due thereon. But the lessee is not relieved of his ultimate liability under the Act if the lessor store fails to make the proper returns or to remit the taxes to the executive director.

## **LINEN SERVICES**

### **REGULATION 22.SI-48**

Persons engaged in the business of furnishing linens and apparel to customers under an agreement which includes a continuous service to be rendered in the periodic cleaning of such articles, are deemed to be engaged in a non-taxable rental.

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

## **MAINTENANCE AND DECORATING SERVICES**

### **REGULATION 22.SI-49**

Persons engaged in the business of rendering renovation services, such as painters and paper hangers, floor waxing services and other 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 the articles purchased and are subject to tax on these articles at the time they are purchased.

No sales or use tax is applicable to the charges made for these services.

## **MANUFACTURERS AND PREFABRICATORS ACTING AS CONTRACTORS**

### **REGULATION 22.SI-50**

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

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

## **MODULAR, MOBILE OR SECTIONAL HOMES**

### **REGULATION 22.SI-51**

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

A manufacturer or dealer who enters into a single contract with the customer is a construction

contractor if the contract requires the manufacturer or dealer to sell and install the structure by incorporating it into the realty of the customer before the title to the structure is passed. The manufacturer or dealer is considered to be the final user or consumer of the materials and supplies incorporated into the real estate under the contract.

A manufacturer or dealer who merely sells a modular or sectional home to a customer and does not at the time agree to incorporate it into the realty of the customer is considered a retailer and is required to charge sales tax on fifty two percent (52%) of the sales price of the structure. A modular and sectional home manufacturer or dealer may be both a contractor and a retailer. "Mobile Home" means any wheeled vehicle, exceeding either eight feet in width or thirty-two feet in length, excluding towing gear and bumpers, without motive power, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which may be drawn over the public highways by a motor vehicle. Purchasers of modular, sectional or mobile homes who do not pay City Sales Tax to the vendor at the time of purchase must pay the City Use Tax on fifty two percent (52%) of the selling price prior to attachment to property within the City.

Subsequent transfers of modular, sectional or mobile homes, in place, are exempt from the imposition of tax. If subsequently sold and detached, tax may be due per the provisions for buildings detached and moved in Regulation 22.SI-12.

## **MORTICIANS, FUNERAL PARLORS, MEMORIAL DEALERS**

### **REGULATION 22.SI-52**

Morticians are retailers of the tangible personal property furnished in connection with rendering their services, and tax applies to the sale by morticians of all tangible personal property so furnished.

Tax applies to the fair retail value of vaults, urns, caskets, shipping boxes, grave boxes, clothing, and "extras" or property furnished in addition to that customarily furnished with standard service. Tax with respect to other items of tangible personal property furnished shall be computed upon fifty percent (50%) of the remainder of the charge for the funeral.

If the items of tangible personal property furnished are segregated in billings to customers and specific charges made therefor, tax applies to such charges.

Tax does not apply to accommodation cash advances for such items as cemetery charges, newspaper notices, railroad tickets, and ministerial fees.

Pre-paid burial insurance plans are not, taxable at the time of the purchase of the pre-need contract only if all funds paid for the plan are held in trust, under the Laws of the State of Colorado, until the time of need. The sale at the time of the funeral service is subject to tax in the same manner as other funeral services. If the funds are not held in trust the transaction is taxable in full at time of purchase of pre-need plan.

Memorial Dealers as Retailer - Memorial dealers are retailers of the tombstones, markers, and other memorials sold by them and also are retailers of the materials, such as cement, used in setting the memorial in the cemetery.

Measure of Tax-Lump Sum or Separate Charge for Materials and Labor - If the memorial dealer agrees to furnish a memorial and to set it in the cemetery for a lump sum, the tax applies to the entire amount charged. If a separate charge is made for the memorial and the materials used in connection with setting the memorial in the cemetery and an additional charge is made for the labor of setting the memorial in the cemetery, the tax does not apply to the charge for the labor of setting the memorial in the cemetery. However, no deduction may be made of the charges for cutting, shaping, polishing or lettering the memorial or for transporting the memorial to the cemetery.

Cemeteries Constructing Foundations - When cemeteries construct the foundations upon which the memorial dealers place the memorials, and collect the charges for the foundations from the

memorial dealers and the memorial dealers either collect the amount from their customers or include it within the charge made to the customers for furnishing the memorials, the memorial dealers are the retailers of the foundations, or the materials used therein and must pay the tax to the City on the charge made therefor as well as on the charge for the memorials. The cemeteries are in this case deemed to be acting as the agents of the memorial dealers in constructing the foundations. When the cemeteries collect the charges for the foundations directly from the customers of the memorial dealers, the cemeteries are the retailers of the foundations and must pay the tax to the City on the charges made therefor, or, if separate charges are made for the materials and labor furnished, on the selling price of the materials.

