

# **CHAPTER 7. FINANCE AND TAXATION.**

## **ARTICLE 1. GENERAL PROVISIONS.**

### Sections:

- 7-1 Bills against City - Form of claim.
- 7-2 Presentation of bills against City; payment of salaries.
- 7-3 Property - Taxable and exempt.
- 7-4 Equalization of property valuation; levy.
- 7-5 Collection of City taxes; bond of County collector.
- 7-6 Allowance to County officers for collection of City taxes.
- 7-6.1 Revenue changes.

## **ARTICLE 2. CITY SALES TAX ACT.**

- 7-7 Purpose of Article.<sup>1</sup>
- 7-8 Citation of Article.
- 7-9 Definitions.
- 7-10 Taxable transactions - Exceptions.<sup>1</sup>
- 7-11 Transactions - Out of City sales.
- 7-12 Retailer responsible to collect and remit tax.
- 7-13 Schedule of taxes.<sup>1</sup>
- 7-14 Credit sales.
- 7-15 Excess tax - Collection and remittance.
- 7-16 Retailer holds tax in trust for City.
- 7-17 License and tax additional.
- 7-18 False or fraudulent returns; refusal to file returns.
- 7-19 Use of proceeds of tax.<sup>1</sup>
- 7-20 Penalty for violation.

## **ARTICLE 3. USE TAX.**

- 7-21 Purpose.
- 7-22 Application and exemptions.
- 7-23 Building and Construction Use Tax.
- 7-24 Motor Vehicle Use Tax.

## **ARTICLE 4. SALES TAX SIMPLIFICATION ACT.**

- 7-25 Sales Tax - Nonapplicability.
- 7-26 Use Tax - Nonapplicability.
- 7-27 Sales Tax - Credit for Sales or Use Taxes previously paid to another municipality.
- 7-28 Use Tax - Credit for Sales or Use Taxes previously paid to another municipality.
- 7-29 Use Tax - Alternative dispute resolution procedure -Deficiency notice or claim for refund.

<sup>1</sup> Sec. 7-7, 7-10(1),(2),(3),(6),(7), 7-13(1), 7-19(1)(b) and (2) repealed & reenacted (Ord. #1857, Eff. 6/27/08)Chapter 7, Page 1

## **ARTICLE 5. BUSINESS AND OCCUPATION TAX ON UTILITY COMPANIES.**

- 7-30 Levy of tax.
- 7-31 Amount of tax.
- 7-32 Payment of tax and filing statements.
- 7-33 Failure to pay tax.
- 7-34 Penalty for violation.
- 7-35 Inspection of records.
- 7-36 Credit against tax.
- 7-37 Exemption from Article.
- 7-38 Construction of Article.

## **ARTICLE 6. ECONOMIC DEVELOPMENT FUND.**

- 7-39 Economic Development Fund established.
- 7-40 Economic Development Fund purpose.
- 7-41 Determination of use of Economic Development Fund.

## **ARTICLE 7. LODGING TAX<sup>1</sup>**

- 7-42 Lodging Tax Imposed on Transaction of Furnishing Rooms or Accommodations.
- 7-43 Point of Imposition.
- 7-44 Administration.
- 7-45 Persons Liable.
- 7-46 City Lodging Tax Tourism Fund Created.
- 7-47<sup>2</sup> Lodging Panel.
- 7-47.1<sup>2</sup> Membership; appointment; term; removal; organization and meetings.
- 7-48 Budgeting; spending; reporting.

