Title 3

REVENUE AND FINANCE

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SALES AND USE TAX

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I. General Provisions

3.01.010 Short title.

The ordinance codified in this chapter shall be known as the city sales and use tax ordinance.

3.01.020 Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

“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.

“Acquisition charges or costs” includes “purchase price,” as defined in this section.

“Auction” or “auction sales” 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.

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

“Business” includes all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

“Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration.

“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 any political campaign on behalf of any candidate for public office (including the publishing or distributing of statements).

“City of Lakewood” means the municipality of Lakewood, Colorado.

“City Attorney” means the attorney or attorneys for the city.
“City Building Inspector” means the building inspector for the city.
“City Building Official” means any individual who determines the estimate of the cost of materials and supplies to be permanently affixed to or incorporated in any building, dwelling, or other structure or improvement to realty for which a use tax is required to be paid pursuant to Section 3.01.210.
“City Clerk” means the clerk of the city.
“City Council” means the council of the city.
“City Manager” means the manager of the city.
“Commercial Mobile Radio Service” or "Mobile Telecommunications Service" means a mobile service that is: (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) an interconnected service; and (3) available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) the functional equivalent of such a mobile service described in paragraph (a). (Reference Section 20.3 of Title 47 of the Code of Federal Regulations).
“Commercial packaging materials” means containers, labels and shipping cases used by a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all of the following conditions: (i) is used by the manufacturer, compounding, 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. “Commercial packaging materials” as defined are exempt from sales or use tax imposed by this chapter.
“Construction materials” means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders’ hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs, and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project are not construction materials.
“Consumer” means (a) an individual person, or (b) a 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.
“County” means Jefferson County, Colorado.
“County Clerk and Recorder” means the county clerk and recorder for the county.
“C.R.S.” means Colorado Revised Statutes.
"Customer" means the person or entity that contracts with the home service provider for mobile telecommunications services, or if the end user of the mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service. The term "customer" does not include a reseller of mobile telecommunications service or a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area. (Reference 4 U.S.C. Section 128(2)).
“Deficiency” or “tax deficiency” means any amount of tax that is not reported or not paid on or before the date such tax is due.

“Department of Revenue” means the Department of Revenue of the state.

“District Court” means the district court in and for Jefferson County, Colorado.

“Doing business in the city” means providing or performing services, or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the city. Doing business in the city includes, but is not limited to, any one of the following activities by a person:

1. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the city;
2. 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;
3. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
4. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
5. Makes more than one delivery into the taxing jurisdiction within a twelve-month period.

“Enhanced Zip Code” means a United States postal zip code of 9 or more digits. (Reference 4 U.S.C. Section 128(4))

“Farm close-out sale” means the 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.

“Finance Department” means the finance department of the city.

“Director of Finance/City Treasurer” means the Director of Finance/City Treasurer of the City of Lakewood or such other person designated by the municipality; “Director of Finance/City Treasurer” shall also include such person's designee.

“Food” means food for domestic home consumption as defined in 7 U.S.C. Section 2012(g) as amended, as such section existed on October 1, 1987, or is thereafter 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 or coin-collecting food and snack devices on behalf of a vendor.

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

“Gross taxable sales” means the total amount received in money, credits, or property, excluding the fair market value of exchanged property consideration valued in money from sales and purchases at retail within this city, and embraced within the provisions of this chapter. The taxpayer may take credit in his report of gross sales for an amount equal to the sale price of property returned by the purchaser when the full sale price thereof is refunded whether in cash or by credit. The fair market value of any exchanged property which is to be sold thereafter in the usual course of the retailer's business, if included in the full price of a new article, shall be excluded from the gross sales. On all sales at retail that are valued in money, when such sales are made under conditional sales contract, or under other forms of sale where the payment of the principal sum there under is extended over a period longer than sixty days from the date of sale thereof, only such portion of the sale amount hereof may be counted for the purpose of imposition of the
tax imposed by this chapter as has actually been received in cash by the taxpayer during the period for which the tax imposed by this chapter is due and payable.

“Home Service Provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications service. (Reference 4 U.S.C. Section 128(5)).

“Interconnected Service” means a service (a) that is interconnected with the public switched network, or interconnected with the public switched network through an interconnected service provider, that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network; or (b) for which a request for such interconnection is pending pursuant to section 332 (c)(1)(B) of the Federal Communication Act, 47 U.S.C 332(c)(1)(B). A mobile service offers interconnected service even if the service allows subscribers to access the public switched network only during specified hours of the day, or if the service provides general access to points on the public switched network but also restricts access in certain limited ways. Interconnected services do not include any interface between a licensee’s facilities and the public switched network exclusively for a licensee’s internal control purposes. (Reference Section 20.3 of Title 47 of the Code of Federal Regulations).

“License” means a City of Lakewood sales or use tax license.

“Linen services” means services involving provision and cleaning of linens, including but not limited to rags, uniforms, coveralls and diapers.

“Local telephone exchange company” means any person which provides public telephone or telecommunication exchange access lines, mobile telecommunication or channels necessary to effect the transfer of two-way voice or data grade information between the final user and the local telecommunication network.

“Mayor” means the mayor of the city.

“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 usable 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 a part of professional services provided to a patient; and corrective eyeglasses, contact lenses or hearing aids.

“Mobile Service” means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: (a) both one-way and two-way radio communications services; (b) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and (c) any service for which a license is required in a personal communications service under Section 20.3 of Title 47 of the Code of Federal Regulations. (Reference Section 20.3 of Title 47 of the Code of Federal Regulations).

“Modified or customized computer program” means a computer program created or modified for a specific customer where the preparation, modification or selection of the program for the customer’s use requires an analysis of the customer’s requirements and system by any vendor and the program requires adaptation by any vendor to be used in a specific computer hardware environment.

“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.
“Pay television” shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

“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.

“Place of Primary Use” means the street address representative of where the customer’s use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer and within the licensed service area of the Home Service Provider. (Reference 4 U.S.C. Section 124(8)).

“Prescription drugs for animals” means drugs dispensed in accordance with any order in writing, dated and signed by a practitioner of the healing arts, 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.

“Pre-written computer program” means system program or application or canned program that is not written specifically for the user.

“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:

1. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
2. Such exchanged property is an automotive vehicle and is exchanged for another automotive vehicle and both automotive 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:

1. The amount of money received or due in cash and credits;
2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business;
3. 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;
4. The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price;
5. Installation, delivery and wheeling-in charges included in the purchase price and not separately stated;
6. Transportation and other charges to effect delivery of tangible personal property to the purchaser;
7. Indirect federal manufacturer's excise taxes, such as taxes on automotive vehicles, tires and floor stock;
8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.
“Price” or “purchase price” shall not include:

1. Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof;
2. 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;
3. 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.

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

“Qualified hospital organization” means any of the following:

(1) An organization that is exempt from federal income tax under section 115 or section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, but only if the organization holds a license to operate a “general hospital” for people issued pursuant to sections 25-3-101 and 25-3-102, Colorado Revised Statutes (2000), as amended, including any successor provisions to those sections, and operates a general hospital within the City of Lakewood; or
(2) A corporation or trust that:
   (a) Is exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; and
   (b) Owns or employs personal property or improvements that are used in the operations of one or more organizations described in paragraph (1) of this definition; and
   (c) Either (i) directly controls, or is controlled by, one or more organizations described in paragraph (1) of this definition, (ii) is controlled by a management organization as defined in paragraph (3) of this definition in common with one or more organizations described in paragraph (1) of this definition, or (iii) owns a hospital that is licensed to operate as a “general hospital” for people pursuant to sections 25-3-101 and 25-3-102, Colorado Revised Statutes (2000), as amended, including any successor provisions to those sections, and that is operated by an organization described in paragraph (1) of this definition; or
(3) An organization that is exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and which organization’s principal function is to manage the property or operations, or both, of one or more organizations described in paragraphs (1) or (2) of this definition; or
(4) A partnership, limited partnership, limited liability limited partnership, limited liability partnership, limited liability company, or joint venture if all of the partners, members, joint ventures or other participants in such partnership, limited partnership, limited liability limited partnership, limited liability partnership, limited liability company or joint venture are organizations described in paragraphs (1), (2) or (3) of this definition.

“Retailer” or “vendor” means any person selling, leasing or renting tangible personal property or services at retail. Retailer or vendor shall include any:

1. Auctioneer;
2. 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;
3. 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.

“Retail sale” or “purchased at retail” or “selling at retail” means all sales except wholesale sales made within the city.

“Return” means the sales and use tax reporting form used to report sales and use tax.

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

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

1. Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;

2. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;

3. Performance of services; or

4. Barter or exchange for other property or services including coupons.

The sale, purchase, lease, or rental of services specifically enumerated in this chapter as taxable include: (i) telecommunication services; (ii) gas, electric and steam services; (iii) pay television services; (iv) security system and sound system services; (v) linen services; (vi) warranty and maintenance services; (vii) modified or customized computer program services; and (viii) services providing admission or access to motion picture performances and to establishments which are licensed to serve malt, vinous or spirituous liquors. “Sale” or “sale and purchase” also includes the leasing or rental of tangible personal property. “Sale” or “sale and purchase” also includes the transaction of furnishing rooms or accommodations or lodging services 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, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar type establishment for a period of less than thirty consecutive days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

“Sale” or “sale and purchase” excludes:

1. A division of partnership assets among the partners according to their interests in the partnership;

2. 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 of the corporation’s outstanding stock, except qualifying shares, in proportion to the assets contributed;
3. The transfer of assets of shareholders in the formation or dissolution of professional corporations;
4. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
5. The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;
6. The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty 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;
7. A transfer of a partnership interest;
8. The transfer in a reorganization qualifying under Section 368(a)(1) of the Internal Revenue Code of 1954, as amended;
9. 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;
10. The repossession of personal property by a chattel mortgage holder or foreclosure by a lien holder; and
11. The transfer of assets between parent and closely held subsidiary corporations, 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 chapter was paid by the transferor corporation at the time it acquired such assets, except to the extent provided by Section 3.01.140(A). For the purposes of this paragraph, a closely held subsidiary corporation is one in which the parent corporation owns stock possession at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock.

“Sales tax” means the tax to be collected and remitted by a retailer on sales taxed under this chapter.
“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 charging a tuition fee.
“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.
“Soft drink” means a nonalcoholic beverage that contains natural or artificial sweeteners. “Soft drink” does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.
“Sound system services” means sound system services involving provision of broadcast or pre-recorded audio programming to a building or portion thereof. Such term does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.
“State” means the State of Colorado.
“Storage” or “storing” means any keeping or retention of, or exercise of dominion or control over, tangible personal property in the city.
“Tangible personal property” means corporeal personal property.
“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.
“Taxable sales” means gross sales less any exemptions and deductions specified in this chapter.
“Taxable services” means services subject to tax pursuant to Section 3.01.120 of this chapter. “Taxpayer” means any person obligated to collect and/or pay tax under the terms of this chapter. “Telecommunications service” means the transmission of any two-way interactive electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave or any combinations of such media. “Telecommunications service” includes but is not limited to basic local exchange telephone service, toll telephone service and teletypewriter service, including but not limited to residential and business service, directory assistance, cellular mobile telephone or telecommunication service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communication. “Telecommunications services” does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.

“Use tax” means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the city. “Wholesaler” means any person selling to retailers, jobbers, dealers, or other wholesalers, for resale, and not for storage, use, consumption, or distribution. “Wholesale sale” means a sale by wholesalers to retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; the latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter. (Ord. O-2019-24 § 4, 2019; Ord. O-2015-3 §§ 2, 3 & 4, 2015; Ord. O-2012-15 § 2, 2012; Ord. O-2008-27 § 1, 2008; Ord. O-2003-4 § 1, 2003; Ord. O-93-26 § 1 & 3, 1993; Ord. O-91-61 § 1 & 39, 71, 72, 1991; Ord. O-86-104 § 1 & 4, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.030 Confidential nature of returns.
A. Except in accordance with judicial order or as otherwise provided herein, the City Manager, the Director of Finance/City Treasurer, and their agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this chapter.
B. The city officials charged with the custody of returns filed pursuant to this chapter shall not be required to produce such returns or evidence of any matters contained therein in any action or proceeding in any court, except on behalf of the Director of Finance/City Treasurer in an action under the provisions of this chapter to which the Director of Finance/City Treasurer is a party, or on behalf of any party to an action or proceeding under the provisions of this chapter or to punish a violator thereof or pursuant to any judicial order in which event the court may require the production of and may admit in evidence so much of such returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.
C. No provision of this section shall be construed to prohibit the delivery to a taxpayer or to his duly authorized representative of a copy of any return or report filed in connection with his tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the information contained therein, nor to prohibit the inspection of the City Attorney or any other legal representative of the city of the report or return of any taxpayer who shall bring an action to set aside or review the tax based thereon or against whom an action or proceeding is contemplated or has been instituted under this chapter.
D. The provisions of this section shall not preclude the City Manager, the Director of Finance/City Treasurer, and their agents, clerks and employees from divulging any information gained from any return or audit to the federal government, the State, the Department of
Revenue, the city or any other municipality, the City Attorney, the City Manager, or the Director of Finance/City Treasurer, nor shall the City Manager, the Director of Finance/City Treasurer, and their agents, clerks, or employees be liable to any person, firm or corporation for such disclosure made for the purpose of computing or collecting the tax due and owing from any person, firm or corporation, or for the purpose of verifying compliance with this chapter or for the purpose of investigating any criminal or illegal activity.

E. Any city officer or employee, or any agent thereof, who shall divulge any information classified by this chapter as confidential in any manner except in accordance with proper judicial order or as otherwise provided herein or by other law shall be guilty of a violation of this chapter and shall be punished in the manner provided by state law. (Ord. O-2019-24 § 4, 2019; Ord. O-86-104 § 5, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.040 Tax cannot be absorbed.

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this chapter shall be assumed or absorbed by the retailer or that it shall not be added to the selling price of the property sold or the services tendered, or, if added, that it or any part thereof shall be refunded. (Ord. O-85-137 § 1 (part), 1985).

3.01.050 Excess tax-Remittance.

If any vendor, during any reporting period, collects as a tax an amount in excess of three percent of his total taxable sales, then he shall remit to the Director of Finance/City Treasurer the full net amount of the tax imposed in this chapter and also such excess amount. The retention by the retailer or vendor of any excess amount of tax collections over the three percent of the total taxable sales of such retailer or vendor or the intentional failure to remit punctually to the Director of Finance/City Treasurer the full amount required to be remitted by the provisions of this chapter is declared to be a violation of this chapter and shall be recovered, together with interest, penalties and costs, as provided in Section 3.01.260. (Ord. O-2019-24 § 4, 2019; Ord. O-2005-26 § 3,4 2005; Ord. O-85-137 § 1 (part), 1985).

3.01.060 License and tax additional.

The license and tax imposed by this chapter shall be in addition to all other licenses and taxes imposed by law, except as otherwise provided in this chapter. (Ord. O-85-137 § 1 (part), 1985).

3.01.065 Duty to keep records.

It is the duty of every taxpayer to keep and preserve suitable records and such other books or accounts as may be necessary to determine the amount of tax for the collection of which he is liable under this chapter. It is the duty of every such taxpayer to keep and preserve for a period of three years all invoices of goods and merchandise purchased. All such books, invoices, and other records shall be open for examination and audit at any time by the Director of Finance/City Treasurer or his duly authorized agent. The taxpayer shall produce all such records, if required by the Director of Finance/City Treasurer, at the Lakewood Municipal Center, 480 S. Allison Parkway, Lakewood, Colorado 80226-3127. Taxpayers licensed with the city under this chapter, 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 for in the city sales and use tax rules and regulations in this section. (Ord. O-2019-24 § 4, 2019, Ord. O-93-26 § 4, 1993; Ord. O-91-61 § 40, 1991; Ord. O-86-104 § 6, 1986).
3.01.070 Administration.

The City Council shall adopt rules and regulations in conformity with this chapter for the proper administration and enforcement of this chapter. The administration of this chapter is vested in and shall be exercised by the City Manager. The Director of Finance/City Treasurer shall assist the City Manager in the administration of this chapter to the extent provided herein and in the rules and regulations promulgated hereunder. (Ord. O-2019-24 § 4, 2019, Ord. O-85-137 § 1 (part), 1985).

3.01.075 Notice of sales and use tax ordinance amendment.

A. In order to initiate a central register local sales tax collection, the Finance/City Treasurer of the city shall file with the Colorado Municipal League prior to the effective date of this section a copy of the city sales and use tax ordinance reflecting all provisions in effect on the effective date of this section.

B. In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Director of Finance/City Treasurer of the city shall file with the Colorado Municipal League prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the city.

C. Failure of the city to file such ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto. (Ord. O-2019-24 § 4, 2019, Ord. O-91-61 § 41, 1991).

3.01.076 Participation in simplification meetings.

The Director of Finance/City Treasurer shall cooperate with and participate on an as needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League, which is composed of state and municipal sales and use tax 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. (Ord. O-2019-24 § 4, 2019, Ord. O-91-61 § 42, 1991).

3.01.080 Receipts-Disposition.

The moneys received by the Director of Finance/City Treasurer from the tax imposed and collected pursuant to this chapter shall be deposited in the general fund of the city. One-half cent of every dollar of such moneys shall be applied as follows:

A. To the next maturing payment of the principal of, premium, if any, and interest on the city's outstanding general obligation bonds; and

B. To the extent currently available after application to such purpose, to defray directly the cost of capital improvements of the city and the operation and maintenance of such capital improvements. (Ord. O-2019-24 § 4, 2019, Ord. O-85-137 § 1 (part), 1985).

3.01.085 Economic Development Assistance.

A. Upon application to the City Manager, the City Manager may refund an amount not to exceed seventy-five percent (75%) of the sales and use tax actually paid to the City of Lakewood by the applicant in the construction or renovation of one or more buildings within the City of Lakewood, pursuant to Section 3.01.220, if such refund, based on findings by the City Manager, will further the economic goals of the City of Lakewood as set forth in Section 3.26.010 of the Lakewood Municipal Code. Said findings shall be made in writing.
B. Upon application to the City Manager, the City Manager may refund an amount not to exceed thirty percent (30%) of the use tax on tangible personal property actually paid to the City of Lakewood by the applicant for a period not to exceed six (6) years, pursuant to Section 3.01.220, if such refund, based on findings by the City Manager, will further the economic goals of the City as set forth in Section 3.26.010 of the Lakewood Municipal Code. Said findings shall be made in writing. (Ord. O-2019-24 § 4, 2019, Ord. O-98-33 § 1, 1998).