## **NEWSPAPER PRINTERS AND PUBLISHERS-MATS**

### **REGULATION 22.SI-53**

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

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

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

**Mats Furnished by Syndicator of Columns and Strips** - This type of mat refers to comic strip drawings, syndicated columns, syndicated photos, and the like. These mats are furnished by these columnists or syndicates to the publisher. The columnist or syndicate is the retailer of the mats.  
**Mats Furnished by Advertisers or Advertising Agencies** - Advertisers are consumers of mats furnished newspapers for advertising purposes. Tax applies, accordingly, to the sale of the mats to the advertisers. If the advertiser acts through an advertising agency which acquires the mats for his account, tax applies to the sale of the mat to the agency. If the advertising agency acts as principal in obtaining and furnishing mats to advertisers, the sale to the agency is exempt as a sale for resale, and the sale by the agency is taxable. The newspaper printers or publishers selling mats to the advertiser must charge the tax.

## **OPTICAL SALES AND SERVICE**

### **REGULATION 22.SI-54**

**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 hearing arts are considered to be prosthetic devices and exempt from tax.**

**Sunglasses, reading glasses, binoculars, telescopes, and similar articles not dispensed under a qualified prescription, are subject to tax.**

## **PETROLEUM-REFINERIES AND PRODUCTS**

### **REGULATION 22.SI-55**

**Refiners who make a product instead of merely removing impurities from a product are manufacturers. Refiners must assess the tax on all petroleum products which they sell not exempted under Section 22.183-D-(5) or elsewhere herein.**

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 integral or component part of the finished product, wholly or partially, 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 non-operational activities; (3) items used by persons who are designated under this article as being ultimate consumers of materials that they purchase for their business operation; (4) 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 (such as wastage), are taxable to the user or consumer on their proportionate value; and (6) chemicals used in manufacture that do not survive the manufacturing process as ingredients are taxable.

## **PHOTOGRAPHERS AND PHOTOSTAT PRODUCERS, PHOTO FINISHERS, X-RAY LABS**

### **REGULATION 22.SI-56**

Photographers and Photostat Producers - Tax applies to sales of photographs, whether or not produced, to the special order of the customer. This applies in any case when only the possession, but not the title of the photographs is transferred, even when the purpose is for one time only use such as might be the case for reproduction in newspapers or magazines, or in any case when title or both title and possession is transferred. Tax applies to sales of photostat copies, whether or not produced to the special order of the customer, and to charges for the making of photographs or photostat copies out of materials furnished by the customer. A deduction is allowable on account of such expenses of the photographer as travel time or salaries or wages paid to assistant or models, when such expenses are itemized in billings to customers.

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

Photo Finishers - Tax applies to charges for printing pictures or making enlargements from negatives furnished by the customer, and to charges for developing the negatives. Tax does also apply to charges for tinting or coloring pictures furnished to the finisher by the customer. Tax does not apply to sales to photo finishers of tangible personal property which becomes an ingredient or component part of the finished product sold, but does apply to sales to the photo finisher not becoming such an ingredient or component of their end taxable retail sale to the customer.

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

## **PRINTERS AND PRINTING**

### **REGULATION 22.SI-57**

Sales of catalogues, books, letterheads, bills, envelopes, folders, advertising circulars and other



printed matter are taxable retail sales if the purchaser does not resell the articles but uses or consumes them as by distributing them free. Except as herein stated, a printer may not deduct from the selling price any charge for labor or service in performing the printing, even though the labor or service charges may be billed separately from the charge for stock. The labor or service is expended in the production of the articles sold; consequently, it is manufacturing labor incorporated in the product.

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

On commercial printing of postal cards or stamped envelopes purchased from the United States Postal Service, the amount subject to tax does not 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 the subsequent imprinting is taxable on the full price charged by the printer for the item. Sales tax must be collected on the selling price of each part of the job. The subsequent imprinting before delivery is deemed to be completion of the initial sale, not a separate transaction.

Exempt purchases of tangible personal property for resale include:

- (a) Paper: Newsprint; stock on which the finished product is printed and delivered to the customer; and wrapping materials for finished products sold to customers.
- (b) Ink: Printers ink, ink additives, and overprint varnishes.
- (c) Chemicals: Anti-offset sprays, fountain etch solutions, gum solutions, and all component chemicals when used with the above materials.
- (d) Materials: Padding compound, stitching wire and staples, and bookbinders tape.
- (e) Pre-press preparation materials: Light sensitive film, plates and proofing materials.