## **ARTICLE 8. PURCHASES<sup>3</sup>**

- 7-50 Small purchases
- 7-51 Purchases based on informal bids
- 7-52 Purchases based on formal bids
- 7-53 Exceptions

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<sup>1</sup> Chapter 7 is amended by the addition of Article 7 and sections 7-42, 7-43, 7-44, 7-45, 7-46 and 7-47. (This is an initiative approved by the voters on 11-06-01, eff., 1-01-02)

<sup>2</sup> Chapter 7 is amended by the addition of sections 7-47.1 and 7-48. (Ord. 1677, eff., 12-14-01); 7-47 and 7-47.1 amended (Ord. 1874, eff., 2-13-09)

<sup>3</sup> Chapter 7 is amended by the addition of Article 8, (sections 7-50, 7-51, 7-52, 7-53.) (Ord. 1684, eff., 3-29-02) **Chapter 7, Page 2**

## CHAPTER 7. FINANCE AND TAXATION.

### ARTICLE 1. GENERAL PROVISIONS.

#### **Section 7-1. Bills against City - Form of claim.**

(1) All bills against the City shall be presented in the form of an itemized account, stating specifically the nature of the indebtedness and shall be sworn to by the claimant, his/her agent or attorney, before the City Clerk, or some other person duly authorized by law to administer oaths, which affidavit may be in the following form:

**"STATE OF COLORADO  
COUNTY OF LAS ANIMAS" ss.**

I, A.B., on oath, state that the foregoing account is just and due, and no part thereof has been paid (except \_\_\_\_\_) and that it comprises all claims I have against the City of Trinidad to date."

(2) If the claim is for a fixed salary or for any certain sum by contract with the City Council, the account need not be sworn to. All such bills shall be read in open session of the Council, and may be allowed, rejected, referred to any appropriate committee, or otherwise disposed of, as the Council may direct. (Code 1958, Sec. 26-2.)

#### **Section 7-2. Presentation of bills against City; payment of salaries.**

(1) All bills against the City shall be presented for approval, auditing and allowance at regular meetings of the City Council.

(2) The City Manager is authorized to make payment of salaries and wages to all City employees every two weeks after completion of proper payroll or time cards have been approved by the respective department heads or immediate supervisors of said employees. Such salaries and wages shall be computed upon fourteen (14) calendar day periods reflecting the work hours or authorized leave time of each respective employee. All such payroll shall be approved by the City Council as now provided for by ordinance, and the same shall be approved at regular meetings of the City Council.

**State law references:** As to the powers of the City to levy taxes, see C.R.S. 1973, Sec. 31-15-302; as to finance matters generally see C.R.S. 1973, Title 31, Art. 20.

#### **Section 7-3. Property - Taxable and exempt.**

The same amount and property, real and personal, shall be exempt from assessment and taxation for City purposes, as are now or may hereafter be exempt by general law from assessment and taxation for County purposes; and all property within the City that is subject to assessment and taxation for County purposes shall be subject to assessment and taxation for City purposes. (Code 1958, Sec. 26-5.)

**Section 7-4. Equalization of property valuation; levy.**

When the equalization of the value of property within the City shall have been completed each year by the County Commissioners of Las Animas County, as required by law, it shall be the duty of the City Clerk to correct the duplicate return of such property made to the City Council by the Assessor, in accordance with the changes in the valuation of the same adopted by the County Commissioners. The City Council shall by resolution levy upon the real and personal property described in such amended return such sum or sums as may be required for any purpose for which it may be authorized to levy taxes, and it shall therein specify the rate of taxation as fixed by it for City purposes upon all property within the City. The City Clerk shall then certify a copy of such resolution to the County Assessor who shall proceed to extend upon the tax lists of the current year as required by law. (Code 1958, Sec. 26-6.)

**State law reference:** As to levy and limitations thereon, see C.R.S. 1973, Sec. 29-1-301.

**Section 7-5. Collection of City taxes; bond of County collectors.**

The County Treasurer or other County collector of County taxes shall collect the City taxes at the same time he/she collects other taxes. He/she shall give such bond as may be fixed by ordinance, and he/she shall pay over all taxes collected for the City to the City Finance Director at the end of each month, upon presentation to him/her of an order signed by the Mayor and City Clerk. He/she shall be liable upon his/her official bond as County Treasurer for the faithful discharge of all the duties and obligations imposed by law. (Code 1958, Sec. 26-7.)

**State law reference:** As to provisions pertaining to collection of City taxes by County Treasurer, see C.R.S. 1973, Sec. 31-20-106.