3.01.090 Applicability to banks.

The provisions of this chapter shall apply to national banking associations and to banks organized and chartered under state law. (Ord. O-85-137 § 1 (part), 1985).

3.01.100 Statute of limitations.

The taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this chapter shall not be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period, in which cases such lien shall continue only for one year after the filing of notice thereof. The statute of limitations period as set forth hereinafore in this section shall not apply if: (i) a taxpayer files a false or fraudulent return with the intent to evade the tax imposed by this chapter; or (ii) if a taxpayer fails to file a return as required by Section 3.01.130. In the case of a false or fraudulent return with the intent to evade the tax imposed by this chapter, 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. In the case of failure to file a return, the tax, together with interest and penalties thereon, may be assessed and collected at any time. Before the expiration of such period of limitation, the taxpayer and the Director of Finance/City Treasurer may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing. (Ord. O-2019-24 § 4, 2019, Ord. O-86-104 § 7, 1986; Ord. O-85-137 § 1 (part), 1985).

II. Licensing

3.01.110 Licenses-Fees-Revocation.

A. 1. A sales tax license shall be required for any person to engage in the business of selling at retail in the city tangible personal property or services that are taxable hereunder which are purchased in the city and are subject to sales tax pursuant to this chapter. A use tax license may be required for tangible personal property that is stored, used or consumed in the city and is subject to use tax pursuant to this chapter. Such sales and use tax licenses shall be granted and issued by the Director of Finance/City Treasurer and shall be in force and effect until the earlier of: (i) revocation of such license; or (ii) sale or termination of the business, if any, relating to such license. Such licenses shall be granted only upon application stating the name and address of the person desiring such license, the name of such business, if any, and the location, including the street number of such business, if any, and such other information as the Director of Finance/City Treasurer may require. No license issued pursuant to this section shall be transferable. Approval of a sales tax license shall be conditioned upon the applicant's proposed business and location meeting all applicable provisions of this Code. The applicant may appeal a denial by submitting a written request to the City Manager within twenty (20) days.
of the notice of denial. The City Manager will consider the appeal and provide the applicant with a written final decision.

2. For each sales tax license application submitted, a fee of fifteen dollars shall accompany such application, which fee is nonrefundable. For each use tax license application submitted, no fee shall accompany such application.

B. In case business is transacted at two or more separate places by one person, a separate license for each place of business shall be required.

C. Each license shall be numbered and shall show the name of the licensee and the place of business of the licensee and shall be posted in a conspicuous place at the place of business for which it is issued. If the licensee does not have a place of business, then the license shall show the mailing address of such licensee.

D. The Director of Finance/City Treasurer, after reasonable notice and a full hearing, may revoke the license of any person found by him to have violated any provision of this chapter.

E. Any finding and order of the Director of Finance/City Treasurer denying or revoking the license of any person shall be subject to review by the District Court upon application of the aggrieved party. The procedure for review shall be, as nearly as possible, the same as provided for the review of findings as provided by proceedings in the nature of certiorari.


III. Sales Tax

3.01.120 Property and services taxed.

There is levied, and there shall be collected and paid a sales tax in the amount stated in Section 3.01.140 as follows:

A. On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail;

B. In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding, however, from the consideration of the purchase price, the fair market value of the exchanged property, provided that such exchanged property is to be sold thereafter in the usual course of the retailer's business;

C. 1. 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 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.

   a. Mobile Telecommunications. On or after August 1, 2002, mobile telecommunications service shall be subject to the tax imposed by this Section only if the service is provided to a customer whose place of primary use is within the City of Lakewood and the service originates and terminates within the City of Lakewood. (Reference 4 U.S.C. Sections. 116 to 126)

   2. 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;
D. 1. For gas and electric service, whether furnished by municipal, public, or private corporations or enterprises, for gas and electricity furnished and sold for commercial consumption and not for resale, upon steam when consumed or used by the purchaser and not resold in original form whether furnished or sold by municipal, public, or private corporations or enterprises,

2. All sales and purchases of electricity, coal, wood, gas, fuel oil, or coke sold, but not for resale, to occupants of residences, whether owned, leased, or rented by said occupants, for the purpose of operating residential fixtures and appliances which provide light, heat, and power for such residences. For the purposes of this subdivision (2), “gas” includes natural, manufactured and liquefied petroleum gas;

E. 1. Upon all sales of candy, soft drinks and food not defined as “food for domestic home consumption under 7 U.S.C. Section 2012 (h), as amended,

2. Except as provided in Section 3.01.180(32) and (34), of this chapter, upon the amount paid for food and drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities;

F. On the entire amount charged to any person for rooms or accommodations, or lodging services as defined in Section 3.01.020 of this chapter;

G. On the purchase price paid or charged for pay television services sold, purchased, leased, rented, furnished or used;

H. If the owner of an automotive vehicle for which registration, licensing or titling is required by the state pursuant to Section 40-6-137(2) of the Colorado Revised Statutes is required to register, license or obtain a certificate of title for such automotive vehicle at an address located within the city, then on the purchase price paid or charged for such automotive vehicle;

I. When the right to possession or use of any tangible personal property is granted under a lease or contract, and such transfer of possession would be taxable under this chapter if an outright sale were made, 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 chapter were occurring upon each payment. When the right to possession or use of any tangible personal property is granted under a lease or contract where the lessor or contracting party is located outside the city, and such tangible personal property is not delivered within the city by the lessor or contracting party but is picked up by the lessee or other contracting party and used within the city for a period exceeding thirty days, and such transfer of possession would be taxable under this chapter if an outright sale were made by a lessor or contracting party located within the city, then such lease or contract shall be taxed as follows: (i) a sales tax shall be imposed on the first thirty days of such lease or contract and shall be payable to the taxing jurisdiction, through the lessor or contracting party, in which such lessor or contracting party is located; and (ii) a sales tax shall be imposed on the remaining term of such lease or contract and shall be payable to the city through the lessor or contracting party. Such sales tax shall be computed and imposed on each individual lease or contract payment as they occur as though an outright sale taxable under this chapter were occurring upon each payment. The payment of the sales tax shall be made to the lessor or contracting party by the lessee or other contracting party. Except as hereinabove otherwise provided, the lessor, as trustee, shall make payment of any sales tax obligation to the city in the manner provided by Section 3.01.130;

J. On the entire amount paid or charged for security system and sound system services, whether purchased or leased;
K. On the entire amount paid or charged for linen services;
L. On the entire amount paid or charged for warranty and maintenance services relating to tangible personal property, whether included in the cost of the tangible personal property relating thereto or sold separately;
M. On the entire amount paid or charged for modified or customized computer program services;

3.01.130 Collection of sales tax.
A. Every retailer, also called "vendor" in this chapter, shall, irrespective of the provisions of Section 3.01.140, be liable and responsible for the payment of an amount equal to three percent of all sales made by him of commodities or services as specified in Section 3.01.120 and shall before the twentieth day of each month make a return to the Director of Finance/City Treasurer for the preceding calendar month and remit an amount equal to said three percent on such sales to said Director of Finance/City Treasurer. Such returns of the taxpayer or his duly authorized agent shall be furnished by the Finance Department. The city shall use the standard municipal sales and use tax reporting form and any subsequent revisions thereto adopted by the executive director of the Department of Revenue by the first full month commencing one hundred twenty days after the effective date of the regulation adopting or revising such standard form.
B. If the accounting methods regularly employed by the vendor in the transaction of his business or other conditions are such that returns of sales made on a calendar month basis shall impose unnecessary hardship, the Director of Finance/City Treasurer, upon written request of the vendor, may accept returns at such intervals as shall, in his opinion, better suit the convenience of the taxpayer and shall not jeopardize the collection of the tax. The Director of Finance/City Treasurer may permit taxpayers whose monthly collected tax is less than three hundred dollars to make returns and pay taxes at intervals not greater than every three months.
C. Director of Finance and City Treasurer may extend the date for making a return and paying the taxes due under such reasonable rules and regulations as may be prescribed therefor, but no such extension shall be for a greater period than as provided in subsection (B) of this section.
D. The burden of proving that any retailer is exempt from collecting the tax on any goods or services sold and paying the same to the Director of Finance/City Treasurer, or from making such returns, shall be on the retailer or vendor under such reasonable requirements of proof as set forth in the rules and regulations prescribed therefor.
E. If a dispute arises between the purchaser and seller as to whether or not any sale, service, or commodity is exempt from taxation under Section 3.01.180, nevertheless the seller shall collect, and the purchaser shall pay the tax, and the seller shall thereupon issue to the purchaser a receipt or certification, on forms furnished by the Finance Department, 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. The purchaser thereafter may apply to the Director of Finance/City Treasurer for a refund of such taxes, and it is then the duty of the Director of Finance/City Treasurer to determine the question of exemption. The purchaser may request a hearing pursuant to Section 3.01.330(A), and the final determination of the Director of
Finance/City Treasurer may either be appealed to the District Court pursuant to Section 3.01.340 or the Department of Revenue pursuant to Section 3.01.350.

F. The city’s sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subject 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 sales tax required to be paid pursuant to Section 3.01.140. 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 the credit shall not exceed the amount of the sales tax required to be paid pursuant to Section 3.01.140. (Ord. O-2019-24 § 4, 2019, Ord. O-2005-26 § 3,4 2005; Ord. O-96-46 § 1, 1996; Ord. O-86-104 § 12, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.140 Sales tax base-Schedule of sales tax.

A. Except as otherwise provided in this subsection, the sales tax is imposed on the full purchase price of articles sold after manufacture or after having been made to order and includes the full purchase price for material used and the service performed in connection therewith, excluding, however, such articles as are otherwise exempted in this chapter. In connection with the transaction referred to in subdivision (11) under the definition for “sale’ or ‘sale and purchase' excludes,” in Section 3.01.020, the sales tax is imposed only on the amount of any increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. Except as otherwise provided in this subsection, the sales price is the gross value of all materials, labor, and service, and the profit thereon, included in the price charged to the user or consumer.

B. There is imposed upon all sales of commodities and services specified in Section 3.01.120, except those items specifically exempted from tax by this Chapter, a tax at the rate of two percent of the amount of the sale, to be computed in accordance with the schedules or systems set forth in the rules and regulations prescribed therefore. Said schedules or systems shall be designed so that no such tax is charged on any sale of twenty-four cents or less.

C. 1. Except as provided in subsection (C)(2) of this section, retailers shall add the tax imposed, or the average equivalent thereof, to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts. The retailer shall be entitled, as collecting agent of the city, to apply and credit the amount of his collections against the three percent rate to be paid by him under the provisions of Section 3.01.130, remitting any excess of collection over said three percent to the Director of Finance/City Treasurer in the retailer’s next monthly sales tax return.

2. Any retailer selling malt, vinous, or spirituous liquors by the drink may include in his sales price the tax levied under this chapter, except that no retailer shall advertise or hold out to the public in any manner, directly or indirectly, that such tax is not included as part of the sales price to the consumer. The schedule referred to in subsection (B) of this section shall be used by such retailer in determining amounts to be included in such sales price. No such retailer shall gain any benefit from the collection or payment of such tax, except as permitted in Section 3.01.130(A), nor shall the use of the schedule referred to in subsection (B) of this section relieve such retailer from liability for payment of the full amount of the tax imposed pursuant to Section 3.01.120.

D. There is imposed upon all sales of commodities and services specified in Section 3.01.120, except those items specifically exempted from tax by this Chapter, a tax, in addition to that tax imposed in section 3.01.140 B, at the rate of one percent of the amount of the sale, to
be computed in accordance with the schedules or systems set forth in the rules and regulations prescribed therefor. Said schedules or systems shall be designed so that no such tax is charged on any sale of twenty-four cents or less. At least fifty percent (50%) of said one percent tax shall be utilized for public safety purposes, maintenance and construction of streets, and parks and recreation purposes and the balance of the additional one percent tax to be used to maintain City of Lakewood services and emergency fund balance. Section 3.01.080 of the Lakewood Municipal Code shall not apply to said one percent tax increase.


3.01.150 Retailer-Multiple locations.
A retailer doing business in two or more places or locations may file a single return covering all such business activities engaged within the city. (Ord. O-85-137 § 1 (part), 1985).

3.01.160 Credit sales.
A. In the case of a sale upon credit, or a contract for sale where the price is paid in installments, and title does not pass until a future date, or a sale secured by a chattel mortgage or a conditional sale, there shall be paid upon each payment that portion of the total tax which the amount paid bears in relation to the total purchase price.

B. If a retailer transfers, sells, assigns, or otherwise disposes of an account receivable, then he shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a closely held subsidiary, as defined in subdivision (11) under the definition for “sale’ or ‘sale and purchase’ excludes,” in Section 3.01.020, shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time that the customer makes payment on said account. (Ord. O-86-104 § 13, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.170 Bad debt charge-offs.
Taxes paid on gross taxable sales represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax provided in this chapter, but if any such accounts are thereafter collected by the taxpayer, then a tax shall be paid upon the amounts so collected. (Ord. O-85-137 § 1 (part), 1985).

3.01.180 Exemptions.
The following goods and services shall be exempt from sales tax under the provisions of this chapter:

1. All sales to the United States government and to the state, its department and institutions, and the political subdivisions thereof in their governmental capacities only;

2. All sales made to charitable organizations in the conduct of their regular charitable functions and activities;

3. All sales which the city is prohibited from taking under the constitution or laws of the United States, the state, or the city’s Charter;

4. All sales of cigarettes;

5. All sales of medical supplies;

6. All sales of prescription drugs and prosthetic devices for humans and animals;

7. All sales and purchases of commodities and services under the provisions of the definition for "rooms or accommodations" or "lodging services" in Section 3.01.020 to an
occupant who is a permanent resident of any hotel, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer court, mobile home, auto camp, or trailer court or park, and who enters into or has entered into a written agreement for occupancy of a room or accommodations or lodging services of a period of at least thirty consecutive days during the calendar year or preceding year;

8. All sales made to schools, other than schools held or conducted for private or corporate profit;

9. Any sale of a new or used trailer, semi-trailer, truck, truck-tractor or truck body manufactured within the city if such vehicle is purchased from the manufacturer for use exclusively outside the city or in interstate commerce and is delivered by the manufacturer to the purchaser within the city, if the purchaser drives or moves such vehicle to any point outside the city within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle shall be permanently licensed and registered outside the city and shall be removed from the city within thirty days after the date of delivery;

10. Any sale of a new or used trailer, semi-trailer, truck, truck-tractor or truck body if such vehicle is purchased for use exclusively outside the city or in interstate commerce and is delivered by the manufacturer or licensed dealer to the purchaser within the city, if the purchaser drives or moves such vehicle to any point outside the city within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle shall be permanently licensed and registered outside the city and shall be removed from the city within thirty days after the date of delivery;

11. All sales of construction materials to a common carrier by rail operating in interstate or foreign commerce for use by such common carrier in construction and maintenance of its railroad tracks;

12. All sales of construction materials, if such materials are picked up by the purchaser, and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the city evidencing that a local use tax has been paid or is required to be paid;

13. The transfer of tangible personal property without consideration (other than the purchase, sale, or promotion of the transferor's product) to a vendee located outside the city for use outside the city in selling products normally sold at wholesale by the transferor;

14. The sale of tangible personal property for testing, modification, inspection, or similar type of activities in the city if the ultimate use of such property in manufacturing or similar type of activities occurs outside the city, and if the test, modification, or inspection period does not exceed ninety days;

15. All commodities which are taxed under the provisions of Article 27, Title 39 of the Colorado Revised Statutes, and all commodities which are taxed under such provisions and for which the tax is refunded, and the sale of special fuel, as defined in Section 39-27-201(8) of the Colorado Revised Statutes, used for the operation of farm vehicles when such vehicles are being used on farms and ranches;

16. Any sale of any article to a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by Section 3.01.120(A) or (E);

17. Any sale of any container or bag to a retailer or vendor of food, meals, or beverages which container or bag is to be furnished to a consumer or user for the purpose of packaging or bagging articles of tangible personal property purchased at retail, if a separate charge is not made for the container or bag to the consumer or user, if such container or bag becomes the property of the consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by Section 3.01.120(I) or (5);
18. All transactions specified in Section 3.01.120(B) in which the fair market value of the exchanged property is excluded from the consideration or purchase price as provided in Section 3.01.120(B), and in which, because there is no additional consideration involved in the transaction, there is no purchase price within the meaning of the definition for “price” or “purchase price” as found in Section 3.01.020;

19. a. All sales of construction materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned or used by:
   i. The United States Government, the state, its departments and institutions, and the political subdivisions thereof in their governmental capacities only,
   ii. Charitable organizations in the conduct of their regular charitable functions and activities, or
   iii. Schools, other than schools held or conducted for private or corporate profit.
   b. On application by a purchaser or seller, the Director of Finance/City Treasurer shall issue to a contractor or subcontractor a certificate or certificates of exemption indicating that the contractor's or subcontractor's purchase of construction materials is for a purpose stated in paragraph (a) of this subsection and is, therefore, free from sales tax. The Director of Finance/City Treasurer shall provide forms for such application and for such certificate and shall have the authority to verify that the contractor or subcontractor is, in fact, entitled to the issuance of such certificate prior to such issuance;

20. All sales of aircraft used or purchased for use in interstate commerce by a commercial airline;

21. a. 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 commercial packaging materials thereof, shall be deemed to be wholesale sales and shall be exempt from taxation under this chapter.
   b. As used in paragraph (a) of this subsection with regard to food products, tangible personal property enters into the processing of such products, and, therefore, is exempt from taxation when:
      i. It is intended that such property become an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption, or
      ii. Such property, whether or not it becomes an integral or constituent part of a food product, is a chemical, solvent, agent, mold skin casing, or other material, issued for the purpose of producing or inducing a chemical or physical change in a food product or is used for the purpose of placing a food product in a more marketable condition and is directly utilized and consumed, dissipated, or destroyed, to the extent it is rendered unfit for further use, in the processing of a food product which is intended to be sold ultimately at retail for human consumption;

22. All sales and purchases of electricity, coal, gas, fuel oil, coke, or nuclear fuel, for use in mining, refining, irrigation, construction, telecommunication services and street and railroad transportation services;

23. All sales and purchases of cattle, sheep, lambs, poultry, swine, and goats, all sales and purchases of mares and stallions for breeding purposes, all sales and purchases of live fish for stocking purposes, and all farm close-out sales;

24. All sales and purchases of feed for livestock, including horses, or poultry, all sales and purchases of seeds, and all sales and purchases of orchard trees;
25. a. Every vendor vending individual items or personal property through coin-operated vending machines, and who otherwise complies with the provisions of this subsection, shall be exempt from the provisions of Sections 3.01.130 and 3.01.140, except as hereinafter provided, but nevertheless such vendor shall pay a sales tax of three percent on the personal property sold in excess of thirty cents so vended in the coin-operated machines unless the sale is otherwise exempt under the provisions of this chapter.