Said exemption shall be allowed when the procedures as stated below are complied with.

Printers who are just performing a service will be subject to those rules given in the Special Regulations for "Service Enterprises". Printers ink and newsprint are exempt under C.R.S. 1973, 39-26-102(21), but all other above listed items are subject to use tax when applied to property which is not sold.

Pre-press preparation materials (which shall be defined as light sensitive films, plates, and proofing materials) shall qualify as exempt purchases of tangible personal property to the extent such items are utilized for the production of a specific product for a specific customer and title passes to the customer as part of the total sale, and adequate cost records for the particular job showing amount of pre-press preparation material are retained by the printer.

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

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

## PRIVATE CLUBS

**REGULATION 22.SI-58**

Private clubs such as country clubs, athletic clubs, travel clubs, fraternal organizations, or organizations of persons formerly in the armed services of the United States are subject to the tax when they sell tangible personal property at retail or do any of the other things subject to tax. This is true even though all transactions are with members.

**PUBLIC UTILITIES - GAS, ELECTRIC, PHONE, TELEGRAPH SERVICES**

**REGULATION 22.SI-59**

The full amount charged for all services and tangible property rendered and sold by the above, public utilities whether furnished by Governmental or Private Corporations are taxable to the full extent of the charges made to any person under this article with only those deductions allowed as are specifically set forth in the regulations and article in Section 22.183 herein.

**RAILROADS**

**REGULATION 22.SI-60**

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

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

**READY-MIX CONCRETE**

**REGULATION 22.SI-61**

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

**REPOSSESSED PROPERTY**

**REGULATION 22.SI-62**

If the reposessor of tangible personal property sold the property to the person from whom it was taken and remitted the tax on the total selling price, the retailer-reposessor may deduct the uncollected selling price from the gross sales on the sales tax return for the period during which the repossession occurred. Repossessed property must be held exclusively for resale by a person holding a valid sales tax license. The subsequent retail sale of the repossessed property is subject to sales tax.

No deduction or other credit may be taken from gross sales on account of the repossession where:

- (a) The repossessed property is a motor vehicle.
- (b) The retailer-reposessor reports sales tax on the cash basis.

A person is not liable for sales or use tax on the transaction of repossessing tangible personal property on which he retained a security interest.

**REPAIR SERVICES**

**REGULATION 22.SI-63**

Under Sections 22.87, 22.86-(32), 22.86-(28), 22.86-(25) of this article all sales, leases and rentals of tangible personal property are taxable with no deductions therefrom on account of labor, services, profit, cost of materials used or any other cost on the sale of such property.

Regardless that some business establishments that convey tangible personal property to the customer may be allowed under the laws or regulations of other taxing jurisdictions to consider themselves consumers (and not retailers) for purposes of payment of tax, any business enterprise conveying tangible personal property in a combined sale of property and service to any customer shall, at the discretion of the City Treasurer be considered a retailer under the Steamboat Springs Tax Code and shall charge the tax to the customer on that combined sale of property and service, if not separately stated.

The tax will be charged on the total purchase or selling price to the customer without any deduction therefrom on account of the cost of the property sold, cost of materials used, labor or service cost, or any other expense whatsoever on any of the following types of repair, restoration, refinishing, and alteration. If such retailer fails to itemize the materials portion of that combined sale of property and service to the customer and charge the Steamboat Springs Tax on the materials portion of the invoice to the customer, then that retailer must remit the tax on the total combined sale of property and service to the customer.

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

- Air conditioning, room unit repair
- Appliance repairing, any type automobile repair,
- Bicycle repair
- Bookbinding
- Carpet and rug repairing
- Clock repairing
- Compressor repairing
- Data processing equipment repairing
- Dishwasher machine repairing
- Electrical appliance repairing
- Electrical motor repairing
- Electronic equipment repairing
- Any engine repair
- Furniture repair, upholstery, or other refinishing
- Ice making equipment repairing
- Jacks repairing
- Jewelry repair and renovation
- Lamp repairing
- Laundry equipment repairing
- Lawn mower sharpening and repairing
- Locks and Locksmith repairing and replacements
- Luggage and leather goods repairing
- Motorcycle and motor scooter repairing
- Motor and transformer rewinding
- Musical instrument repair
- Office furniture and equipment repair and refinishing
- Phonograph repairing
- Photo retouching
- Photographic equipment repairing
- Piano refinishing, rebuilding and repairing
- Plating and electroplating
- Refinishing or finishing work
- Radio and television repairing
- Range and stove repairing
- Refrigeration equipment repair
- Sewing machine repair

Shoe and leather goods repair  
Sign maintenance and repair  
Stereophonic sound equipment repair  
Storm window and door repair  
Tennis racket re-stringing and repairing  
Tire recapping, retreading and repairing  
Tool repair work  
Transmission repair  
Truck repairing service  
Vacuum cleaner repair  
Watch and jewelry repair

Weaving and mending repair and clothing alterations and repair work for which a charge is made.