**Section 7-6. Allowance to County officers for collection of City taxes.**

The City Council each year shall make such allowance, to be paid out of the general fund as shall be reasonable and just to the County officers as compensation for the extra labor imposed by this Article or general law of the State, and shall pay such other charges as by law may pertain to the collection of the City taxes. (Code 1958, Sec. 26-8.)

**State law reference:** As to City's share of expenses of County officers, see C.R.S. 1973, Sec. 31-20-107.

**Section 7-6.1. Revenue changes.**

Pursuant to Article X, Section 20 of the Colorado Constitution, the qualified electors of the City of Trinidad authorize the City to collect, retain and expend all sales tax, use tax, and property tax revenues, and all Non-Federal grants, fees and other revenues for capital projects and other basic municipal services, notwithstanding any state restriction on fiscal year spending, including without limitation the restrictions of Article X, Section 20 of the Colorado Constitution on and after January 1, 1995. Nothing in this section shall be interpreted to authorize any increase in the rate of taxation of the sales and use tax, or property tax, without a vote of the people if and when required pursuant to Article X, Section 20 of the Colorado Constitution. (Ord. 1514, 8-12-1995.)

## ARTICLE 2. CITY SALES TAX ACT.

### Section 7-7. Purpose of Article.<sup>4</sup>

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services within the City. (Ord. 1398, Sec. 2, 6/18/91., Ord. 1539, Sec. 2, 8/31/96; Ord. 1697, eff., 8/16/02; Ord. 1857, eff., 6/27/08)

### Section 7-8. Citation of Article.

This Article shall be known as the "City Sales Tax Act" and may be cited as such. (Ord. 1181, Sec. 2, 10/4/80.)

### Section 7-9. Definitions.<sup>5</sup>

As used herein:

- (1) *City Clerk* shall mean the Clerk of the City of Trinidad.
- (2) *City Treasurer* shall mean the Treasurer of the City of Trinidad.
- (3) *Doing business or engaging in business* shall mean the selling, leasing or delivering in the City any activity in the City in connection with the selling, leasing, or delivery in the City, of tangible personal property by the retail sale as defined in this section, for use, storage, distribution or consumption within the City. This term includes, but shall not be limited to the following acts or methods of transacting business.
  - (a) The maintaining within the City, directly or indirectly or by a subsidiary, of an office, distributing house, salesroom or house, warehouse, or other place of business;
  - (b) The soliciting whether by direct representatives, indirect representatives, manufacturer's agents or by distribution of catalogues or other advertising or by use of any communication media or by use of the newspaper, radio or television advertising media, or by any other means whatsoever, of business from persons residing in the City, and by reason thereof receiving orders from, or selling or leasing tangible personal property to, such persons residing in the City for use, consumption, distribution and storage for use and consumption in the City.
- (4) *Executive Director* shall mean the executive director of the Department of Revenue of the State of Colorado.
- (5) *Retail sale* shall mean all sales made within the City except wholesale sales.

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<sup>4</sup> 7-7 Repealed and Re-enacted (Ord. 1857, eff., 6-27-08)

<sup>5</sup> 7-9(6) Repealed (Ord. 1539, Sec. 2, 8-31-1996)

The definition of all other words, terms and phrases shall be as defined in Section 102, Article 26, Title 39, C.R.S. 1973 as amended, and said definitions are incorporated herein by reference. (Ord. 1398, Sec. 2, 6/18/91., Ord. 1539, Sec. 2, 8-31-1996.)

**Section 7-10. Taxable Transactions - Exemptions.<sup>6</sup>**

(1) There is hereby levied and shall be collected and paid a tax in the amount stated in Section 7-13 of this Article on the sale of tangible personal property at retail and the furnishing of services within the City. The tangible personal property and services taxable pursuant to this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-713, C.R.S., except the exemption allowed by Section 39-26-709, C.R.S. for purchases of machinery or machine tools, the exemptions of sales and purchases of those items in Section 39-26-715(1)(a)(II), C.R.S., the exemption for sales of food specified in Section 39-26-707, C.R.S., the exemptions for vending machine sales of food set forth in Section 39-26-714(1)(b), C.R.S., the exemption for occasional sales by a charitable organization set forth in Section 39-26-718, C.R.S., the exemption for sales and purchases of farm equipment and farm equipment under lease or contract specified in Section 39-26-716(2)(3)(4), C.R.S., and the exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in Section 39-26-719, C.R.S.