b. To be eligible for the exemption provided for in this subsection, each vendor shall:
   i. Be licensed under Section 3.01.110,
   ii. Maintain a record of the identification number, ownership, location, and disposition of every coin-operated vending machine used by him in his operation as a vendor, and
   iii. Within sixty days after commencing business as such vendor, submit to the Finance Department an accurate list containing the information required under subparagraph (ii) of this paragraph and submit such list annually thereafter on January 1, commencing in 1986;

26. All sales and purchases of straw and other bedding for use in the care of livestock or poultry;

27. Forty-eight percent of the purchase price of factory-built housing, as such housing is defined in Section 24-32-703(3) of the Colorado Revised Statutes, shall be exempt from taxation under this chapter, except that the entire purchase price in any subsequent sale of a mobile home, as such vehicle is defined in Section 42-1-102(82)(b) of the Colorado Revised Statutes, after such mobile home has been subject to the payment of sales tax by virtue of Section 3.01.120(H), shall be exempt from taxation under this chapter;

28. The purchase price of electric-powered automotive vehicles, including both the original and all subsequent purchases of such vehicles, and the purchase of batteries and controls required for the operation and maintenance of such vehicles;

29. In any case in which a sales tax has been imposed under this chapter on lubricating oil used other than in automotive vehicles, the purchase thereof shall be entitled to a refund equal to the amount of the sales tax paid on that portion of the sale price thereof which is attributable to the federal excise tax imposed on the sale of such lubricating oil. The refund allowed under this subsection shall be paid by the Director of Finance/City Treasurer upon receiving evidence that the purchaser has received under Section 6425 of the Internal Revenue Code of 1954, as amended, a refund of the federal excise tax paid on the sale of such lubricating oil. The claim for a refund shall be made upon forms furnished by the Finance Department;

30. All sales and purchases of refractory materials and carbon electrodes used by a person manufacturing iron and steel for sale or profit and all sales and purchases of inorganic chemicals used in the processing of vanadium-uranium ores;

31. All sales and purchases of newsprint and printer's ink for use by publishers of newspapers and commercial printers and all sales and purchases of newspapers;

32. Meals provided to employees of the places described in Section 3.01.120(E)(2) at no charge or at a reduced charge and which are considered as part of their salary, wages or income;

33. All sales of tangible personal property purchased or sold within the city if delivered outside the city to the purchaser;

34. All sales and purchases of food, as specified in 7 U.S.C. Section 2012(h), as such section existed on October 1, 1987, or is thereafter amended, which is purchased, or is eligible to be purchased, with food stamps pursuant to the federal food stamp program, or sales and purchases of food, as specified in 42 U.S.C. Section 1786, as such section existed on October 1, 1987, or is thereafter amended, which is purchased, or is eligible to be purchased, with WIC vouchers or checks pursuant to the federal special supplemental program for women, infants, and children.
35. In accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 to 126, as amended, on or after August 1, 2002, mobile telecommunications service provided to a customer whose place of primary use is outside the boundaries of the City of Lakewood.

36. All sales made to, billed directly to, and paid for directly by, a qualified hospital organization as defined in Section 3.01.020, provided that the property or service purchased by the qualified hospital organization is employed in furtherance of an exempt function, excepting sales tax on the purchase of construction materials used by contractors who perform contracts for the qualified hospital organization. The foregoing exception shall apply notwithstanding any other exemption granted to the qualified hospital organization pursuant to this Chapter. As used in this Section, "employed in furtherance of an exempt function" means employed by a qualified hospital organization in an activity from which none of the proceeds are treated as unrelated business income. As used in this Section, "unrelated business income" means gross income derived from any unrelated trade or business within the meaning of section 512 of the United States Internal Revenue Code of 1986, as amended.

If the purchase and sale of any property or service would be exempt under this section but for the fact that the property or service is employed in an activity from which a portion of the proceeds is treated as unrelated business income, the director of finance is authorized to approve written formulas or methodologies (including formulas or methodologies of individual qualified hospital organizations) as may be appropriate and reasonable to determine, based on the evidence available, the percentage of the proceeds from such activity that is not treated as unrelated business income. This calculated percentage shall be the percentage of the cost of such property or service that will be exempt under this section. The director of finance may condition approval of formulas and methodologies on receipt of such information as is reasonably deemed necessary for proper implementation of such formulas and methodologies.

37. Sales made by charitable organizations under the following conditions:
   a. The charitable organization has been granted a City of Lakewood exempt license;
   b. No individual transaction involving a sale of tangible personal property or concessions by the charitable organization shall exceed five thousand dollars ($5,000.00);
   c. The funds raised by the charitable organization through such sales do not exceed $250,000.00 in a calendar year; and

3.01.190  [Reserved].

3.01.200  Map or location guide of city boundaries.

The Finance Department shall make available to any requesting vendor a map or location guide showing the boundaries of the city. The requesting vendor may rely on such map or location guide and any update thereof available to such vendor in determining whether to collect a sales or use tax or both. No penalty shall be imposed or action for deficiency maintained against a vendor who in good faith complies with the most recent map or location guide available to such vendor. (Ord. O-93-26 § 6, 1993; Ord. O-85-137 § 1 (part), 1985).
3.01.205  **Electronic Database.**

A. Any retailer that collects and remits sales tax to the Director of Finance/City Treasurer as provided in this Section may use an electronic database of state addresses that is certified by the state department of revenue pursuant to § 39-26-105.3, C.R.S., to determine the jurisdictions to which tax is owed.

B. Any retailer that uses the data contained in an electronic database certified by the state department of revenue pursuant to § 39-26-105.3, C.R.S., to determine the jurisdictions to which tax is owed shall be held harmless for any tax, penalty, or interest owed the city that otherwise would be due solely as a result of an error in the electronic database, provided that the retailer demonstrate that it used the most current information available in such electronic database on the date that the sale occurred. Each retailer shall keep and preserve such records as prescribed by the manager of revenue to demonstrate that it used the most current information available in the electronic database on the date that the sale occurred. Notwithstanding the above, if the error in collecting and remitting is a result of a deceptive representation, a false representation, or fraud, the provisions of this section shall not apply.


IV. Use Tax

3.01.210  **Property and services taxed.**

There is imposed and shall be collected from every person in this City of Lakewood a use tax at the rate of three per cent for the privilege of storing, using, or consuming in the City of Lakewood any articles of tangible personal property or taxable services purchased at retail. Such use tax shall be computed in accordance with the schedules or systems set forth in the rules and regulations prescribed therefor. At least fifty percent (50%) of the additional one percent tax shall be utilized for public safety purposes, maintenance and construction of streets, and parks and recreation purposes and the balance of the additional one percent tax to be used to maintain City of Lakewood services and emergency fund balance. Section 3.01.080 of the Lakewood Municipal Code shall not apply to said one percent tax increase. (Ord. O-2019-24 § 4, 2019; Ord. O-2005-26 § 4, 2005; Ord. O-91-61 § 75, 1991; Ord. O-86-104 § 17, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.220  **Collection of use tax.**

A. 1. Except as otherwise provided in this section, every person who uses, stores, or consumes tangible personal property or service, which property or service is purchased either inside or outside the city and is subject to the use tax imposed pursuant to Section 3.01.210, and who has not paid the sales or use tax imposed by this chapter to a retailer, shall make a return and remit the use tax imposed by Section 3.01.210 to the Director of Finance/City Treasurer for the preceding period covered by the remittance on forms prescribed by the Director of Finance/City Treasurer, showing in detail the tangible personal property or service stored, used or consumed by such person within the city in the preceding period covered by the remittance and on which property the sales or use tax has not been paid. Every person subject to the provisions of Section 3.01.210 shall maintain monthly records of the amount of use tax due. Such person shall make a return and remit the use tax due before the twentieth day of the following month.

2. Any such return shall be subscribed by the taxpayer or his authorized agent and shall contain a written declaration that it is made under the penalties of perjury.
B. Except as otherwise provided in this section, every retailer doing business in this city and making sales of tangible personal property for the storage, use, or consumption in the city which are not exempt from taxation as provided in Section 3.01.230, shall, at the time of making such sales or taking the orders therefor, or if the storage, use or consumption of such tangible personal property is not then taxable under Section 3.01.210, then at the time that such storage, use, or consumption becomes taxable under Section 3.01.210, collect the tax imposed by Section 3.01.210 from the purchaser and give the purchaser a receipt therefore, which receipt shall identify the property taxed, the date that such property was sold or ordered, and the amount of tax collected and paid. The tax required to be collected by such retailer from such purchaser shall be displayed separately from the advertised price listed on the forms or advertising matter on all sales checks, orders, sales slips, or other proof of sales. The tax required to be collected by any retailer or his authorized agent shall be remitted to the city in like manner as otherwise provided in this chapter for the remittance of sales taxes collected by retailers, and all such retailers or agents collecting the use tax imposed by Section 3.01.210 shall make returns on forms provided by the Director of Finance/City Treasurer at such times and in such manner as is provided for the making of returns in the payment of the sales tax imposed pursuant to Section 3.01.120. The procedure for assessing and collecting use taxes from such retailers or agents, or from the use when not paid to a retailer or agent, shall be the same as provided in this chapter for the collection of sales tax imposed pursuant to Section 3.01.120.

C. 1. If the owner of an automotive vehicle for which registration, licensing or titling is required by the state pursuant to Section 42-6-137(2) of the Colorado Revised Statutes is required to register, license or obtain a certificate of title for such automotive vehicle at an address located within the city, then the use tax imposed pursuant to Section 3.01.210 shall be collected by the authorized agent of the Department of Revenue in the county pursuant to an agreement or agreements entered into between the city and the authorized agent of the Department of Revenue in the county. The proceeds of such use tax shall be paid to the city periodically in accordance with such agreement or agreements. If the authorized agent of the Department of Revenue in the county fails to collect any use tax imposed pursuant to Section 3.01.210, then the Director of Finance/City Treasurer shall collect such use tax in the manner set forth in Section 3.01.260.

2. The Mayor and the City Clerk are authorized to enter into and execute on behalf of the city any agreement or agreements necessary for the administration and enforcement of this section, and the form of such agreement or agreements shall be approved by the city, the City Attorney and the Director of Finance/City Treasurer.

D. 1. For construction materials, the use tax imposed pursuant to Section 3.01.210 shall be collected by the Director of Finance/City Treasurer as hereinafter provided in this subsection and shall be collected in the amount of three percent of the sale value of the construction materials. For purposes of this subsection, fifty percent of the estimated general contract costs and/or fifty percent of the estimated mechanical contract costs shall be deemed to be the sale value of such construction materials.

2. Any person who shall build, construct or improve any building, dwelling or other structure or improvement to realty whatsoever, including underground improvements, within the city, and who shall purchase the necessary lumber, fixtures, materials or any other supplies needed therefrom from any source inside or outside the corporate limits of the city shall keep and preserve all invoices and statements from both the general and subcontractors along with a summary sheet showing such purchases. Any failure to preserve such statements and invoices and payment of such use tax shall be deemed a violation of this chapter, and any offending persons shall be subject to the penalties and punishment provided in this chapter.
It shall be the duty of the City Building Inspector and the contractors and subcontractors who are hired to construct any such improvement to furnish the Director of Finance/City Treasurer with such information as he may require as to any purchase of lumber, fixtures, materials and supplies for such improvements which were obtained from sources inside and outside the city. The full amount of any use tax due and not paid for lumber, fixtures, materials and supplies purchased from such inside or outside sources, together with penalties and interest thereon as herein provided, shall be and constitute a lien upon the real property benefited by such improvements, and the Director of Finance/City Treasurer is authorized to file a notice of such lien with the County Clerk and Recorder.

3. Any person who shall build, construct or improve any building, dwelling or other structure or improvement to realty whatsoever, including underground improvements, within the city, and who shall purchase the necessary lumber, fixtures, material or any other supplies needed therefor from any source either within or without the corporate limits of the city, shall remit a deposit to the city prior to the issuance of any building permit, such deposit to insure and indemnify the city for the amount of use tax due within three years from the date of issuance of the certificate of occupancy for the project or the date of the final inspection of the project by the city. The amount of the deposit shall be based upon an estimate of the use tax to be payable on the lumber, fixtures, materials and supplies needed therefor at the time that the respective building permit is obtained. The estimate of the cost of such lumber, fixtures, materials and supplies for a particular project structure shall be determined by the City Building Official, and this estimate shall be subject to adjustment if the actual cost of such lumber, fixtures, materials or supplies needed for the project is either less than or greater than such estimate. Upon payment of such deposit to the Director of Finance/City Treasurer, which is computed on the basis of three percent of fifty percent of the estimated general contract costs and/or fifty percent of the estimated mechanical contract costs, the taxpayer shall be issued a receipt identifying the property that is the subject of this deposit and the building permit number. Within three years from the date of issuance of the certificate of occupancy for the project or the date of the final inspection by the city of the project, if it is determined by the city that the actual cost of the lumber, fixtures, materials, and supplies needed for the project is greater than the estimate therefor and that the amount of the use tax deposit is not sufficient to provide for full payment of the use tax, then the additional use tax along with additional fees due must be received by the Director of Finance/City Treasurer within thirty days of such determination. If it is determined by the city that the deposit is sufficient to pay for the use tax and fees due, then the deposit shall be used to pay the amount of the use tax and fees due, and any excess amount of the deposit shall be returned by mail to the person who made the deposit within thirty days of such determination. If the taxpayer purchases such lumber, fixtures, materials, or supplies from city vendors possessing a valid city retail sales tax license, then he may submit invoices or statements reflecting the purchase therefor and make application to the Director of Finance/City Treasurer within sixty days directly following the determination by the city of the use tax due, which determination shall be made within three years from the date of issuance of the certificate of occupancy for the project or date of the final inspection by the city of the project, for credit or refund of any amount paid as sales taxes to the city, in which event it shall be the duty of the person making such application to furnish all necessary bills and invoices evidencing the payment of the tax. If the Director of Finance/City Treasurer is satisfied that there has been such payment, then he shall either credit the account of the taxpayer if the use tax has not been levied or refund the amount if the use tax levy has been paid through such deposit within sixty days after such application shall have been received by the Director of Finance/City Treasurer. The amount of any use tax due and not paid constitutes a lien upon the real property benefited by the use of such lumber, fixtures, materials, or supplies.
E. The city’s use tax shall not apply to the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule municipality legally imposed on the purchaser or user equal to or in excess of the use tax required to be paid pursuant to Section 3.01.210. A credit shall be granted against the city’s use tax with respect to the person’s storage, use or consumption in the city of tangible personal property, the amount of the credit to equal the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his purchase or use of the property. The amount of the credit shall not exceed the amount of the use tax required to be paid pursuant to Section 3.01.210. (Ord. O-2019-24 § 4, 2019; Ord. O-2011-1 § 1 & 2, 2011; Ord. O-2005-26 §§ 3 & 4, 2005; Ord. O-91-61 § 58, 59, 76 & 78, 1991; Ord. O-86-104 § 18, & 19, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.230 Exemptions.

The use tax imposed pursuant to Section 3.01.210 is declared to be supplementary to the sales tax imposed pursuant to Section 3.01.120 and shall not apply:

A. To the storage, use, or consumption of any tangible personal property, the sale of which is subject to the sales tax imposed pursuant to Section 3.01.120;

B. To the storage, use, or consumption of any tangible personal property purchased for resale in the city, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

C. To the storage, use or consumption of gasoline which is taxed under the provisions of Part 1, Title 39 of the Colorado Revised Statutes and all gasoline which is taxed under such provisions and for which the tax is refunded, and to the storage, use or consumption of special fuels, as defined in Section 39-27-201(8) of the Colorado Revised Statutes, used for the operation of farm vehicles when the same are being used on farms or ranches;

D. To the storage, use, consumption, or loan of tangible personal property brought into the city by a nonresident thereof for his own storage, use, or consumption while temporarily within the city;

E. To the storage, use, consumption, or loan of tangible personal property by or to the United States government, the state, or its institutions, or its political subdivisions in their governmental capacities only, or any charitable organizations in the conduct of its regular charitable functions and activities;

F. 1. To the storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit, or use, any article, substances, 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.