Wheel alignment, frame and axle servicing and repair and any other remaking, remanufacturing, reprocessing, reforming, reshaping, refashioning, refabricating, reforging or other repair of tangible personal property as defined under this article to bring to a state of usefulness, anew, that tangible personal property, regardless the ownership of such property may reside in the purchaser. Nothing contained in this regulation should be construed or is intended to be a limitation on the legislative intent of taxability as stated in article Sections 22.87-A and 22.87-B.

## REUPHOLSTERERS OF FURNITURE

### REGULATION 22.SI-64

**General - Upholsterers generally perform four functions when completing a contract for their services:**

- (a) The sale of materials and parts.
- (b) The fabrication of back and seat cushions and cutting and sewing of new material used for upholstery covering.
- (c) Labor for stripping old material and applying new material to tangible personal property.
- (d) Repair labor such as retying springs and refinishing the exposed wooden areas of furniture, (e.g. arms, legs, etc.).

**Sales of Materials and Parts - Reupholsterers are the retailers of materials and parts they sell in connection with reupholstering jobs. These include but are not limited to: fabrics for furniture covering cushions, foam rubber, padding, burlap, dust covers, seat decking, spring units, legs, arms and casters.**

**Reupholsterers also are the retailers of items with small unit values or furnished in small quantities an any particular job. These are commonly referred to as findings and include such items as brads, buttons, cardboard strips, edge roll, edge wire, glue, spring clips, tacks, tacking strips, thread, twine, web cord and varnish.**

**Fabrication Labor - Charges for fabrication labor are taxable. Cutting and sewing materials for coverings for furniture being upholstered, including back and seat cushions, are steps in the process of completing a new article and are fabrication labor. Labor for making new furniture from materials furnished directly or indirectly by the customer is fabrication labor, additionally labor charges for repairing furniture and for applying new materials to furniture are taxable, under the rule set in Regulation 22.SI-21.**

**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 accordingly, will charge his customer sales tax on the tangible personal property used in this service. The upholsterer must separately state the tangible personal property and the service or labor charges on his billing to his customer.**

**A sale by the upholsterer of upholstery material, manufactured articles, or other tangible personal**

property to a retail customer, without service rendered in connection with the sale, is taxable on the full selling price of the property.

An upholsterer who purchases property which he upholsters and then offers for sale is required to charge sales tax on the full selling price of such property.

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

## **SAND AND GRAVEL**

### **REGULATION 22.SI-65**

Tax must be imposed on the delivered price of sand and gravel, including minimum load and transportation charges in accordance with the provisions of Section 22.86-(42). Tax on charges for hauling materials to the customer's destination may be avoided only if all of the following conditions are met:

- (a) The retailer has fixed and posted prices both for the material and for hauling. These prices must be completely independent of each other. In other words, the price of the material must be the same to the customer whether the retailer provides the hauling or the customer arranges for his own transportation: If the retailer provides the hauling, the charges must be clearly segregated on the customer's invoice.
- (b) The customer must have the option to determine the means of transportation to his destination. There must be practical as well as economic alternatives available for the customer in terms of providers of transportation; and
- (c) Regardless of who provides the transportation, the retailer and the customer must agree and acknowledge in writing that the sale of the materials takes place, and title to the goods transfers, at the retailer's place of business. The customer must acknowledge that he is the owner of the material being transported. Stand-by charges made after arrival at the destination are not taxable if segregated on the customer's invoice.

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

The retailer of sand and gravel who removes sand and gravel stocks to fulfill his own construction obligations is subject to sales or use tax on the acquisition cost of the products used at the time of conversion to his own use or consumption excepting when the retailer uses the sand or gravel as an ingredient to make another product for resale.