(2) All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the tax imposed by this Article when such sales meet both of the following conditions:

(a) The purchaser is a non-resident of or has his/her principal place of business outside of the City; and

(b) Such personal property is registered or required to be registered outside the City limits under the laws of the State of Colorado.

(3) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

(4) This sales tax shall not apply to the sale of construction and building materials, as the term is used in C.R.S. 29-2-109, 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.

(5) This sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city, or town equal to or in excess of that sought to be imposed by this City. A credit shall be granted against the sales tax imposed by this City 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 city and county, city or town. The amount of the credit shall not exceed the sales tax imposed by this

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<sup>6</sup> 7-10(1), 7-10(2) & 7-10(3) Repealed and Re-enacted (Ord. 1857, eff., 6-27-08)  
7-10(6) & 7-10(7) Repealed and Re-Enacted (Ord. 1857, eff., 6-27-08)

City. (Ord. 1398, Sec. 2, 9/3/91.)

(6) This sales tax shall not apply to the sale of food purchased with food stamps. For the purpose of this subsection (6), "food" shall have the same meaning as provided in 7 U.S.C. Section 2012(g), as such section existed on October 1, 1987, or as thereafter amended.

(7) This sales tax shall not apply to the sale of food purchased with funds provided by the special supplemental food program of women, infants, and children, 42 U.S.C., 1786. For purposes of this subsection (7), "food" shall have the same meaning as provided in 42 U.S.C. Section 1786, as such section existed on October 1, 1987, or as thereafter amended.

**Section 7-11. Transactions - Out of City sales.**

(1) All retail sales are deemed to be consummated at the place of doing business of the retailer unless the tangible personal property sold is delivered by the retailer or his/her agent to a destination outside the City limits or to a common carrier for delivery to a destination outside the City limits.

(2) The gross receipts from sales consummated outside the City limits shall include delivery charges when such charges are subject to state sales and use tax imposed by Article 26, Title 39, C.R.S. 1973, regardless of the place to which delivery is made.

(3) In the event a retailer has no permanent place of business in the City, or has more than one place of business, the place at which the retail sales are consummated for the purpose of this Article shall be determined by the provisions of Article 26, Title 39, C.R.S. 1973, as amended, and by the rules and regulations promulgated by the Department of Revenue of the State of Colorado. (Ord. 1398, Sec. 2, 9/3/91.)

**Section 7-12. Retailer responsible to collect and remit tax.**

(1) Every retailer shall, irrespective of the provisions of Section 7-13 of this Article, be liable and responsible for the payment of an amount equivalent to the amount specified in Section 7-13 of this Article.

(2) Every retailer shall remit the amount specified in subsection (1) of this section to the executive director. The collection, administration and enforcement of the tax imposed by this Article shall be performed by the executive director in the same manner as the collection, administration and enforcement of the Colorado state sales tax. Unless otherwise provided in Article 2, Title 29, C.R.S. 1973, as amended, the provisions of Article 26, Title 39, C.R.S. 1973, as amended, shall govern the collection, administration and enforcement of the tax imposed by this Article. (Ord. 1181, 10/4/80.)

**Section 7-13. Schedule of taxes.<sup>7</sup>**

(1) There is hereby imposed upon sales of tangible personal property and the furnishing of services as specified in Section 7-10 of this Article a tax at the rate of four percent (4%) of the amount of

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<sup>7</sup>

7-13(1) Repealed and Re-enacted (Ord. 1857, eff., 6-27-08)

sale, to be computed in accordance with schedules or systems approved by the executive director. (Ord. 1539, Sec. 2, 8/31/96; Ord. 1697, eff., 8-16-02; Ord. 1857, eff., 6/27/08)

(2) Except as provided in subsection (3) of this Section, the retailer shall add the tax imposed hereby 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.