2. As used in subdivision (1) of this subsection with regard to food products, tangible personal property enters into the processing of such products and, therefore, is exempt from taxation when:

   a. It is intended that such property become an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption, or

   b. Such property, whether or not it becomes an integral or constituent part of a food product: (A) is a chemical, solvent, agent, mold, skin casing, or other material; (B) is used for the purpose of producing or inducing a chemical or physical change in a food product or is used for the purpose of placing a food product in a more marketable condition; and (C) is directly utilized and consumed, dissipated, or destroyed, to the extent that it is rendered unfit for further use, in the processing of a food product which is intended to be sold ultimately at retail for human consumption;
G. To the storage, use or consumption of electricity, coal, coke, fuel oil, nuclear fuel, or gas for use in mining, refining, irrigation, building construction, telecommunication services and street and railroad transportation services;

H. To the storage and use of cattle, sheep, lambs, swine, and goats within the city, or to the storage and use within the city of mares and stallions kept, held and used for breeding purposes only;

I. To the storage, use or consumption of newsprint and printer's ink for storage, use or consumption by publishers of newspapers and commercial printers and to the storage, use or consumption of newspapers, as such term is defined in Section 24-70-102 of the Colorado Revised Statutes;

J. To the storage, use or consumption of cigarettes;

K. The storage, use, or consumption of tangible personal property acquiring residency;

L. To the storage or use of an automotive vehicle for which registration, licensing or titling is required by the state pursuant to Section 42-6-137(2) of the Colorado Revised Statutes if the owner is or was, at the time of purchase, a nonresident of the city, and he purchased such automotive vehicle outside the city for use outside the city, and actually so used it for a substantial and primary purpose for which it was acquired, and he registered, licensed and titled such automotive vehicle outside the city;

M. To the storage, use or consumption of a mobile home, as such vehicle is defined in Section 42-1-102(82)(b) of the Colorado Revised Statutes, after such mobile home has been subject to the payment of use tax by virtue of Section 3.01.220(C);

N. To the storage or use of a new or used trailer, semi-trailer, truck, truck-tractor or truck body manufactured within the city if such vehicle is purchased from the manufacturer for use exclusively outside the city or in interstate commerce and is delivered by the manufacturer to the purchaser within the city, if the purchaser drives or moves such vehicle to any point outside the city within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle shall be permanently licensed and registered outside the city and shall be removed from the city within thirty days after the date of delivery;

O. To the storage or use of a new or used trailer, semi-trailer, truck, truck-tractor or truck body if such vehicle is purchased for use exclusively outside the city or in interstate commerce and is delivered by the manufacturer or licensed dealer to the purchaser within the city, if the purchaser drives or moves such vehicle to any point outside the city within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle shall be permanently licensed and registered outside the city and shall be removed from the city within thirty days after the date of delivery;

P. To the storage, use or consumption of tangible personal property which is thereafter transferred to a vendee located outside the city without consideration (other than the purchase, sale, or promotion of the transferor's product) for use outside of the city in selling products normally sold at wholesale by the person storing, using, or consuming such property;

Q. To the testing, modification, inspection, or similar type activities of tangible personal property acquired for ultimate use outside the city in manufacturing or similar type of activities if the test, modification, or inspection period does not exceed ninety days;

R. To the storage, use, or consumption of any article by a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail, if: (A) a separate charge is not made for the article to the consumer or user; (B) such article becomes the property of the consumer or user, together with the food, meals, or beverages purchased; and (C) a tax is paid on the retail sale as required by Section 3.01.120(A) or (E);
S. To the storage, use, or consumption of any container or bag by a retailer or vendor of food, meals, or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packing or bagging articles of tangible personal property purchased at retail, if: (A) a separate charge is not made for the container or bag to the consumer or user; (B) such container or bag becomes the property of the consumer or user, together with the food, meals, or beverages purchased; and (C) a tax is paid on the retail sale as required by Section 3.01.120(A) or (E);

T. To the storage, use or consumption of food or meals that are provided to employees of the places described in Section 3.01.120(E) if such food or meals are provided to such employees at no charge or at a reduced charge and are considered as part of their salary, wages, or income;

U. To the storage, use, or consumption by a contractor or subcontractor of construction and building materials 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, its departments and institutions, and the political subdivisions thereof in their governmental capacities only,
2. Charitable organizations in the conduct of their regular charitable functions and activities, or
3. Schools, other than schools held or conducted for private or corporate profit;

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

W. To the storage of construction materials;

X. The city's use tax shall not be imposed with respect to the use or consumption of tangible personal property within the city which occurs more than three years after the most recent sale of the property if, within the three years following such sale, the property has been significantly used within the state for the principal purpose for which it was purchased;

Y. To the storage, use or consumption of food, as specified in 7 U.S.C. Section 2012(g), as such section existed on October 1, 1987, or is thereafter amended, which is purchased with food stamps pursuant to the federal food stamp program, or the storage, use or consumption of food, as specified in 42 U.S.C. Section 1786, as such section existed on October 1, 1987, or is thereafter amended, which is purchased with WIC vouchers or checks pursuant to the federal special supplemental program for women, infants, and children.

Z. To the storage, use or consumption of tangible personal property by or to a qualified hospital organization, provided that the property used or consumed by the qualified hospital organization is employed in furtherance of an exempt function, excepting use tax on the use or consumption of construction materials used by contractors who perform contracts for the qualified hospital organization. The foregoing exception shall apply notwithstanding any other exemption granted to the qualified hospital organization pursuant to this Chapter. As used in this Section, "employed in furtherance of an exempt function" means employed by a qualified hospital organization in an activity from which none of the proceeds are treated as unrelated business income. As used in this Section, "unrelated business income" means gross income derived from any unrelated trade or business within the meaning of section 512 of the United States Internal Revenue Code of 1986, as amended.

If the use or consumption of any property would be exempt under this section but for the fact that the property is employed in an activity from which a portion of the proceeds is treated as unrelated business income, the director of finance is authorized to approve written formulas or methodologies (including formulas or methodologies of individual qualified hospital organizations) as may be appropriate and reasonable to determine, based on the evidence
available, the percentage of the proceeds from such activity that is not treated as unrelated business income. This calculated percentage shall be the percentage of the cost of such property or service that will be exempt under this section. The director of finance may condition approval of formulas and methodologies on receipt of such information as is reasonably deemed necessary for proper implementation of such formulas and methodologies. (Ord. O-2008-27 § 3, 2008; Ord. O-93-26 § 7, 1993; Ord. O-91-61 § 60 & 63, 1991; Ord. O-86-104 § 20, & 21, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.240 Proration of use tax for certain construction equipment.

A. Construction equipment that is located within the boundaries of the city for a period of more than thirty consecutive days shall be subjected to the full applicable use tax of the city.

B. Construction equipment that is located within the boundaries of the city for a period of thirty consecutive days or less shall be subjected to the city's use tax in an amount that does not exceed the amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator of which is twelve, and the result shall be multiplied by the amount of the use tax imposed pursuant to Section 3.01.210.

C. Where the provisions of subsection (B) of this section are utilized, the credit provisions of Section 3.01.220(E) shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule municipalities on any such equipment equal the amount of the use tax imposed pursuant to Section 3.01.210.

D. In order to avail himself of the provisions of subsection (B) of this section, the taxpayer shall comply with the following procedure:

1. Prior to or on the date that the equipment is located within the boundaries of the city, the taxpayer shall file with the Director of Finance/City Treasurer an equipment declaration on a form provided by the Director of Finance/City Treasurer. Such declaration shall state the dates on which the taxpayer anticipates that the equipment shall be located within and removed from the boundaries of the city, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment and shall include such other information as reasonably deemed necessary by the city.

2. The taxpayer shall file an amended equipment declaration with the city reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety days after the equipment is brought into the boundaries of the city or, for equipment that is brought into the boundaries of the city for a project of less than ninety days’ duration, no later than ten days after substantial completion of such project.

3. The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars.

E. If the equipment declaration is given as provided in subsection (D) of this section, then as to any item of construction equipment for which the customary purchase price is less than two thousand five hundred dollars that was brought into the boundaries of the city temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as the use tax imposed pursuant to Section 3.01.210 and that such local sales or use tax was previously paid. In such case, the burden of proof in any proceeding before the city, the executive director of the Department of Revenue or the District Court shall be on the city to prove that such local sales or use tax was not paid.

F. If the taxpayer fails to comply with the provisions of subsection (D) of this section, then the taxpayer may not avail himself of the provisions of subsection (B) of this section and shall be subject to the provisions of subsection (A) of this section. Substantial compliance with the provisions of subsection (D) of this section shall allow the taxpayer to avail himself of the

V. Refunds

3.01.250 Refunds.

A. A refund shall be made, or a credit allowed, for the sales or use tax so paid under dispute by any purchaser or user who claims an exemption pursuant to Sections 3.01.180 or 3.01.230. Such refund shall be made by the Director of Finance/City Treasurer after compliance with the following conditions precedent: applications for refund shall be made within sixty days after the purchase, storage, use or consumption of the goods or services whereon an exemption is claimed and must be supported by the affidavit of the purchaser or user accompanied by the original paid invoice or sales receipt and certificate issued by the seller and shall be made upon such forms as shall be prescribed therefor.

B. Upon receipt of an application, the Director of Finance/City Treasurer shall examine the same with due speed and shall give notice to the applicant by order in writing of his decision thereon. Aggrieved applicants, within thirty days after such decision is mailed to them, may petition the Director of Finance/City Treasurer for a hearing on the claim in the manner provided in Section 3.01.330(A) and may either appeal to the District Court in the manner provided in Section 3.01.340 or to the Department of Revenue in the manner provided in Section 3.01.350. The right of any person to a refund under this chapter shall not be assignable, and except as provided in subsection (D) of this section, such application for refund must be made by the same person who purchased the goods or services and paid the tax thereon as shown in the invoice of the sale thereof.

C. A refund shall be made or a credit allowed by the Director of Finance/City Treasurer to any person entitled to an exemption where such person establishes that: (i) a tax was paid by another person, the purchaser, on a purchase made on behalf of the person entitled to an exemption; (ii) a refund has not been granted to such purchaser; and (iii) the person entitled to the exemption paid or reimbursed such purchaser for such tax. The burden of proving that sales, services, and commodities on which tax refunds are claimed are exempt from taxation under this chapter or were not at retail shall be on the person making such claim under such reasonable requirements of proof as set forth in the rules and regulations prescribed therefor. No such refund shall be made or credit allowed in an amount greater than the tax paid less the expense allowance on such purchase retained by the vendor pursuant to Section 3.01.130(A).

D. Such application for refund under subsection (C) of this section shall be made on forms furnished by the Finance Department. Upon receipt of such application and proof of the matters contained therein, the Director of Finance/City Treasurer shall give notice to the applicant by order in writing of his decision thereon. Aggrieved applicants, within twenty days after such decision is mailed to them, may petition the Director of Finance/City Treasurer for a hearing on the claim in the manner provided in Section 3.01.330(A) and may either appeal to the District Court in the manner provided in Section 3.01.340 or to the Department of Revenue in the manner provided in Section 3.01.350. Any applicant for a refund under the provisions of this subsection, or any other person, who makes any false statement in connection with an application for a refund of any taxes is guilty of a violation of this chapter and shall be punished in the manner provided by state law.

E. 1. Claims for tax moneys paid in error or by mistake shall be made within three years after the date of purchase, storage, use or consumption of the goods or services for which the refund is claimed and shall be processed for refund in accordance with the rules and regulations prescribed therefor under subsection (D) of this section, except that the proceeds of any such claim for a refund shall first be applied by the Finance Department to any tax deficiencies or
liabilities existing against the claimant before allowance of such claim by the Finance Department, and further except that if such excess payment of tax moneys in any period is discovered as a result of an audit by the Finance Department, and deficiencies are discovered and assessed against the taxpayer as a result of such audit, then such excess moneys shall be first applied against any deficiencies outstanding to the date of the assessment but shall not be applied to any future tax liabilities.

E. 2. In accordance with the Mobile Telecommunications Sourcing Act, all refunds for charges of mobile telecommunications service shall be made in accordance with the City’s Rules and Regulations adopted in conformity with this chapter.

F. If any person is convicted under the provisions of this section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Director of Finance/City Treasurer is empowered to bring appropriate action for recovery of such refunds. A brief summary statement of the above-described penalties shall be printed on each form application for a refund. (Ord. O-2019-24 § 4, 2019; Ord. O-2011-1 § 3, 2011; Ord. O-2003-4 § 4, 2003; Ord. O-91-61 § 64 & 65, 1991; Ord. O-85-137 § 1 (part), 1985).

VI. Enforcement

3.01.260 Recovery of taxes, penalty and interest.

A. All sums of money paid by the purchaser to the retailer as taxes imposed by this chapter shall be and remain public money, the property of the city, in the hands of such retailer, and such retailer shall hold the same in trust for the sole use and benefit of the city until paid to the Director of Finance/City Treasurer, and for failure to so pay to the Director of Finance/City Treasurer, such retailer shall be punished as provided herein.

B. 1. If a person neglects or refuses to make a return in payment of the sales or use tax or to pay any sales or use tax as required by this chapter, the Director of Finance/City Treasurer shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto an administrative fee of fifteen dollars ($15.00) or a penalty equal to ten percent (10%) of the delinquent taxes, whichever is greater, and interest on such delinquent taxes at the rate established by the State Commissioner of Banking pursuant to C.R.S. § 39-21-110.5 plus one-half percent (0.5%) per month, not exceeding eighteen percent (18%) in the aggregate, from the date when due.

2. Promptly thereafter, the Director of Finance/City Treasurer shall give to the delinquent taxpayer written notice of deficiency in the amount of such estimated taxes, penalty, and interest, which notice of deficiency shall be sent by first-class mail directed to the last address of such person on file with the Finance Department. Within thirty (30) days after the notice of deficiency is mailed, the taxpayer may petition the Director of Finance/City Treasurer for a hearing in the manner provided in Section 3.01.330(A) and either may appeal to the District Court as provided in Section 3.01.340 or to the Department of Revenue as provided in Section 3.01.350.

C. 1. If any taxes, penalty, or interest imposed by this chapter and shown due by returns filed by the taxpayer or as shown by assessments duly made as provided in this section are not paid within five days after the same are due, then the Director of Finance/City Treasurer shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the city claims a first and prior lien therefor on the real and tangible personal property of the taxpayer except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached.
prior to the filing of the notice as provided in this section on property of the taxpayer, other than the goods, stock in trade, and business fixtures of such taxpayer.

2. Said notice shall be on forms furnished by the Finance Department and shall be verified by the City Manager or by the Director of Finance/City Treasurer or any duly qualified agent of the City Manager or the Director of Finance/City Treasurer, whose duties are the collection of such tax, and may be filed in the office of the county clerk and recorder in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create a 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 shall have been filed or not, the Director of Finance/City Treasurer may issue a warrant directed to any duly authorized revenue collector, or to the sheriff of the county, commanding him to levy upon, seize, and sell sufficient of the real and personal property of the amount due together with interest, penalties, and costs, as may be provided by law, subject to valid preexisting claims or liens.

D. Such revenue collector or the sheriff shall forthwith levy upon sufficient of the property of the taxpayer or any property used by such taxpayer in conducting his retail business, except property made exempt from the tax lien pursuant to the provisions of Section 3.01.270(A)(2), and said property so levied upon shall be sold in all respects with like effect and in the same manner as is prescribed by law with respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply. The sheriff shall be entitled to such fee in executing such warrants as are allowed by law for similar services.

E. Any lien for taxes as shown on the records of the county clerks and recorders as provided in this section, upon payment of all taxes, penalties, and interest covered thereby shall be released by the Director of Finance/City Treasurer in the same manner as mortgages and judgments are released.

F. 1. The Director of Finance/City Treasurer may also treat any such taxes, penalties, or interest due and unpaid as a debt due the city from the vendor. The return of the taxpayer or the assessment made by the Director of Finance/City Treasurer, as provided in this chapter, shall be prima facie proof of the amount due.

2. To recover such taxes, penalties or interest due, the Director of Finance/City Treasurer may bring an action in attachment, and a writ of attachment may be issued to the sheriff. In any such proceedings, no bond shall be required of the Director of Finance/City Treasurer, nor shall any sheriff require of the Director of Finance/City Treasurer an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Director of Finance/City Treasurer may prosecute appeals in such cases without the necessity of providing bond therefor. It is the duty of the City Attorney, when requested by the Director of Finance/City Treasurer, to commence action for the recovery of taxes due under this chapter, and this remedy shall be in addition to all other existing remedies or remedies provided in this chapter.

G. In any action affecting the title to real estate or the ownership or rights to possession of personal property, the city may be made a party defendant for the purpose of obtaining an adjudication or determination of its lien upon the property involved therein. In any such action, service of summons upon the Director of Finance/City Treasurer or any person in charge of the office of the Director of Finance/City Treasurer shall be sufficient service and shall be binding upon the city.

H. The Director of Finance/City Treasurer is authorized to waive, for good cause shown, any penalty assessed as provided in this chapter, and any interest imposed in excess of the rate determined pursuant to subsection (B) of this section shall be deemed a penalty.

I. If a taxpayer pays for any tax imposed pursuant to this chapter by check for which there are insufficient funds to cover such check, then the Director of Finance/City Treasurer may
assess a penalty against such taxpayer. The Director of Finance/City Treasurer may require such taxpayer to pay all tax payments, whether due or to be due in the future, by certified funds, cashier’s check or cash. The penalty imposed by this subsection is in addition to all other penalties imposed pursuant to this chapter.

J. The city is a participant in the intergovernmental agreement with other cities in Colorado concerning intercity claims for the recovery of sales and use taxes paid to the wrong taxing jurisdiction as authorized by city resolution 90-134. The intent and procedure for filing a “Claim for Recovery” is set forth in the city sales and use tax rules and regulations set out in this section.


3.01.270 Tax lien-Exemption from lien.

A. 1. The sales tax imposed pursuant to Section 3.01.120 shall be a first and prior lien upon the tangible personal property and business fixtures of or used by any retailer under lease, title retaining contract, or other contract arrangement, excepting stock of goods sold or for sale in the ordinary course of business and shall take precedence on all such property over other liens or claims of whatsoever kind or nature. The use tax imposed by Section 3.01.210 shall be a first and prior lien on the tangible personal property stored, used, or consumed, subject only to any valid mortgage or other liens of record on and prior to the recording of notice as set forth in Section 3.01.260(C)(2), which lien shall have precedence over all other liens of whatsoever kind or nature, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the filing of the notice on such tangible personal property.

2. The real or personal property of an owner who has made a bona fide lease to a retailer or to any taxpayer owing a use tax shall be exempt from the lien created in subsection (A)(1) of this section if such property can reasonably be identified from the lease description, and if the lessee is given no right to become the owner of the leased property. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the county clerk and recorder of the county where the property is located or based or if a memorandum of the lease is filed with the Finance Department within ten days after the execution of the lease. Motor vehicles which are properly registered in the city, showing the lessor as the owner thereof, shall be exempt from the lien created in subsection (A)(1) of this section, except that said lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee. Where the lessor and the lessee are blood relatives or relatives by law or have twenty-five percent or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for purposes of this section.

3. Any retailer who is in possession of property under the terms of a lease, which property is exempt from the tax lien as provided in this section, may be required by the Director of Finance/City Treasurer to remit taxes collected at more frequent intervals than monthly, but no more frequently than semimonthly, or may be required to furnish security for the proper payment of taxes whenever the collection of taxes appears to be in jeopardy.

4. Any retailer who sells out his business or stock of goods, or quits business, shall be required to make out the return as provided in this chapter, within ten 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 purchase money to cover the amount of said taxes due and unpaid until
such time as the former owner produces a receipt from the Director of Finance/City Treasurer showing that the taxes have been paid or a certificate that no taxes are due.

5. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in of subsection (A)(4) of this section, and the taxes are due and unpaid after the ten-day period allowed, he, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of or used by any retailer under lease, title retaining contract, or other contract arrangement, by purchase, foreclosure sale, or otherwise, takes the same subject to the lien for any delinquent sales taxes owed by such retailer and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of property so taken or acquired.

B. Whenever the business or property of any taxpayer subject to this chapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for property taxes, all taxes, penalties, and interest imposed by this chapter and for which said retailer is in any way liable under the terms of this chapter shall be a prior and preferred claim against all the property of said taxpayer, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights shall have attached prior to the filing of the notice as provided in Section 3.01.260(C)(2) on the property of the taxpayer, other than the goods, stock in trade, and business fixtures of such taxpayer. No sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this chapter under process or order of any court without first ascertaining from the Director of Finance/City Treasurer the amount of any taxes due and payable under this chapter, and if there are any such taxes due, owing, or unpaid, it is 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 any judgment creditor or other claims of whatsoever kind or nature, except the costs of the proceedings and other preexisting claims or liens as provided in this section. For the purposes of this subsection, “taxpayer” includes “retailer.” (Ord. O-2019-24 § 4, 2019; Ord. O-85-137 § 1 (part), 1985).