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

## **SERVICE ENTERPRISES**

### **REGULATION 22.SI-66**

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

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

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

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

A research and development contract is distinguished from a contract for the manufacture of a custom made item. In the latter, the research, design, etc., although necessary to the manufacture of the item, is incidental to the primary purpose of the contract. Generally, custom made items are for consumption or resale. The buyer wants the item for its intrinsic value as an item, and is not interested in the data developed in the course of its manufacture. In such contracts, the entire contract price is subject to tax if the tax applies. A person contracting for research and development is primarily contracting for information which is intangible. Generally, the person contracting for information is going to use it to manufacture and sell some item of tangible personal property. The development of the information in a research and development contract is not a sale of tangible personal property. It is a service. Since the information such as plans, design, and parts lists, etc., cannot ordinarily be conveyed orally, the information is conveyed on paper. The transfer of the information on paper is not a sale of tangible personal property and the transfer is incidental to the service of developing the information. In certain instances, the information cannot be conveyed without the transfer of a prototype. In these cases, the transfer of the prototype is incidental to the transfer of the information and is not a sale of the prototype.

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

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

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

separate agreement.

**Example: Original construction plans - A \$50.00 charge for original plans made according to the desires of each person interested in converting existing buses or van trucks into "house cars" would not be subject to tax. The total charge would be subject to tax if the plan sold was merely a duplicate of a plan drawn for a preceding customer. The planner is the consumer of the paper and other materials used to present the plan.**

## **TAXIS AND RENTAL CARS**

### **REGULATION 22.SI-67**

**Purchases of vehicles to be used as taxis are subject to the motor vehicle use tax per Section 22.197-A.**

**Fares and rental charges for taxis service or limo service is nontaxable. Taxi and limo services must be provided with an operator, otherwise, the service is a taxable rental of tangible personal property and subject to sales tax.**

**Rentals of vehicles by rental car agencies or any other person is the rental of tangible personal property and subject to sales tax. Sales tax shall be computed on all charges for rental including but not limited to day rates, mileage charges, drop fees, waiver fees, and child seat rentals. Taxable charges shall not include charges for gasoline, cleaning charges, and insurance if separately stated on the customer invoice.**

## **TOOLS, JIGS, DIES, PATTERNS AND MOLDS**

### **REGULATION 22.SI-68**

**A person who makes and sells tools, jigs, dies, patterns, molds and similar items to a customer for use in his 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 resell them (as to the customer for whom he is manufacturing articles); however, such resale does 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, the sale is taxable.**

## **TRUSTEES, MORTGAGEES, RECEIVERS, EXECUTORS AND ADMINISTRATORS**

### **REGULATION 22.SI-69**

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

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

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

- (a) The sale is made pursuant to a court decree of foreclosure by an officer appointed by the court for that purpose, or**
- (b) The property is bid in by the mortgagee,**
- (c) The sale is made as result of tax warrant action tax applies to other foreclosure sales and to sales by a person who has bid in the property, to the same extent as to other sales.**

## VENDING AND AMUSEMENT DEVICES

### REGULATION 22.SI-70

The vending of individual articles of tangible personal property which are vended through coin operated vending machines are subject to the Steamboat Springs 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 having made the election he must continue to report the sales tax in the manner elected.

The owner, operator, or person selling tangible personal property by coin operated vending machine shall be liable additionally for the sales and use tax on the purchase price of the vending machine which vends tangible personal property. Furthermore, the sales/use tax applies to any subsequent lease, rental, or sale thereof on the full lease, rental, or sale price.

On the use of any coin 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, (the coin operated or other machinery and equipment) then the sales tax does not apply.

Short-term rentals of coin-operated machines shall include, but are not limited to such devices as: coin-operated laundry machines, dry cleaning machines, car wash machines, billiard and pool tables, pinball machines, shuffleboard, bowling games, radio-ray rifle games, baseball games, football games, racing games, football games, boxing games, outer space games, and other electronic devices.

The vending machine operator or owner will list with the City Treasurer the location of each machine, and each machine must be stamped or bear other identification showing the owner's or operator's name, his City Tax License number, and his address. Such identification shall be so devised and affixed as to be visible in full at all times. The proprietor of the property on which such vending devices are placed and where such devices do not display (1) the name of the owner or operator of such vending device, (2) date of placement on the proprietor's property by the owner, (3) address of such situs of vending machine, and (4) Steamboat Springs Sales and Use Tax License Number of the owner or operator, shall be summoned to the City Municipal Court as being in violation of article Section 22.107-A "Aiding and Abetting in an evasion of collection of tax." The operator or owner shall keep accurate records of the gross value of merchandise vended from each machine located within Steamboat Springs, the time and place of installation of each machine the date removed from any location, and any rentals received from the owner of the premises where each machine is located. Such gross value of the merchandise vended from such machines is subject to the imposition of the City Sales and Use Tax (The identification requirements also apply as in (1) (2) (3) (4) above as to amusement devices not vending personal property.)

The owners or operators of vending or amusement devices machines that vend tangible personal property shall be considered to be the ultimate consumers of such machines or devices, and shall pay sales or use tax upon the purchase or use thereof.