(3) Any retailer selling malt, vinous and spirituous liquors by the drink may include in his/her sales price the tax levied by this Article, except that no such retailer shall advertise or hold out to the public in any manner directly or indirectly, that such tax is not included as part of the sales price to the consumer. The schedules described in subsection (1) of this Section shall be used by such retailer in determining the amounts to be included in such sales price. Use of the schedules set forth in subsection (1) of this section shall not relieve such retailer from liability for payment of the full amount of tax levied by this Article.

(4) Every retailer shall be entitled, as collecting agent of the City, to apply and credit the amount of his/her collections against the amount paid by him/her under the provisions of Section 7-15, remitting any excess collections over said amount less the expense allowance provided in subsection (5) of this section, to the executive director.

(5) Every retailer may deduct three and one-third percent (3 1/3%) of the amount of tax to be paid by him/her under this Article to cover his/her expense of collection and remittance of the tax.

(6) The amount of sale subject to tax under this Article shall not include the amount of any sales or use tax imposed by Article 26, Title 39, C.R.S. (Ord. 1398, Sec. 2, 9/3/91.)

#### **Section 7-14. Credit sales.**

(1) In case of a sale upon credit, or a contract for sale wherein it is provided that the price shall be paid in installments and title does not pass until a future date, or a chattel mortgage or a conditional sale, there shall be paid upon each payment, upon the account of purchase price, that portion of the total tax which the amount paid bears in the total purchase price. Notwithstanding any other provision of this subsection (1), a retailer doing business wholly or partly on a credit basis may, at his/her election, make a return, and remit sales tax on credit sales, on the basis of the aggregate amount of cash received during the month from taxable credit sales. The retailer may determine the tax to be remitted on the basis of his/her reasonable estimate of the aggregate amount of tax which he/she has collected from his/her credit consumers during the month. A retailer's estimate of the taxes to be collected on credit sales made in any month (referred to in this section as "base month") shall be deemed reasonable if the cumulative sum of the monthly amounts of taxes on such credit sales remitted by the retailer on months following the base month is not less than twenty-five percent, forty-three and seventy-five one-hundredths percent, sixty-two and five-tenths percent, respectively, of the total taxes due on the aggregate credit sales made by the retailer in the base month. In no event, however, shall the amount of taxes remitted by the retailer in any month be less than the amount which the retailer actually estimates to have been collected in that month.

(2) If the retailer transfers, sells, assigns or otherwise imposes of an account receivable, he/she 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 section 39-26-102 (10)(k), C.R.S. 1973 as amended, 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 the customer makes payment on said account. (Ord. 1181, 10/4/80.)

**Section 7-15. Excess tax - Collection and remittance.**

If any vendor, during any reporting period, collects as a tax an amount in excess of four percent of his/her total taxable sales, he/she shall remit to the executive director of the department of revenue, the full net amount of the tax imposed in this Article 2 and all such excess. The retention by the retailer or vendor of any excess of tax collections over the four percent of the total taxable sales of such retailer or vendor or the intentional failure to remit punctually to the executive director the full amount required to be remitted by the provisions of this Article is declared to be unlawful and constitutes a violation of this Article.

**Section 7-16. Retailer holds tax in trust for City.**

All sums of money paid by the purchaser to the retailer as taxes imposed by this Article shall be and remain public money, the property of the City, in the hands of such retailer or vendor, and he/she shall hold the same in trust for the sole use and benefit of the City until paid to the executive director, and failure to so pay the executive director, such retailer shall be punished as provided herein. (Ord. 1181, 10/4/80.)

**Section 7-17. License and tax additional.**

The license and tax imposed by this Article shall be in addition to all other licenses and taxes imposed by law, except as herein provided. (Ord. 1181, 10/4/80.)

**Section 7-18. False or fraudulent returns; refusal to file returns.**

It shall be unlawful for any retailer to refuse to file any returns provided to be filed in this Article, or to file any false or fraudulent return, or fail or refuse to make payment to the executive director of any taxes collected or due the City or in any manner evade the collection and payment of the tax or any part thereof, or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax. (Ord. 1181, 10/4/80.)