3.01.280 Tax deficiency.

A. If a deficiency in payment of the sales or use tax occurs without intent to defraud, there shall be added an administrative fee of fifteen dollars ($15.00) or a penalty equal to ten percent (10%) of the total amount of the deficiency, whichever is greater, and interest on such deficiency at the rate established by the State Commissioner of Banking pursuant to C.R.S. § 39-21-110.5 plus one-half percent (0.5%) per month from the date when due, not exceeding eighteen percent (18%) in the aggregate. Such deficiency, fee, penalty and interest shall become due and payable thirty (30) days after written notice and demand by the Director of Finance/City Treasurer to the person required to file the return.

B. If any part of the deficiency is the result of fraud with the intent to evade the tax, there shall be added one hundred percent (100%) of the total amount of the deficiency, and in such case, the entire amount of the tax unpaid, including all additions, shall become due and payable thirty (30) days after written notice and demand by the Director of Finance/City Treasurer, and an additional three percent (3%) per month on such amount shall be added from the date the return was due until paid. (Ord. O-2019-24 § 4, 2019; Ord. O-2015-3 § 9, 2015; Ord. O-2011-1 § 6, 2011; Ord. O-91-61 § 69, 1991; Ord. O-85-137 § 1 (part), 1985).

3.01.290 Interest on extensions of time for payment of tax.

If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on such amount, at the rate established by the State Commissioner of Banking pursuant to C.R.S. § 39-21-110.5 plus one-half percent (0.5%) per month
not exceeding eighteen percent (18%) in the aggregate, shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. (Ord. O-2015-3 § 10, 2015; Ord. O-85-137 § 1 (part), 1985).

3.01.300 Payment of assessed interest.
   A. Interest prescribed under Sections 3.01.260(B), 3.01.280, 3.01.290 and 3.01.310 shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the tax to which such interest is applicable.
   B. If any portion of a tax is satisfied by credit of an overpayment, no interest shall be imposed under this chapter 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.
   C. Interest prescribed under Sections 3.01.260(B), 3.01.280, 3.01.290 and 3.01.310 on any sales or use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected. (Ord. O-2015-3 § 11, 2015; Ord. O-85-137 § 1 (part), 1985).

3.01.310 Penalty interest on unpaid use tax.
   Any use tax due and unpaid shall be a debt to the city and shall draw interest at the rate established by the State Commissioner of Banking pursuant to C.R.S. § 39-21-110.5 plus one-half percent (0.5%) per month, not exceeding eighteen percent (18%) in the aggregate, from the date when due until paid. (Ord. O-2015-3 § 12, 2015; Ord. O-85-137 § 1 (part), 1985).

3.01.320 Other remedies.
   A. No provision of this chapter shall preclude the City of Lakewood from utilizing any other lawful penalties or other remedies applicable to the collection of sales or use taxes. If the City must utilize other lawful penalties or other remedies for the collection of the sales or use taxes, the City shall be entitled to recover its attorney’s fees, costs of litigation and any other legal fees associated with any legal action undertaken to collect the sales and/or use taxes due. The Director of Finance/City Treasurer shall have the authority to make a compromise settlement of any claim for sales or use tax due under this chapter.
   B. The Director of Finance/City Treasurer shall have the power to issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any matter which the Director of Finance/City Treasurer is authorized to determine. It is unlawful for any person to fail to comply with any subpoena issued by the Director of Finance/City Treasurer.
   C. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the state. Upon failure of any witness to comply with such subpoena, the City Attorney shall, at the direction of the Director of Finance/City Treasurer:
      1. Petition any presiding judge of the Municipal Court of the city, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or
      2. Petition the District Court in and for the county, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court after hearing evidence in support of or contrary to the petition, enter its order as in

VII. Hearings and Appeals

3.01.330 Hearings by Director of Finance/City Treasurer.

A. If any person contests any deficiency notice or denial of refund received from the Director of Finance/City Treasurer, then he may apply to the Director of Finance/City Treasurer by petition in writing within thirty days after such deficiency notice or denial of refund is mailed to him for a hearing and a correction of the amount of the tax so assessed or refund requested, in which petition he shall set forth the reasons why the amount by which such tax should be reduced or the amount of the refund requested should be granted. The Director of Finance/City Treasurer shall notify the petitioner in writing of the time and place fixed by him for such hearing. After such hearing, the hearing officer shall make such order in the matter as is just and lawful and shall furnish a copy of such order to the petitioner.

B. Every decision of the hearing officer shall be in writing, and notice thereof shall be mailed to the petitioner within thirty days after such hearing, and all such decisions shall become final and all amounts due shall be paid upon the expiration of thirty days after notice of such decision shall have been mailed to the petitioner, unless proceedings are begun within such time for review thereof as provided in Sections 3.01.340 or 3.01.350. (Ord. O-2019-24 § 4, 2019; Ord. O-2011-1 § 8, 2011; Ord. O-91-61 § 70, 1991; Ord. O-86-104 § 23, 1986; Ord. O-85-137 § 1 (part), 1985).

3.01.340 Review by District Court.

If the petitioner or if an applicant for a refund is aggrieved at the final decision of the hearing officer, then he may proceed to have same reviewed by the District Court. The procedure of review may be in accordance with Colorado Rules of Civil Procedure 106 or by the method of appeals set forth in Section 29-2-106, Colorado Revised Statutes, as amended. (Ord. O-93-26 § 8, 1993; Ord. O-91-61 § 81, 1991; Ord. O-85-137 § 1 (part), 1985).

3.01.350 Alternate review by Department of Revenue.

In lieu of the procedure provided for in Section 3.01.340, the taxpayer may elect to appeal to the Executive Director of the Department of Revenue as set forth in Section 29-2-106, Colorado Revised Statutes, as amended. (Ord. O-93-26 § 9, 1993; Ord. O-91-61 § 82, 1991; Ord. O-85-137 § 1 (part), 1985).
Chapter 3.02
INCORRECT REGISTRATION OF A MOTOR VEHICLE

Sections:
3.02.010 Definitions.
3.02.020 Registration of motor vehicle.
3.02.030 Penalty for incorrect registration of motor vehicle.

3.02.010 Definitions.
As used in this chapter, the following terms shall have the following meanings:
“Director of Finance/City Treasurer” means the Director of Finance/City Treasurer of the city.
“Motor vehicle” has the meaning set forth in Section 42-6-102(7) of the Colorado Revised Statutes.
“Notice of deficiency” means the notice issued by the Director of Finance/City Treasurer pursuant to Section 3.01.260 of this code for failure, neglect or refusal to pay any sales or use taxes due or any penalties or interest thereon.
“Penalty assessment notice” means the written notice of the Director of Finance/City Treasurer’s determination that a violation of Section 42-6-137(2) of the Colorado Revised Statutes has occurred and assessment and demand for the payment of the civil penalty provided for in Section 3.02.030 hereof. (Ord. O-2019-24 § 4, 2019; Ord. O-86-105 § 1 (part), 1986).

3.02.020 Registration of motor vehicle.
No person shall register a motor vehicle in violation of the provisions of Section 42-6-137(2) of the Colorado Revised Statutes. (Ord. O-86-105 § 1 (part), 1986).

3.02.030 Penalty for incorrect registration of motor vehicle.
A person who registers a motor vehicle in violation of the provisions of Section 42-6-137(2) of the Colorado Revised Statutes shall be subject to a five hundred-dollar civil penalty pursuant to the authority granted in Section 42-6-137(4) of the Colorado Revised Statutes. The procedure for the assessment of such civil penalty shall be as follows:
A. When the Director of Finance/City Treasurer determines on such information as is available that a person has registered a motor vehicle in violation of the provisions of Section 42-6-137(2) of the Colorado Revised Statutes, then the Director of Finance/City Treasurer shall provide to such person a penalty assessment notice. If the Director of Finance/City Treasurer also has determined pursuant to Section 3.01.260 of this code that sales or use taxes are due to the city on such motor vehicle, then such penalty assessment notice shall be included in the notice of deficiency.
B. Such person shall pay such civil penalty within the same time period provided pursuant to Section 3.01.260 of this code for payment of any amounts due pursuant to the notice of deficiency, unless such person files a written protest pursuant to subsection (C) of this section.
C. If such person desires to protest the penalty assessment notice, such person shall file a written protest with the Director of Finance/City Treasurer within the time period provided pursuant to Section 3.01.330(A) of this code for protesting a notice of deficiency. The protest shall set forth the facts which show that a violation of Section 42-6-139 of the Colorado Revised Statutes, as amended, did not occur. The Director of Finance/City Treasurer shall issue a written decision affirming or withdrawing such penalty assessment notice within the same time period and in the same manner as provided pursuant to Section 3.01.330(B) of this code on a
protest on a notice of deficiency. If the decision affirms the penalty assessment notice, then such person shall pay such civil penalty within the time period provided for payment of a final assessment pursuant to Section 3.01.330(B) of this code.

D. Such person may seek judicial review of the Director of Finance/City Treasurer’s decision pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No such judicial review shall be available if a written protest was not timely filed in the manner provided for in subsection (C) of this section.

E. The Director of Finance/City Treasurer may enforce collection of the civil penalty provided for in this section in the same manner provided in Section 3.01.260 of this code for the collection of unpaid sales or use taxes, penalties, or interest.

F. Nothing in this section shall be deemed to preclude the collection of any tax, fee, penalty, or interest thereon provided by law or the imposition of any other civil or criminal penalty provided by law. (Ord. O-2019-24 § 4, 2019; Ord. O-97-1 § 1 & 2, 1997; Ord. O-86-105§ 1 (part), 1986).
Chapter 3.03
HOTEL/MOTEL ACCOMMODATIONS TAX

Sections:

3.03.010 Title.

3.03.020 Legislative intent.

3.03.030 Purpose.

3.03.040 Definitions.

3.03.050 Levy of tax.

3.03.060 Payment of tax.

3.03.070 Administration.

3.03.080 Incorporation by reference of certain provisions of city’s sales and use tax ordinance.

3.03.010 Title.

The ordinance codified in this chapter shall be known as the hotel/motel accommodations tax ordinance. (Ord. O-86-89 § 1 (part), 1987).

3.03.020 Legislative intent.

The City Council intends to levy upon the purchasers, consumers, or users of hotel/motel facilities the tax imposed by this chapter upon such purchasers, consumers, or users for the privilege of renting or leasing a lodging room in the city. This tax is in addition to and does not replace or repeal the sales tax on hotel/motel rooms imposed by Chapter 3.01 of this code. (Ord. O-87-89 § 1 (part), 1987).

3.03.030 Purpose.

The purpose of this tax shall be to raise revenues to be used by the city to promote economic development within the city. (Ord. O-87-89 § 1 (part), 1987).

3.03.040 Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

“City Manager” means the manager of the city.

“Finance Department” means the finance department of the city.

“Director of Finance/City Treasurer” means the Director of finance/city treasurer of the city.

“Hotel/motel facility” means a hotel, motel, or other similar facility which: (i) has lodging rooms; (ii) is located within the city; and (iii) the rental period is less than thirty consecutive days.

“Lodging room” is a regular sleeping room or unit which is part of a hotel or motel, or similar facility for which a charge is made for its use.

“Purchaser,” “consumer,” or “user” is that person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, motel, or similar facility for a period less than thirty consecutive days. (Ord. O-2019-24 § 4, 2019; Ord. O-87-89 § 1 (part), 1987).

3.03.050 Levy of tax.

On and after January 1, 1988, there is levied an excise tax of three percent upon the entire amount charged to any person for a lodging room, and said tax shall be collected and paid by each owner of a hotel/motel facility to the city. (Ord. O-87-89 § 1 (part), 1987).
3.03.060  Payment of tax.

Before the twentieth day of each April, July, October, and January, commencing January 1, 1988, every owner of a hotel/motel facility shall make a return to the Director of Finance/City Treasurer for the preceding calendar quarter and remit to the Director of Finance/City Treasurer an amount equal to three percent of the entire amount charged to all persons for lodging room(s) during the preceding calendar quarter. Such returns shall be furnished by the Finance Department. (Ord. 2019-24 § 4, 2019; Ord. O-87-89 § 1 (part), 1987).

3.03.070  Administration.

The City Council may adopt rules and regulations in conformity with this chapter for the proper administration and enforcement of this chapter. The administration of this chapter is vested in and shall be exercised by the City Manager. The Director of Finance/City Treasurer shall assist the City Manager in the administration of this chapter to the extent provided herein and in the rules and regulations promulgated hereunder. (Ord. 2019-24 § 4, 2019; Ord. O-87-89 § 1 (part), 1987).

3.03.080  Incorporation by reference of certain provisions of city's sales and use tax ordinance.

Unless the context otherwise requires, the following provisions of the city sales and use tax ordinance set forth in Chapter 3.01 of this code, including all amendments thereto, are incorporated by reference into this chapter with the following modifications as if fully set forth herein:

A. Sections 3.01.020, 3.01.030, 3.01.060, 3.01.065, 3.01.100, 3.01.130 through 3.01.190, and 3.01.210 through 3.01.350, inclusive;
B. Any reference therein to "Chapter 3.01" shall be deemed to refer to this chapter;
C. Any reference therein to "sales tax," "use tax," or "tax" shall be deemed to refer to the tax imposed pursuant to this chapter;
D. Any reference therein to "taxpayer" shall be deemed to refer to an owner of a hotel/motel facility;
E. Any reference therein to "retailer" or "vendor" shall be deemed to refer to an owner of a hotel/motel facility.

In the event of a conflict between this chapter and Chapter 3.01, the provisions of this chapter shall control. (Ord. O-93-26 § 21, 1993; Ord. O-87-89 § 1 (part), 1987).
Chapter 3.04

PURCHASING POLICIES

Sections:

3.04.010 Purchasing Manager.
3.04.020 Procedures.
3.04.030 Competitive bidding and exceptions.
3.04.040 Exempted purchases-Approval.
3.04.050 Purchases under fifty thousand dollars.
3.04.060 Purchases fifty thousand dollars or over.
3.04.070 Purchases over fifty thousand dollars when a competitive process is not utilized.
3.04.080 Unbudgeted purchases over fifty thousand dollars.
3.04.090 Bid requirements.
3.04.100 Sealed bids upon recommendations of the City Manager.
3.04.110 Successful bids.
3.04.120 Emergency procedures.
3.04.130 Contracts for public improvements.
3.04.140 Execution of contracts.
3.04.150 Debarment and suspension.
3.04.160 Protested solicitations or awards.
3.04.170 Construction Management-General Contractor (CMGC) Contracts.
3.04.180 Revenue contracts.
3.04.190 Green procurement.

3.04.010 Purchasing Manager.

The Director of Finance/City Treasurer is authorized to designate a Purchasing Manager on behalf of the city. Purchases made by the Purchasing Manager shall be in accordance with certain policies and procedures as hereinafter set forth in this chapter. (Ord. 2019-24 § 4, 2019; Ord. O-2012-7 § 1, 2012; Ord. O-88-6 § 1, 1988).

3.04.020 Procedures.

In enforcing and administering purchasing procedures, the Purchasing Manager shall:

A. Establish and enforce specifications with respect to supplies, materials and equipment required by the city. In developing specifications, the Purchasing Manager shall consult with the various departments concerned in determining the quality of the goods to be purchased;
B. Supervise the inspection of all deliveries of supplies, materials and equipment and determine their quality, quantity and conformity with specifications;
C. Have authorization to transfer between offices, other city departments surplus or unused materials;
D. Procure materials, supplies, and services at the best value to the City. (Ord. O-2012-7 § 1, 2012; Ord. O-88-6 § 2, 1988).

3.04.030 Competitive bidding and exceptions.

A. Before the City of Lakewood makes any purchase, and subject to the provisions hereinafter set forth, there shall be given ample opportunity for competitive bidding subject to such exemptions as the City Council may, upon recommendation of the City Manager, prescribe by ordinance or resolution.
B. The following items are exempted from competitive bidding:
1. Purchases made cooperatively with other units of government such as the State of Colorado, federal, regional, and local governmental cooperative groups utilizing extended awards from other governmental agencies; the City of Lakewood may, when deemed appropriate, extend its awards to other governmental agencies;
2. Services of individuals/firms possessing a high degree of professional skill (such as architectural and engineering services). Departments are encouraged to use a formal selection process whenever practical for all types of professional services;
3. Purchases from federal, state or other local government units;
4. Purchases made through other governmental entities as may be authorized by ordinance or statute;
5. Magazines, books, subscriptions, advertisements, or periodicals;
6. Memberships and conference registrations;
7. Clean-up and disposal of hazardous materials;
8. Items or products purchased by the City of Lakewood for retail sale to the public;
9. Supplies, products, services, or maintenance agreements indispensable to the City of Lakewood which are obtainable, for practical purposes, only from a single or sole source, as identified by the Purchasing Manager using the procedure set out in the Finance Department Procurement Policy. The Purchasing Manager is authorized to negotiate with the single or sole source regarding pricing, delivery, and other relevant factors.


3.04.040 Exempted purchases-Approval.
Exempted purchases shall require approval in accordance with the authorization limits stated herein. (Ord. O-2012-7 § 1, 2012; Ord. O-88-6 § 4, 1988).

3.04.050 Purchases under fifty thousand dollars.
Any purchase costing under fifty thousand dollars ($50,000) shall require approval by the department head or designee. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 2, 1996; Ord. O-93-4 § 2, 1993; Ord. O-88-6 § 5, 1988).

3.04.060 Purchases fifty thousand dollars or over.
Any purchase costing fifty thousand dollars ($50,000) or over shall require approval by the department head or designee and the City Manager or designee. Any purchase not containing the signatures of all the required parties shall require approval by City Council. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 3, 1996; Ord. O-88-6 § 6, 1988).

3.04.070 Purchases over fifty thousand dollars when a competitive process is not utilized.
When a competitive process is not utilized, any purchase costing fifty thousand dollars ($50,000) or more shall require approval by the department head, the City Manager and City Council. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 4, 1996; Ord. O-88-6 § 7, 1988).

3.04.080 Unbudgeted purchases over fifty thousand dollars.
Any unbudgeted purchase, or any purchase with a change in funding source, that is over fifty thousand dollars ($50,000) shall require approval by the City Council. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 5, 1996; Ord. O-88-6 § 8, 1988).
3.04.090  Bid requirements.

A. Whenever possible, the Purchasing Manager or designee shall solicit a minimum of three noted informal written or electronically transmitted quotes on any purchase costing at least five thousand dollars ($5,000) but less than fifty thousand dollars ($50,000). Purchases costing at least five thousand dollars ($5,000) but less than twenty-five thousand dollars ($25,000) may be administered by Department Buyers. Purchases costing at least twenty-five thousand dollars ($25,000) but less than fifty thousand dollars ($50,000) shall be administered by Purchasing personnel.

B. Any purchase costing fifty thousand dollars ($50,000) or more shall require formal written sealed bids unless otherwise exempted herein. Formal sealed bids may, at the discretion of the Purchasing Manager, include multi-step bid procedures, total cost or life cycle cost procedures, or formal competitive proposals as set out in the Procurement Policy. The multi-step process may include pre-qualification of a product, a contractor, or a vendor based on specifications or experience prior to the submission of cost bids. After pre-qualification, only the products, contractors, or vendors that meet the specifications or experience will be permitted to submit cost bids. The total cost or life cycle cost procedure may include analysis of factors such as maintenance costs, salvage value, and availability of parts. Such factors may be considered as part of the cost of the product as well as the actual purchase price. Formal competitive proposals may be used when the cost of a product or service is not the primary selection factor and where it is not possible to directly compare a product or a service to another.

C. Contracts may be renewed by the Purchasing Manager and department head up to four (4) annual times based on satisfactory performance and competitive pricing. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 7, 1996; Ord. O-88-6 § 9, 1988).

3.04.100  Sealed bids upon recommendations of the City Manager.

Notwithstanding any of the provisions above, upon recommendation of the Purchasing Manager, the City Manager may require sealed bids on any purchase costing less than fifty thousand dollars ($50,000). (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 8, 1996; Ord. O-93-4 §§ 3, 4, 1993; Ord. O-88-6 § 10, 1988).

3.04.110  Successful bids.

A. Bids shall be awarded to the lowest responsive, responsible, and qualified bidder as determined by the city. Factors to be considered in evaluating the lowest responsive, responsible, and qualified bidder may include the quality, availability, and delivery of the product, qualifications of the contractor or vendor, and any special requirements relevant to the subject matter of the bid as determined by the Purchasing Manager.

B. The Purchasing Division of the City of Lakewood will solicit Lakewood firms to submit bids to the city through local advertising, or other suitable methods. Where all award factors are equal, a bid will be awarded to the bidder with its principal place of business located in the City of Lakewood. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 9, 1996; Ord. O-88-6 § 11, 1988).

3.04.120  Emergency procedures.

Notwithstanding any of the provisions above, when by reason of emergency or immediate public necessity, it is not feasible or practicable to follow the bidding procedures herein set forth or to obtain Council approval, and it is necessary to authorize the purchase of equipment, supplies or services, or emergency repair or maintenance work, without sealed or other bidding procedures, the City Manager or designee is authorized on behalf of the City Council to grant authority for such purchase of equipment, supplies, or services in the event of emergency or immediate public necessity deemed to exist by the City Manager or designee. As soon as practical after the purchase, the Director of Finance/City Treasurer or designee shall notify City...
Council of purchases costing more than fifty thousand dollars ($50,000). Wherever possible, the Director of Finance/City Treasurer or designee shall solicit the bids for the emergency purposes, and shall make certain that whenever possible the lowest responsive, responsible, and qualified bidder has been selected. (Ord. O-2019-24 § 4, 2019; Ord. O-2012-7 § 1, 2012; Ord. O-93-4 § 5, 1993; Ord. O-88-6 § 12, 1988).

3.04.130  Contracts for public improvements.
A. Contracts for public improvements shall be let in accordance with City of Lakewood bidding procedures. These contracts are subject to approval in accordance with the authorization limits stated herein.
B. When a contract for public improvements is awarded in excess of fifty thousand dollars ($50,000), the following bonds or security shall be delivered to the city and shall become binding on the parties upon execution of the contract:
   1. A performance bond satisfactory to the city, executed by a surety company authorized to do business in the State of Colorado or otherwise secured in a manner satisfactory to the city, in an amount equal to one hundred percent (100%) of the price specified in the contract; and
   2. A payment bond satisfactory to the city, executed by a surety company authorized to do business in the State of Colorado or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.
C. Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds or in circumstances other than those specified in subsection (B) of this section.

3.04.140  Execution of contracts.
Unless otherwise authorized or directed by City Council, all contracts obligating the city may be executed on behalf of the city by the Mayor or the City Manager, or designee, and attested by the City Clerk, after approval of the form of the contract by the City Attorney. (Ord. O-2012-7 § 1, 2012; Ord. O-93-4 § 7, 1993; Ord. O-88-6 § 14, 1988).

3.04.150  Debarment and suspension.
A. Debarment procedures.
   1. After reasonable notice to the person or firm involved and reasonable opportunity for that person to be heard, the Director of Finance/City Treasurer or the Purchasing Manager, after consultation with the City Attorney, shall have the authority to debar a person or firm for any reason set forth in subsection (B) of this section from consideration of award of contracts. The period of debarment shall be determined by the Director of Finance/City Treasurer or the Purchasing Manager on a case by case basis based upon criteria set forth in the Finance Department Procurement Policy.
   2. The Director of Finance/City Treasurer or the Purchasing Manager, after consultation with the City Attorney, shall have the authority to debar a person or firm from consideration for award of contracts if there is probable cause to believe such person or firm has engaged in activities that may lead to debarment. The period of debarment shall be determined by the Director of Finance/City Treasurer or the Purchasing Manager on a case by case basis based upon criteria set forth in the Finance Department Procurement Policy.
Procurement Policy.
3. Debarment and suspension procedures shall be set out in the Finance Department Procurement Policy.

B. Reason for debarment.
1. Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;
2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;
3. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
4. Failure without good cause to perform in accordance with the terms of any contract or unsatisfactory performance of any contract; or
5. Debarment by another governmental entity for any of the above reasons.

C. Appeal
1. Any person or firm who is debarred may protest to the City Manager.
2. The protest shall be submitted to the City Clerk’s Office in writing within seven (7) working days after notification of debarment.
3. The City Manager shall have the authority to settle and resolve an appeal of a debarment. A written decision regarding the appeal shall be rendered within thirty (30) working days after the appeal is filed. (Ord. O-2019-24 § 4, 2019; Ord. O-2012-7 § 1, 2012; Ord. O-88-6 § 15, 1988).

3.04.160 Protested solicitations or awards.
A. Any actual or prospective bidder, contractor, or vendor who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Manager, the City Manager, or the City Council as set out in this section. The protest shall be submitted to the City Clerk’s Office in writing within seven (7) working days after such aggrieved person knows or should have known of the facts giving rise thereto.
1. Protests in connection with the solicitation or award of a contract involving an amount less than fifty thousand dollars ($50,000) shall be determined by the Purchasing Manager.
2. Protests in connection with the solicitation or award of a contract involving fifty thousand dollars ($50,000) or over shall be determined by the City Manager.
3. Protests in connection with the solicitation or award of a contract involving an award by City Council shall be determined by the City Council.
B. The Purchasing Manager, City Manager, or City Council as set out in subsection (A) of this section, shall have the authority to settle and resolve a protest of an aggrieved bidder, contractor, or vendor, actual or prospective, concerning the solicitation or award of a contract. A written decision regarding the protest shall be rendered within thirty (30) working days after the protest is filed. This authority shall be exercised in accordance with the Finance Department Procurement Policy. (Ord. O-2012-7 § 1, 2012; Ord. O-96-62 § 10, 1996; Ord. O-93-4 § 8, 1993).

3.04.170 Construction Management-General Contractor (CMGC) Contracts.
Notwithstanding anything in Chapter 3.04 of the Lakewood Municipal Code to the contrary, the City may negotiate Construction Management-General Contractor (CMGC) Contracts and a variety of Construction Management-General Contractor (CMGC) Contracts, that may include Design Build and Construction Management, provided:
A. The City of Lakewood seeks, at a minimum, three proposals to complete the contract project;

3.04.180 Revenue contracts.

3.04.190 Green procurement.
The City of Lakewood’s sustainability efforts encourage the procurement of green products that meet or exceed current performance levels and are not prohibitive in terms of cost, delivery time, or other logistical factors, as determined by the City of Lakewood. (Ord. O-2019-24 § 4, 2019; Ord. O-2012-7 § 1, 2012).
Chapter 3.08
SALE OF PERSONAL PROPERTY BY CITY

Sections:
3.08.010 Sales agent.
3.08.020 Procedures.
3.08.030 Manner of disposition.
3.08.040 Property in excess of five thousand dollars in value.
3.08.050 Property of less than five thousand dollars value.
3.08.055 Negotiated sales.
3.08.060 Repair and reconditioning.
3.08.070 City employees.
3.08.080 Notice of intent.
3.08.090 Proceeds of sale.

3.08.010 Sales agent.
The City Manager or his designee is authorized to act as sales agent on behalf of the city. Sales of personal property made by the City Manager or his designee shall be in accordance with certain policies and procedures as hereinafter set forth in this chapter. (Res. 71-30 § 1, 1971).

3.08.020 Procedures.
In enforcing and administering sales procedures the City Manager or his designee shall:
A. Establish policies, standards and procedures not inconsistent with the provisions of this chapter with respect to declaring personal property of the city to be surplus or excess property, and determining the manner of disposition of such property;
B. Dispose of personal property declared to be excess or surplus in a manner reasonably calculated to bring the highest price to the city, or in such other manner as is consistent with the city's best interests. (Res. 71-30 § 2, 1971).

3.08.030 Manner of disposition.
Property may be sold, or property may be traded or exchanged, if such trade or exchange would benefit the city. Property having little or no value, or the sale or exchange of which is impractical, or for which no market exists, may be destroyed, donated or abandoned. (Res. 71-30 § 3, 1971).

3.08.040 Property in excess of five thousand dollars in value.
Property having a value in excess of five thousand dollars per item shall be sold at public sale, either upon written, sealed bids or public auction, as may be determined by the City Manager or his designee, to be advertised by notice placed in at least one issue of a newspaper of general circulation published in the city not less than seven days, nor more than fourteen days prior to such sale. Nothing herein contained shall prevent the placement and giving of such additional notice as may be determined to be desirable by the City Manager or his designee. (Ord. O-93-26 § 22, 1993; Res. 71-30 § 4, 1971).
3.08.050 Property of less than five thousand dollars value.
Property having a value of less than five thousand dollars per item may be sold in the open market at public or private sale without bid advertisement and without observing the procedure prescribed by Section 3.04.040 relating to written, sealed bids, in the discretion of the City Manager or his designee. (Res. 71-30 § 5, 1971).

3.08.055 Negotiated sales.
Notwithstanding any other provision of this chapter, any management or computer program developed by the city for city use, which also may be of benefit to another public or private entity, may be sold through negotiated sales, provided such sales are authorized by the City Council after finding that such sales are consistent with the city’s best interest. (Ord. O-83-100 § 1, 1983).

3.08.060 Repair and reconditioning.
The City Manager or his designee shall have the authority to expend funds to repair or recondition property declared to be excess or surplus when there is a reasonable expectation that such expenditures will enhance the value above the amount of funds so expended. (Res. 71-30 § 6, 1971).

3.08.070 City employees.
No official or employee of the city, or any member of their immediate family, as defined in city personnel regulations, or anyone on their behalf, shall purchase or otherwise receive surplus or excess property of the city except by public sale upon written sealed bids or by sale at public auction. Notice of any such sale shall be published in the city in a newspaper of general circulation not less than seven days or more than fourteen days prior to the sale. Property that is sold by the city to the public on a proprietary basis in connection with those activities or services generally provided by the city or for the purpose of promoting the economic well-being of the city, may be purchased by city officials, employees or members of their families at the fair market value of such property as offered to the public. (Ord. O-83-100 § 2, 1983; Res. 71-30 § 7, 1971).

3.08.080 Notice of intent.
Before any property declared to be excess or surplus is sold, the purchasing agent shall cause to be published, in a newspaper of general circulation, published in the city, not less than seven and no more than fourteen days prior to sale, a notice of intent to dispose of property. Such notice shall list and describe the items to be sold and indicate that any interested party may contact the purchasing agent and shall contain the address and telephone number of the office of the purchasing agent. (Res. 71-30 § 8, 1971).

3.08.090 Proceeds of sale.
All proceeds of sale of surplus and excess property shall be allotted to the city’s general fund. (Res. 71-30 § 9, 1971).
Chapter 3.10
SALE AND DISPOSAL OF LOST, STOLEN, CONFISCATED, OR ABANDONED PROPERTY

Sections:
3.10.010 Sales agent.
3.10.020 Disposal of unclaimed property.
3.10.030 Reclalmimg property.
3.10.040 Failure to claim property.
3.10.050 Proceeds of sale.

3.10.010 Sales agent.
The City Manager or a designee thereof is authorized to act as sales agent for the sale or disposal of lost, stolen, confiscated, or abandoned property as such property remains unclaimed and is delivered to the City Manager or a designee thereof by the Chief of Police for sale or disposal pursuant to the provisions of Chapter 9.02 of this code. The sale or disposal of lost, stolen, confiscated, or abandoned property by the City Manager or a designee thereof shall be in accordance with the policies and procedures as hereinafter set forth in this chapter. (Ord. O-93-26 § 23, 1993; Ord. O-76-85 § 2 (part), 1976).

3.10.020 Disposal of unclaimed property.
Upon delivery by the Chief of Police and receipt by the City Manager or a designee thereof, lost, stolen, confiscated, or abandoned property, and such other property as may be unclaimed, shall be disposed of by the sales agent as follows:
A. Upon receipt of such property from the Chief of Police, the sales agent shall, within thirty days of receipt, cause to be published in a newspaper of general circulation in the city a public notice describing generally by category or classification those articles of property of an estimated current retail value of less than one hundred dollars. Those articles of property of an estimated current retail value of one hundred dollars or more shall be described specifically. Such public notice shall state that any person who claims to be an owner of or claims any interest in any such property may appear at a location designated by the sales agent and reclaim such property upon presentation of satisfactory proof of identity and ownership.
B. Any such property may be sold at public sale; provided, that the sales agent shall cause to be published in a newspaper of general circulation in the city, a public notice setting forth the time, date and place of sale.
C. Bicycles, tricycles, articles made for use by children, or clothing may be sold at public sale, or may, in the alternative, be given to poor, needy, or institutionalized persons, as the sales agent may order, by making the same available for distribution to religious, charitable, civic, or other organizations or institutions.
D. Such property that consists of jewelry, gems, watches, precious metals, or other property having a unique value, or which in the judgment of the sales agent may bring a higher price if sold on sealed bids, may, in the discretion of the sales agent, be sold either at a public sale as heretofore provided, or to the highest bidder after solicitation of sealed bids from at least three regular dealers in the particular type of property. Any person desiring to submit a sealed bid may do so. Such bids shall be opened and the property sold to the highest bidder at the time and place specified in such notice, provided, however, that the right to reject any and all bids shall be reserved, and any and all bids may be rejected if deemed too low, or for any other reason.
E. The city may retain for its own use and benefit that property not claimed. Property of little or no apparent value may be destroyed by the sales agent. When any property of an estimated retail value of fifty dollars or more is retained by the city as provided for in this section, it shall be added to the city's capital assets inventory. (Ord. O-93-26 § 24, 1993; Ord. O-76-85 § 2 (part), 1976).

3.10.030 Reclaiming property.
All such property may be reclaimed by the lawful owner upon proof of identity and ownership satisfactory to the sales agent if claimed before donation or sale thereof. (Ord. O-76-85 § 2 (part), 1976).

3.10.040 Failure to claim property.
Failure to make claim of ownership within the time limit prescribed in this chapter and Chapter 9.02 and before sale or donation of any article shall forever bar the owner or any person claiming ownership by, through, or under the owner for making any subsequent claim of ownership. (Ord. O-76-85 § 2 (part), 1976).

3.10.050 Proceeds of sale.
All proceeds of sale shall be paid to the Director of Finance/City Treasurer who shall deposit the same in the general fund of the city. (Ord. O-2019-24 § 4, 2019; Ord. O-76-85 § 2 (part), 1976).
3.11.010 Notice of impoundment.

Whenever a police agent or employee of the city removes a vehicle from a public right-of-way or private property to the official police garage, the Police Department shall report the impoundment to the Colorado Department of Revenue, Motor Vehicle Division within three working days of the date the vehicle was impounded. Within five working days after the Colorado Department of Revenue notifies the Police Department of the last known owner of the vehicle and any lien holder shown in its records, the Police Department shall send a written notice, by certified mail, to the owner of record and any lien holder. If a vehicle has no license plates affixed thereto, or has out-of-state license plates affixed thereto, and Colorado Department of Revenue has no record of the last known owner of such vehicle, the Police Department shall contact the state that issued the license plates to determine the last known owner, if any, or shall use the computer resources available to the Police Department to determine the last known owner, if any, and such person shall be sent a written notice, by certified mail. The notice shall contain the following:

A. The location from which the vehicle was towed and the date of impoundment;
B. The reason for towing and impoundment;
C. The storage location of the impounded vehicle;
D. That failure to claim the vehicle and pay the costs of recovery, towing, and/or storage within thirty days from the date the notice was sent to the owner and any lien holder may result in sale or disposal of the vehicle by the city. (Ord. O-90-41 § 1 (part), 1990).

3.11.020 Sale of unclaimed vehicles-Proceeds.

A. When a vehicle has been stored at the official police garage for a period of thirty (30) days after notice as required by Section 42-4-1804(4), C.R.S. was sent by first-class mail to the owner, if ascertained, and any lien holder, if ascertained, and no claim of ownership has been made, no right to possession thereof has been established, and no suit or action to determine possession is pending, the City Manager or his designee may dispose of such vehicle as set forth herein.

B. Any vehicle appraised by the city at a value of less than two thousand dollars ($2,000) shall become the property of the official police garage in full satisfaction of the costs of recovery, towing, and/or storage for that vehicle and shall discharge the city from further responsibility in connection with the vehicle. Any vehicle valued at three hundred fifty dollars ($350) or less that becomes the property of the official police garage shall be used only for parts or scrap, and the official police garage shall not be entitled to apply for a title to the State of Colorado for any such vehicle.

C. Any vehicle appraised by the city at a value of two thousand dollars ($2,000) or more may be sold by the City Manager or his designee at a public auction. The City Manager or his designee may contract with a private firm to conduct such public auction.

D. All reasonable costs of recovery, towing, and/or storage, and expenses of notice and sale incurred by the city shall be recovered from the proceeds of the sale. The balance of the proceeds, if any, shall be paid into the general fund of the city.
E. The City Manager or his designee shall issue a written bill of sale without warranty to the purchaser of the vehicle.