**Section 7-19. Use of proceeds of tax.<sup>8</sup>**

(1) Tax Monies collected pursuant to this Article shall be used as follows:

- (a) A Sum equal to seventy-five percent (75%) of the amount collected shall be deposited in the general fund of the City.

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(b) The sum equal to the remaining twenty-five percent (25%) of the amount shall be set aside in a reserve fund and shall be used to pay for capital projects, including the construction and improvement of public works, and the purchase of land and buildings, as determined by City Council. City Council shall hold at least one public hearing per year for the purpose of providing an opportunity for the public to express opinions as to how such monies should be spent. (Ord. 1539, Sec. 2, 8/31/96; Ord. 1697, eff., 8-16-02; Ord. 1857, eff., 6/27/08)

(2) The allocation of the tax monies collected pursuant to this Article set forth in subsection (1) of this Section, shall remain in effect until December 31, 2014. Unless the one percent (1%) sales tax to be used for capital projects is extended by vote of the people prior to that date, the rate of sales tax shall decrease to three percent (3%) on January 1, 2015, and from that date forward all tax monies collected pursuant to this Article shall be deposited in the general fund of the City. (Ord. 1398, Sec. 2, 9/3/91., Ord. 1539, Sec. 2, 8/31/96; Ord. 1697, eff., 8-16-02; Ord. 1857, eff. 6/27/08)

**Section 7-20. Penalty for violation.**

Any person who shall violate any of the provisions of this Article shall be guilty of violation thereof and shall be punished by a fine not to exceed Three Hundred Dollars (\$300.00) or imprisonment not to exceed ninety (90) days, or both such fine and imprisonment. (Ord. 1181, 10/4/80.)

**ARTICLE 3. USE TAX.**

**Section 7-21. Purpose.**

The purpose of this Article is to raise revenue and provide a complementary tax to the Trinidad City Sales Tax. The tax imposed herein is a Use Tax on building and construction materials which are purchased outside the City of Trinidad by City residents for use, storage or consumption within the City of Trinidad, and on motor vehicles which are purchased outside the City of Trinidad by City residents for use, storage or consumption within the City of Trinidad.

**Section 7-22. Application and exemptions.**

In no event shall the Use Tax imposed by this Article extend or apply:

- (1) To the storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the City of Trinidad.
- (2) To the storage, use or consumption of any tangible personal property purchased for resale in the City of Trinidad, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;
- (3) To the storage, use or consumption of tangible personal property brought into the City of Trinidad by a nonresident thereof for his/her own storage, use or consumption while temporarily within the City of Trinidad;

- (4) To the storage, use or consumption of tangible personal property by the United States government, or the State of Colorado, or its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable functions;
- (5) 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, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label, or the furnished shipping case thereof;
- (6) 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 legally imposed sales or use tax of another statutory or home rule town, city or city and county equal to or in excess of that imposed by this Ordinance. A credit shall be granted against the use tax imposed by this Ordinance with respect to a person's storage, use or consumption in the City of Trinidad of tangible personal property purchased by him/her in a previous statutory or home rule town, city, or city and county. The amount of the city credit shall be equal to the tax paid by him/her by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city, or city and county on his/her purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this ordinance.
- (7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the City of Trinidad and brought into it by a non-resident acquiring residency;
- (8) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the City of Trinidad, and he/she purchased the vehicle outside the City of Trinidad for use outside the City of Trinidad and actually so used it for a substantial and primary purpose for which it was acquired and he/she registered, titled and licensed said motor vehicle outside of the City of Trinidad;
- (9) To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required, if a written contract for the purchase thereof was entered into prior to the effective date of such use tax;
- (10) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of such use tax ordinance or proposal. (Ord. 1325, Sec. 2, 8/18/87.)