F. When any vehicle is offered for sale at public auction and no bid is offered for the vehicle, the City Manager or his designee shall declare the vehicle to be sold to the city for the amount of the costs to the city for recovery, towing, storage, notice and sale of such vehicle. The vehicle shall then become the property of the city for the sole benefit and use of the city.

G. There shall be no right to redemption from any sale made pursuant to the terms of this section, nor shall the city or any officer, agent or employee thereof be liable for failure to deliver such vehicle to any person other than the purchaser at such sale.

Chapter 3.16
SPECIAL IMPROVEMENT DISTRICT
ASSESSMENT POLICIES

Sections:
3.16.010 General.
3.16.020 Criteria for use.
3.16.030 Criteria for initiation.
3.16.050 Notice and hearing procedures.
3.16.060 Polls-Purpose and effect.
3.16.070 Assessment calendar-Effect.
3.16.080 Cost responsibilities-Guidelines-General.
3.16.090 Cost responsibilities-City participation-Criteria.
3.16.100 Cost responsibilities-Street improvements.
3.16.110 Cost responsibilities-Paved street rebuild.
3.16.120 Cost responsibilities-Drainage improvements.
3.16.130 Cost responsibilities-Sidewalks and bike paths.
3.16.140 Cost responsibilities-Street lighting.
3.16.150 Cost responsibilities-Miscellaneous improvements.
3.16.160 Cost responsibilities-Guideline use.
3.16.170 Cost apportionment.
3.16.180 Payment-Methods.
3.16.190 Bond requirements-Surplus and deficiency fund establishment.
3.16.200 Hardship situations-Relief.
3.16.210 Design and construction standards-Compliance required.

3.16.010 General.
The city shall follow the policies and procedures set out in this chapter in establishing special assessment improvement districts within the community. (Res. 76-235 § 1 (part), 1976).

3.16.020 Criteria for use.
A. A special improvement district may be considered as a means of financing all, or any designated portion of, the cost of any public improvement authorized by statute where special benefits accrue to certain properties as a result of the proposed improvement.

B. The portion of the cost of any public improvement to be assessed to specially benefited properties shall be proportionate to the special benefit received by those properties. (Res. 76-235 § 1(I), 1976).

3.16.030 Criteria for initiation.
A. A special improvement district may be considered for initiation when any of the following conditions are evident:
   1. There is an expressed desire for the improvement by owners of assessable properties;
   2. There is a history of excessive maintenance costs or requirements that could be eliminated or reduced by the proposed improvement;
   3. A nuisance or hazard exists which could be corrected by the proposed improvement;
4. The proposed improvement would provide for a logical extension of existing or proposed public improvements and avoid the creation of conditions as referred to in subdivisions (2) and (3) above.
   B. No specific percentage of support or opposition is required to initiate or terminate a special improvement district. The City Council will make a determination in this respect based on a review of the above factors as may pertain to each proposed special improvement district along with input as may be received from owners of the affected properties. (Res. 76-235 § 1(II), 1976).

3.16.040 Initiation—Method.
   A. All special improvement districts will be initiated by resolution of City Council in accordance with Section 31-25-503(1)(d) of the Colorado Revised Statutes 1973 (1975 Supp.)
   B. Special improvement districts shall not be initiated through the petitioning process as provided in Section 31-25-503(1)(b) of the Colorado Revised Statutes 1973 (1975 Supp.) (Res. 76-235 § 1(III), 1976).

3.16.050 Notice and hearing procedures.
   A. Notice and public hearing for each proposed special improvement district shall be held in accordance with Part 5 of Article 25 of Title 31 of the Colorado Revised Statutes 1973 (1975 Supp.). The following is the procedure to be taken before the City Council:
      1. Adoption of resolution of intent to create special improvement districts;
      2. Public hearing on proposed creation of special improvement districts;
      3. Adoption of ordinance creating special improvement districts;
      4. Award of contract for construction;
      5. Adoption of bond sale resolution and ordinance;
      6. Adoption of resolution accepting improvements;
      7. Public hearing on proposed assessment levies;
      8. Adoption of ordinance levying assessments.

      Public notice of each of these actions will be made when statutorily required by placement of such public notice in a newspaper of general circulation.

   B. It is the intent of the city that owners of all properties potentially affected by a special improvement district be given full and adequate notice of all relevant proceedings associated with the proposed project. Toward this end, each property owner of record within a proposed special improvement district will receive advance notice by first class mail of proceedings referred to in subsection (A)(1)-(3), (6)-(8) of this section along with pertinent information relative to these items.

   C. In addition to subsection (A) of this section, informal public meetings will be held with owners of all properties potentially affected by a special improvement district prior to the initiation of formal proceedings. Where possible, advance mailings and public advertisement will also be made of these meetings. (Res. 76-235 § 1(IV), 1976).

3.16.060 Polls-Purpose and effect.
   Polls will be made by first class mail and public notice prior to the public hearing on the creation of each special improvement district in order to determine opposition to the proposed project by owners of affected properties. Such polls are for informational purposes only and have no binding effect on the creation or noncreation of a special improvement district. (Res. 76-235 § 1(V), 1976).
3.16.070 Assessment calendar-Effect.
Administrative requirements and minimum bonding limitations necessitate the initiation and implementation of special improvement districts on a group basis according to an annual calendar. On the basis of this calendar, a special improvement district must be initiated by introduction of an ordinance creating the district on first reading no later than October in order for construction to take place the following summer. An annual assessment calendar will be maintained for this purpose and all special improvement districts will be required to follow such calendar requirements. Special improvement districts falling outside the calendar requirements must be held over until a new annual calendar is initiated. (Res. 76-235 § 1(VI), 1976).

3.16.080 Cost responsibilities-Guidelines-General.
A. To the extent practical, the City Council will apply guidelines on cost responsibilities for all improvements accomplished through special improvement districts.
B. The intent of these cost responsibility guidelines is to:
   1. Insure consistent and equitable treatment of assessed properties among various special improvement districts for like improvements;
   2. Provide for specially benefited properties to be assessed proportionately to benefit received. (Res. 76-235 § 1(VII)(A), (B), 1976).

3.16.090 Cost responsibilities-City participation-Criteria.
City participation in the cost of special improvement districts will be considered only where:
A. General benefit to the community at large will accrue from the improvement;
B. Sufficient budgeted funds exist to allow such participation;
C. Such funds are not needed for a project of greater general benefit to the community at large. (Res. 76-235 § 1(VII)(C), 1976).

3.16.100 Cost responsibilities-Street improvements.
Cost responsibilities for street improvements accomplished through special improvement districts shall be as follows:

<table>
<thead>
<tr>
<th>Functional Classification</th>
<th>EXISTING DEVELOPMENT</th>
<th>NEW DEVELOPMENT*</th>
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<td>City</td>
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<td>Local Streets</td>
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<td>0%</td>
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<tr>
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<td>100% up to Collector Street Equivalent**</td>
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<tr>
<td>All Other Zoning Categories</td>
<td>Up to 100% Collector Street Equivalent*</td>
<td>Excess over Collector Street Equivalent***</td>
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New development encompasses areas where special improvement districts are initiated as a result of the land subdivision, or building permit and construction process.

This is an optional assessment dependent upon an evaluation of benefit; factors such as overall impact, access and so forth will be taken into consideration in determining assessments to these properties.

All rights-of-way must be provided by the developer and will not be included in cost sharing computations.

(Res. 76-235 §(VII)(D), 1976).

3.16.110 Cost responsibilities-Paved street rebuild.

Where an existing paved street facility or portion thereof must be rebuilt in connection with a special improvement district, the cost of the portions rebuilt may be shared equally between the city and assessed properties up to the equivalent of the facility that existed prior to such rebuild for R-1, R-1A, R-1B, R-2, C-O, A-1, and A-2 zoning categories with the remaining improvements being assessable in accordance with Section 3.16.100 of this chapter. For all other zoning categories all rebuild costs normally will be assessed in accordance with Section 3.16.100 of this chapter. (Res. 76-235 § 1(VII)(E), 1976).

3.16.120 Cost responsibilities-Drainage improvements.

Cost responsibilities for drainage improvements accomplished through special improvement districts shall be as follows:

<table>
<thead>
<tr>
<th>Functional Classification</th>
<th>EXISTING DEVELOPMENT</th>
<th>NEW DEVELOPMENT*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Property Owner</td>
<td>City</td>
</tr>
<tr>
<td>Local</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>Major and Trunk*</td>
<td>100% up to local facility equivalent*</td>
<td>Excess</td>
</tr>
</tbody>
</table>

* Local facility equivalents shall be determined by an evaluation of tributary flows within the area to be assessed as compared to outside the area to be assessed; with the city bearing a pro rata cost equivalent of tributary flows outside the assessed area; cost responsibilities for off-area extensions necessary for flow accommodation purposes shall be made on this same basis.

(Res. 76-235 § 1(VII)(F), 1976).

3.16.130 Cost responsibilities-Sidewalks and bike paths.

Where special improvement districts are used to finance sidewalk and bike path improvements, standard sidewalk widths shall be one hundred percent assessable. Where extra width is required for combination sidewalks and bikeways, the city shall be responsible for a pro rata share of the cost of the extra width, except for new developments where the entire cost will be assessed. (Res. 76-235 § 1(VII)(G), 1976).
3.16.140 Cost responsibilities—Street lighting.
Where special improvement districts are used to finance street lighting, costs for underground wiring and ornamental poles will be one hundred percent assessable. (Res. 76-235 § 1(VII)(H), 1976).

3.16.150 Cost responsibilities—Miscellaneous improvements.
The city may define cost responsibility guidelines for other types of special improvement district projects from time to time. (Res. 76-235 § 1(VII)(I), 1976).

3.16.160 Cost responsibilities—Guideline use.
It is the intent of the city that all property-assessable costs associated with a special improvement district be included for assessment purposes according to the guidelines set out in Sections 3.16.100 through 3.16.150 of this chapter. (Res. 76-235 § 1(VIII), 1976).

3.16.170 Cost apportionment.
A. Assessment costs are to be apportioned among assessable properties on the basis of proportionate benefits to the property received from an improvement.
B. It is the intent of the city to arrive at an apportionment formula which best fits the conditions of a special improvement district under consideration while accomplishing the apportionment required by subsection (A) of this section. This will require various methods of apportionment to be used from time to time.
C. Normally assessment apportionments will be based on one of the following criteria:
   1. Abutting footage;
   2. Area within the special improvement district boundaries;
   3. Lots or units within the special improvement district boundaries;
   4. Combinations of the above. (Res. 76-235 § 1(IX), 1976).

3.16.180 Payment-Methods.
A. Providing bonds are utilized, property assessments may be paid on an installment basis over a period of up to twelve years.
B. Full assessments may be paid on a lump sum basis at any time with appropriate interest adjustments.
C. Full assessments paid within thirty days of final publication of the assessing ordinance will receive a discount of five percent. (Res. 76-235 § 1(X), 1976).

3.16.190 Bond requirements-Surplus and deficiency fund establishment.
A. All special improvement district improvements will be funded through the sale of special assessment bonds with the exception of city cost-sharing moneys.
B. The minimum amount of funding required for bonding purposes will be one hundred fifty thousand dollars.
C. Where a special improvement district does not involve at least one hundred fifty thousand dollars in assessable costs, it must be joined with another special improvement district or special improvement districts. Individual special improvement districts will not be created until this minimum funding amount is achieved.
D. A surplus and deficiency fund is to be established to insure coverage for assessment bond defaults. This fund is to be sustained by rounding special assessment bond interest rates upward to the nearest one-half percent; or, if less than one-fourth percent increase is involved, to the nearest one-fourth percent providing for a minimum of one-fourth percent increase over the interest rate paid on the special assessment bonds; such surpluses to be earmarked for this fund. (Res. 76-235 § 1(XI), 1976).

3.16.200 Hardship situations-Relief.

It is the intent of the city to offer relief to hardship situations brought about by the creation of special improvement districts and subsequent assessment levies on property owners with low incomes. Such relief is to be provided through an assessment rebate procedure wherein qualifying property owners may be reimbursed for their assessments on an annual basis. Qualifications are to be based on applications outlining asset levels and matched with a sliding rebate schedule adopted annually by the city. Low income assistance shall be made available on an annual installment basis only and not for lump sum payments. (Res. 76-235 § 1(XII), 1976).

3.16.210 Design and construction standards-Compliance required.

All public improvements accomplished through special improvement districts shall be designed and constructed in full accordance with the city's applicable minimum design standards. These guidelines set forth minimum standards required to allow such facilities to function in a safe and proper manner and without undue maintenance and operating costs or requirements accruing to the city. The fact that they are being provided through the special improvement district process does not remove the need for adequate design in this respect. (Res. 76-235 § 1(XIII), 1976).
Chapter 3.24

FUNDS

Sections:
3.24.010 Investment authority.
3.24.030 Self-Insurance funds-Funding.
3.24.051 Self-Insurance reserve fund-Property and casualty and workers’ compensation fund collect authority.
3.24.052 Self-insurance reserve fund-Medical and dental fund collect authority.
3.24.053 Self-Insurance reserve fund-Payment of medical and dental claims.
3.24.054 Self-Insurance reserve fund-Payment of claims.
3.24.055 Self-Insurance reserve funds-Claims payment accounts.
3.24.057 Self-Insurance reserve fund-Safety program.
3.24.060 Water acquisition fund-Established.
3.24.070 Water acquisition fund-Expenditure.
3.24.080 Water acquisition fund-City Manager’s responsibility.

3.24.010  Investment authority.
A. The Director of Finance and City Treasurer is authorized to invest municipal funds coming into his possession in bonds and other obligations of the following federal agencies:
   Federal National Mortgage Association
   Federal Home Loan Banks
   Federal Land Banks
   Farm Credit Administration
   Banks for Cooperatives
   Intermediate Credit Banks
B. In investing municipal funds in such agencies, the Director of Finance and City Treasurer shall comply in all respects with the applicable statutes of the State of Colorado. (Ord. O-2019-24 § 4, 2019; Res. 76-174 §§ 1, 2, 1976).

3.24.020  Self-insurance funds established.
The city shall maintain three funds as part of the overall self-insurance program. These funds are entitled the “Medical and Dental Self-Insurance Fund”, the “Property Casualty Self-Insurance Fund”, and the “Workers’ Compensation Self-Insurance Fund.” The purpose of these funds shall include, but not be limited to, payment of claims, administrative expenses, legal expenses and payment for prevention efforts. (Ord. O-2006-22 § 1, 2006; Ord. O-92-12 § 1, 1992).

3.24.030  Self-insurance funds-Funding.
Upon direction of the City Manager, through the budgeting process, the Director of Finance/City Treasurer is authorized to collect from the General Fund the budget amounts to the Property and Casualty and Workers’ Compensation Self-Insurance Funds and to collect from any Fund, where associated wages are paid, the budget amounts to the Medical and Dental Self-Insurance Fund. (Ord. O-2019-24 § 4, 2019; Ord. O-2006-22 § 2, 2006; Ord. O-92-12 § 2, 1992).
3.24.040  Self-insurance funds-Expenditure.

The Director of Finance/City Treasurer is authorized to make such payments from the self-insurance funds as may be necessary to pay premiums, claims, judgments, settlements, legal fees and any other self-insurance related program expenses, at the direction of the City Manager. (Ord. O-2019-24 § 4, 2019; Ord. O-92-12 § 3, 1992).

3.24.050  Self-insurance fund-Compromise, settlement authority.

The City Manager, in consultation with appropriate staff, is authorized to approve compromises and settlements not to exceed the property and casualty program self-insured retention. The City Manager has the authority to delegate portions of this settlement authority to the Director of Human Resources or designee, as appropriate. (Ord. O-2019-24 § 3, 2019; Ord. O-2006-22 § 3, 2006; Ord. O-92-12 § 4, 1992).

3.24.051  Self-Insurance reserve fund-Property and casualty and workers’ compensation fund collect authority.

The City Manager is authorized to collect funds from the General Fund to the Self-Insurance Reserve Fund for Property and Casualty and Workers’ Compensation, as per the approved budget. (Ord. O-2006-22 § 4, 2006; Ord. O-92-12 § 5, 1992).

3.24.052  Self-Insurance reserve fund-Fund-Medical and dental fund collect authority.

The City Manager is authorized to collect funds from any Fund, where associated wages are paid, to the Self-Insurance Reserve Fund for Medical and Dental, as per the approved budget. (Ord. O-2006-22 § 5, 2006; Ord. O-86-91 § 2, 1986).

3.24.053  Self-Insurance reserve fund-Payment of medical and dental claims.

Claims shall be paid out of the City’s Self-Insurance Fund to claimants by the third-party claims administrator from a claims payment account established for that purpose. The third-party claims administrator shall have the authority to pay any claims up to and including two thousand five hundred dollars. Claims between two thousand five hundred one dollars and ten thousand dollars shall be paid by the third-party claims administrator after receiving approval from the Director of Human Resources. Claims above ten thousand one dollars shall be paid by the third-party claims administrator after receiving approval of the City Manager. (Ord. O-2019-24 § 3, 2019; Ord. O-2006-22 § 6, 2006).

3.24.054  Self-insurance reserve fund-Payment of claims.

Claims shall be paid out of the city's Self-Insurance Reserve Fund as provided for under the Colorado Workmen's Compensation Act, C.R.S. 8-40-101, et seq., without need of authorization of City Council. Claims shall be paid to claimants by the third-party claims administrator from a claims payment account established for that purpose. The third-party claims administrator shall have the authority to pay any claim up to and including two thousand five hundred dollars. Claims between two thousand five hundred one dollars and ten thousand dollars shall be paid by the third-party claims administrator after receiving approval from the Director of Human Resources. Claims above ten thousand one dollars shall be paid by the third-party claims administrator after approval of the City Manager. (Ord. O-2019-24 § 3, 2019; Ord. O-93-26 § 26, 1993; Ord. O-86-91 § 5, 1986).
3.24.055 Self-insurance reserve funds-Claims payment accounts.
The City Manager is authorized to establish claims payment accounts with designated third-party administrators as required for the timely payment of claims against the city. (Ord. O-92-12 § 6, 1992).

3.24.056 Self-insurance reserve funds-Personnel.
The City Manager is authorized to employ necessary personnel to administer the city’s self-insurance program and the reserve funds that are part of that program. (Ord. O-92-12 § 7, 1992).

3.24.057 Self-insurance reserve fund-Safety program.
The City Manager is authorized to establish a safety program to aid in decreasing the number of job-related injuries and hazards to the employees of the City of Lakewood. (Ord. O-86-91 § 8, 1986).

3.24.060 Water acquisition fund-Established.
There is established a water acquisition fund, for the purpose of acquiring, whether by lease, purchase or otherwise, water and water rights for municipal purposes and for the payment of incidental and necessary expenses in and in connection with such acquisitions, including but not limited to brokers’ commissions, attorneys’ and engineers’ fees, and other costs and expenses. (Ord. O-82-84 § 1, 1982; Ord. O-76-63 § 1, 1976).

3.24.070 Water acquisition fund-Expenditure.
The City Manager is authorized to expend such sums from the water acquisition fund as may be necessary or proper, in his judgment, to acquire water and water rights, whether by lease, purchase or otherwise, from time to time, and for the payment of necessary and incidental expenses in or in connection therewith, including but not limited to engineering fees and costs, attorneys’ fees, brokerage fees and commissions, and such other costs and expenses of acquisition as may seem to him necessary or proper in connection therewith. The Treasurer and Director of Finance/City Treasurer are authorized to make payments, from time to time, from the fund for such purpose at the direction of the City Manager. (Ord. O-2019-24, § 4, 2019; Ord. O-76-63 § 3, 1976).

3.24.080 Water acquisition fund-City Manager’s responsibility.
The City Council finds and declares that in the acquisition of water and water rights it is not always possible, desirable or feasible to take all title curative and other steps which might be necessary to assure the complete perfection of title, nor is it always possible to be certain of the amount of water available for application to a changed use or at a different place, without jeopardizing the ability to acquire the same. The City Manager is therefore authorized to use his best judgment to determine the extent to which the perfection of title, or completeness of title examination, or assurance of title, or assurance of convertibility of acquired water rights in terms of consumptive use factor and applicability to a changed use or in a changed location may be assured, and to acquire water and water rights upon such basis as a reasonably prudent man acquiring rights for himself would act. In so doing, the City Manager is relieved from any liability for title failure, mistake in judgment, or responsibility for any erroneous assessment of the convertibility of the acquired right or rights to the uses of the city, when he has acted in good faith upon the best advice available to him at the time, and in the exercise of his best judgment. (Ord. O-76-63 § 4, 1976).
Chapter 3.26

ECONOMIC DEVELOPMENT INCENTIVE FUND

Sections:
3.26.010 Establishment and purpose.
3.26.030 Funding.

3.26.010 Establishment and purpose.
A. There is established a special fund to be known as the economic development fund ("EDF"). The purpose of said fund shall be to provide funds from the city to further the economic development goals of the city by providing financial assistance to projects attracting enterprises that City Council determines will further the accomplishment of the city's economic goals. The economic development goals of the program include efforts to expand the city's tax base, promote development that will enhance the physical and economic environment of the city, provide permanent jobs and skilled labor availability, services, and products within the city thereby improving employment opportunities for the residents of the City of Lakewood, foster revitalization of physically deteriorating areas, promote development that will have a net positive impact on city revenues, and produce a positive impact upon the community as a whole.

B. The granting of financial assistance is determined to be a public purpose. Specifically, such assistance protects the public welfare by promoting and fostering the growth of the city's economic base which in turn has positive effects by generating jobs, increasing the tax base, services and products produced by the private sector, encouraging and providing for the vitality of residential areas and of commercial and industrial businesses within the city, as well as providing increased opportunities for employment for the residents of the city and enabling the city to carry forward its functions in the preservation of the health, safety and welfare of the citizens and residents of the city, all of which have a net positive impact on city revenues, and, in general, improve the quality of life in the city.

C. The City Council specifically finds and determines that creation of the economic development fund is consistent with the city's powers as a home rule municipal corporation and that exercise of said powers in the manner set forth herein is in furtherance of the public health, safety and welfare. Notwithstanding any provisions hereof, the city shall never be a joint venture in any private entity or activity which participates in the economic development fund, and the city shall never be liable or responsible for any debt or obligation of any participant in the economic development fund. The City Council finds, determines, and declares that this ordinance is promulgated under the general police power of the City of Lakewood, that it is promulgated for the health, safety and welfare of the public, and that the ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained. (Ord. O-89-58 § 1, 1989; Ord. O-85-54 § 1 (part), 1985).
For the purpose of this chapter, the following words and terms shall be defined as follows:
“City Engineer” means the City Engineer, or his designee.
“City Manager” means the City Manager, or his designee.
“Economic Development Department” means the department of the city created to assist the
City Council and the City Manager to develop and implement programs for the promotions of
economic development in the city.

3.26.030 Funding.
A. The fund shall be funded by transfer of revenues derived from the tax levied on hotel and
motel accommodations within the city.
B. The fund may also be supplementally funded by City Council at its discretion. (Ord. O-89-

A. Money from the fund shall be used to provide financial assistance to business enterprises
located or to be located within the corporate limits of the City of Lakewood, whose proposals for
financial assistance have been approved by the City Council.
B. Such assistance shall be granted under such terms and conditions as may be authorized
by the City Council, pursuant to procedures described in Section 3.26.050 herein.
C. For projects which involve the construction of physical public improvements, the amount
of financial assistance shall be related to the costs of constructing public improvements as
determined necessary pursuant to Chapter 14.13 of the Lakewood Municipal Code, to support
the development project the applicant is undertaking. The city may pay for all, or only a portion,
of said public improvements, at its complete discretion. The maximum amount of financial
assistance, however, shall be less than or equal to the estimate of the cost of public
improvements, said estimate to be provided by a professional engineer registered in the State of
Colorado, retained by the applicant and satisfactory to the City Engineer.
D. For projects which involve the revitalizations of physically deteriorating areas, the amount
of financial assistance shall be related to the actual costs of renovation and enhancement. The
city may provide financial assistance for some or all of said costs at its complete discretion. The
maximum amount of financial assistance, however, shall be less than or equal to the estimate of
such actual costs, said estimate to be provided by a professional engineer registered in the State
of Colorado, retained by the applicant and satisfactory to the City Engineer.
E. For projects described in Sections 3.26.040(C) and (D), moneys from the fund shall be
strictly limited to uses which are public or public-related in nature. For purposes of the fund,
public or public-related purposes shall mean public improvements, including but not limited to
streets, sidewalks, curbs, gutters, pedestrian malls, street lights, drainage facilities, landscaping,
decorative structures, statuaries, fountains, identification signs, traffic safety devices, bicycle
paths, off-street parking facilities, benches, restrooms, information booths, public meeting
facilities, and all necessary, incidental, and appurtenant structures and improvements, together
with the relocation and improvement of existing utility lines, and any other improvements of a
similar nature which are specifically approved by the City Council upon the City Council's finding
that said improvements are public or public-related improvements.
F. For projects which involve the creation of new jobs for the residents of the city through relocation of new businesses or industries or the expansion of existing firms, the amount of financial assistance shall be related to the actual costs of job-specific, start-up training programs necessary to provide job applicants with the specific job skills appropriate to the newly created employment opportunities. The city may provide financial assistance for some or all of said costs at its complete discretion. The maximum amount of financial assistance, however, shall be less than or equal to the verification of such actual costs, said verification to be determined by guidelines promulgated by the City Manager.

G. Money from the fund shall be used to support operations and staff salaries for the Office of Economic Development Department under an operational budget and guidelines promulgated by the City Manager and approved by the City Council in the manner for budgetary approval provided in the municipal code.

H. The City Council may authorize expenditures from the fund for the promotion of tourism and other services or programs related to attracting visitors to the City of Lakewood.

I. The City Council may, in its discretion, accomplish the purposes outlined in this chapter in cooperation with other local, state or federal entities or agencies through direct or participatory funding mechanisms approved by the City Council.

J. In addition to the projects specifically identified in this chapter, the City Council may authorize expenditures from the fund for projects which, in its judgment, advance the economic development goals of the city. Such projects may include, but are not limited to, economic studies, engineering studies, studies concerning the design and construction of public and public-related improvements and studies and activities related to the promotion of tourism and attraction of new businesses and industries into the city. (Ord. O-2019-24, § 4, 2019; Ord. O-89-58 § 4, 1989; Ord. O-87-78 § 1, 1987; Ord. O-87-65 § 1, 1987; Ord. O-85-54 § 1 (part), 1985).


The following procedure shall be followed in considering requests for assistance from the fund:

A. The City Manager shall analyze the request for conformance with the criteria established pursuant to this chapter.

B. The City Manager shall forward the request to the City Council together with a recommendation regarding financial assistance for the project, which shall include suggested terms of participation.

C. The City Council may subsequently direct the City Manager to develop an agreement between the applicant and the city or a cooperating local, state or federal entity or agency which embodies such terms and conditions as the City Council deems appropriate for the disbursement of moneys from the fund.

D. The Council may authorize, by resolution, the City Manager to execute such agreement on behalf of the city.

E. The City Manager is authorized to promulgate administrative regulations to implement provisions contained herein applicable to the economic development fund. (Ord. O-89-58 § 5, 1989; Ord. O-85-54 § 1 (part), 1985).

F. This procedure shall not be applicable if the City Council has previously budgeted and appropriated funds for programs or expenditures for the purposes described in this Chapter 3.26, nor shall it be applicable to the grant of assistance or refunds in accordance with Section 3.01.085 or the waiver or reduction of fees in accordance with Section 14.02.040A.3 of the Lakewood Municipal Code. (Ord. O-98-33 § 2, 1998).

In addition to criteria established elsewhere in this chapter, all requests for assistance from the fund shall be evaluated according to criteria related to the city's economic development goals as promulgated by the City Manager. (Ord. O-89-58 § 6, 1989; Ord. O-85-54 § 1 (part), 1985).
Chapter 3.28

LAKEWOOD MEDICAL AND WEEKLY DISABILITY BENEFIT TRUST FUND

Sections:

3.28.010 Established.
3.28.020 Authority.
3.28.030 Transfer of funds.
3.28.040 Payments.

3.28.010 Established.

The City Council establishes the Lakewood medical and weekly disability benefit trust fund and designates the City Manager, the City Treasurer and Director of Finance/City Treasurer as trustees for the purpose of transferring, holding, and expending the contributions of the city and its eligible employees under the medical and weekly disability benefit program. (Ord. O-2019-24 § 4, 2019; Ord. O-78-124 § 1, 1978).

3.28.020 Authority.

The City Manager, the Director of Finance and City Treasurer are authorized to enter into a trust agreement in form approved by the City Attorney for the purpose of safeguarding the funds contributed thereto and making such payments from the Lakewood medical and weekly disability benefit trust fund as may be necessary to pay claims, actuarial consultant’s fees, legal fees, administration fees, and other related expenses involved in this self-funded program. (Ord. O-78-124 § 2, 1978).

3.28.030 Transfer of funds.

The Director of Finance/City Treasurer is authorized and directed to transfer from the general fund of the city to the Lakewood medical and weekly disability benefit trust fund a monthly amount to be determined by the City Manager. Funding of the city's contribution to the medical and weekly disability benefit program in subsequent years shall be pursuant to budget and appropriation. (Ord. O-2019-24 § 4, 2019; Ord. O-78-124 § 3, 1978).

3.28.040 Payments.

The Director of Finance/City Treasurer is authorized and directed to pay over to the Lakewood medical and weekly disability benefit trust fund all contributions by the city's employees attributable to the medical and weekly disability benefit program. (Ord. O-2019-24 § 4, 2019; Ord. O-78-124 § 4, 1978).
Chapter 3.29
ANNEXATION IMPROVEMENTS FUND

Sections:
3.29.010 Establishment.
3.29.020 Purpose.
3.29.030 Definitions.
3.29.040 Eligibility to receive moneys.
3.29.050 Public purpose.
3.29.060 Annual disbursements.
3.29.070 Accounting system.
3.29.080 Approval by City Council-Criteria.
3.29.090 Annexation agreement-Contents.

3.29.010 Establishment.
There is established a special fund of the City of Lakewood to be known as the annexation improvements fund. (Ord. O-90-46 § 1 (part), 1990).

3.29.020 Purpose.
The annexation improvements fund shall be a special fund consisting of no revenue other than a portion of the sales taxes generated and collected from certain annexed property. The fund shall be used to reimburse an annexor for all or part of the public or public-related improvements constructed by an annexor as specifically set out in an annexation agreement with an annexor. The City Council specifically finds and determines that creation of the annexation improvements fund is consistent with the city's powers as a home rule municipal corporation, and that exercise of said powers in the manner set forth herein is in furtherance of the public health, safety and welfare. Notwithstanding any provision hereof, the city shall never be a joint venture in any private entity or activity which participates in the annexation improvements fund, and the city shall never be liable or responsible for any debt or obligation of any annexor participating in the annexation improvements fund. (Ord. O-90-46 § 1 (part), 1990).

3.29.030 Definitions.
As used in this chapter, and all sections thereof, the following phrases shall have the following meanings:
“Administrative costs” means all engineering, legal, financing and other reasonable costs of a similar nature associated with the construction or installation of public or public-related improvements.
“Annexation agreement” means an agreement between the City of Lakewood and an annexor setting forth the terms and conditions by which an annexor's property is or was annexed to the city.
“Annexed property” means that property annexed to the City of Lakewood pursuant to an annexation agreement.
“ Annexor” means a person or persons or entity that has entered into an annexation agreement with the City of Lakewood.
“Fund” means the annexation improvements fund created by the provisions of this chapter. (Ord. O-90-46 § 1 (part), 1990).
3.29.040 Eligibility to receive moneys.

Eligibility to receive moneys from the fund shall be based upon approval by the City Council, exercising its legislative discretion in good faith. Any annexor of a retail sales tax generating business or location, or the annexor of property where a proposed retail sales tax generating business will be located, may receive moneys from the fund for constructing public or public-related improvements only if such agreement is specifically stated in an annexation agreement and sales tax revenues are generated from the annexed property. (Ord. O-90-46 § 1 (part), 1990).

3.29.050 Public purpose.

The uses to which the moneys from said fund may be put by an annexor shall be strictly limited to those which are public or public-related in nature. Excess moneys in the fund may be transferred by the city from time to time to the city's general fund. In this chapter, public or public-related improvements shall mean improvements, including but not limited to streets of all types, sidewalks, curbs, gutters, asphalt pavement, concrete pavement, survey monuments, pavement striping, rights-of-way, easements, access rights, construction plans, medians, bridges, pedestrian malls, street lights, on-site and off-site drainage facilities, water lines, sanitary sewer lines, landscaping, decorative structures, statuaries, fountains, identification signs, traffic safety devices, pedestrian/bicycle paths, off-street parking facilities, benches, restrooms, information booths, public meeting facilities, parks, open space, hazardous waste cleanup, historic renovation, facades, demolition, excavation, and renovation of public or public-related improvements, and all necessary, incidental, and appurtenant structures and improvements, together with the relocation and improvement of existing utility lines, and administrative costs (provided that the reimbursement of such administrative costs shall be limited to twenty percent of the total cost of the project), and any other improvements of a similar nature which are specifically approved by the City Council upon a finding by the Council that the improvements are public or public-related improvements, and that such improvements shall enhance the competitive position of the annexor within the Denver metropolitan area marketplace. (Ord. O-90-46 § 1 (part), 1990).

3.29.060 Annual disbursements.

Disbursements to the annexor from the fund shall be determined on an annual basis for actual expenditures for improvements unless otherwise provided in the annexation agreement. Payment of the annual amount shall be due on February 15th of the year following the year within which such expenditures were made unless otherwise provided in the annexation agreement. Except for administrative costs, as a condition precedent to reimbursement from the fund the annexor must submit copies of at least three bids and certify to the city that the work was performed by the lowest responsible bidder. Then, upon presentation to the city of receipts or proof of payment in form satisfactory to the city evidencing payment for authorized public improvements, the annexor shall be eligible for reimbursement from the fund. (Ord. O-90-46 § 1 (part), 1990).
3.29.070  Accounting system.
The City Council has determined that existing sources of city sales tax revenues shall not be used, impaired, or otherwise affected by the fund. It shall be the affirmative duty of the Director of Finance/City Treasurer of the City of Lakewood to collect all sales taxes generated from the annexed property and deposit all but those portions of such taxes expressly excluded by the annexation agreement in the annexation improvements fund as a special fund apart from the sales tax generated by and collected from other sales tax generating uses and businesses within the city. The Director of Finance/City Treasurer shall provide an accounting system which accomplishes the purpose of this section. It is conclusively stated by the City Council that this chapter would not be adopted or implemented but for the provisions of this section. Should the registered electors of the city vote to increase the city sales tax, such increase may not be deposited in the annexation improvements fund for any property annexed prior to such increase.

3.29.080  Approval by City Council-Criteria.
The City Council shall consider the following criteria in determining whether to approve participation in the fund by an annexor:
A. The amount of sales tax which is reasonably expected to be derived by the city through new retail sales tax generating business within the annexed property;
B. The public benefits which are provided by the annexor, including, but not limited to, additional public or public-related improvements, additional employment for residents, and other identifiable public benefits;
C. The amount of expenditures on public improvements which may be deferred by the city based upon public or public-related improvements to be constructed by the annexor;
D. Conformance of the annexation agreement with the requirements of Section 3.29.090.

3.29.090  Annexation agreement-Contents.
A. An annexation agreement may describe public or public-related improvements to be constructed by the annexor and the amount the annexor may be reimbursed for such construction from the sales tax derived from the annexed property; provided, however, that the annexor may use said amount only for the public or public-related improvements which are expressly stated in the annexation agreement. If the City Council approves the use of fund moneys for construction of public or public-related improvements contained in an annexation agreement, a separate public improvements agreement between the annexor and the city may still be required in conformance with the ordinances and procedures of the city. Each annexation agreement shall at a minimum contain:
1. A list of those public or public-related improvements for which the annexor shall receive reimbursement from the fund, and the amount which the annexor shall receive as reimbursement from the fund for such public or public-related improvements;
2. The maximum amount of sales taxes to be shared, and the maximum time during which sharing shall continue, it being expressly understood that any such agreement to share shall expire and be of no further force and effect upon the occurrence of the earlier to occur of the lapse of the maximum time of the agreement (whether or not the maximum amount to be shared has been reached) or the expenditure of the maximum amount to be shared (whether or not the maximum time set forth has expired); and
3. An affirmative statement that the obligations, benefits, and/or provisions of said agreement may not be assigned in whole or in any part without the express authorization of the City Council and further that no third party shall be entitled to rely upon or enforce any provision of the agreement.

B. An annexation agreement may provide for a service extension charge to the annexor for costs incurred in extending municipal services to the annexed property. In the event such a service extension is established, sales taxes received from the property must exceed the amount of the service extension charge before reimbursement may be made for the public or public-related improvements.

C. Any annexation agreements entered into prior to July 1, 1990, shall be given full force and effect notwithstanding any noncompliance with the provisions of this chapter. (Ord. O-90-46 § 1 (part), 1990).