**Section 7-23. Building and Construction Use Tax.**

- (1) There is hereby imposed on the privilege of storing, using or consuming any construction and building materials of every kind and form purchased outside the City of Trinidad, for use, storage or consumption within the City of Trinidad, a Use Tax of four percent (4%) of the purchase price of said construction or building materials. (Ord. 1325, Sec. 2, 8/18/87.)
- (2) Said Use Tax shall be paid by estimate through payment to the City an amount equal to fifty percent (50%) of the total cost of the project as indicated on the application for a city building permit and shall be evidenced by the issuance of a building permit by the City Building Inspector.

Provided, however, the City shall, when necessary, issue a certificate of exemption from payment of any further sales or use tax for the materials to be used, stored or consumed pursuant to such building permit.

(3) The collection and administration of the Use Tax imposed by this Section shall be performed by the Treasurer in substantially the same manner as the collection, administration and enforcement of the Colorado Sales and Use Tax as provided in Article 26, Chapter 39, Colorado Revised Statutes. The City Manager is hereby authorized to promulgate such additional rules and regulations as may be necessary for the proper administration of enforcement of this section.

**Section 7-24. Motor Vehicle Use Tax.**

(1) There is hereby imposed on the privilege of using, storing, or consuming every motor vehicle purchased outside this city by any resident of this City for the purpose of use, storage or consumption within this City, a Use Tax in the amount of four percent (4%) of the purchase price of said motor vehicle. (Ord. 1325, Sec. 2, 8/18/87.)

(2) Said Use Tax shall be applicable to every motor vehicle for which registration is required by the laws of the State of Colorado.

(3) No registration shall be made of any motor vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents, until any tax due upon the use, storage or consumption thereof pursuant to this Ordinance has been paid.

(4) The Use Tax imposed by this section shall be collected by the authorized agent of the Department of Revenue in the County in which the purchaser resides.

(5) The proceeds of said Use Tax shall be paid to the City periodically in accordance with an agreement entered by and between the City and the authorized County Agent of the Department of Revenue.

(6) The City Manager and the Mayor are hereby empowered to enter into and execute on behalf of the City any agreements necessary for the administration and enforcement of this Section in accordance with the provisions of Section 24-35-110, Colorado Revised Statutes.

**ARTICLE 4. SALES TAX SIMPLIFICATION ACT.**

**Section 7-25. Sales Tax - Nonapplicability.**

For transactions consummated on or after January 1, 1986, the City's sales tax shall not apply to the sales of construction and building materials, as the term is used in 29-2-109, C.R.S., 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. (Ord. 1285, Sec. 1, 12/17/85.)

**Section 7-26. Use Tax - Nonapplicability.**

For transactions consummated on or after January 1, 1986, the City's use tax shall not apply to the storage of construction and building materials. (Ord. 1285, Sec. 1, 12/17/85.)

**Section 7-27. Sales Tax - Credit for Sales or Use Taxes previously paid to another municipality.**

For transactions consummated on or after January 1, 1986, 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 subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of four percent (4%). 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 four percent (4%). (Ord. 1285, Sec. 1, 12/17/85.)

**Section 7-28. Use Tax - Credit for Sales or Use Taxes previously paid to another municipality.**

For transactions consummated on or after January 1, 1986, the City's Use Tax shall not apply to the storage, use, or consumption of tangible personal property the sale of which has already been subjected to a legally imposed Sales or Use Tax of another statutory or home rule municipality equal to or in excess of four percent (4%). A credit shall be granted against the City's Use Tax with respect to a person's storage, use, or consumption in the City of tangible personal property purchased by him/her in a previous statutory or home rule municipality. The amount of the credit shall be equal to the tax paid by him/her by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his/her purchase or use of the property. The amount of the credit shall not exceed four percent (4%).

**Section 7-29. Use Tax - Alternative dispute resolution procedure - Deficiency notice or claim for refund.**

(1) For transactions consummated on or after January 1, 1986, the taxpayer may elect a state hearing on the City Manager's or his/her designee's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this Section.

(2) As used in this Section, "state hearing" means a hearing before the Executive Director of the Department of Revenue or delegate thereof as provided in 29-2-106.1 (3), C.R.S.

(3) When the City asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the City shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional use taxes due. The deficiency notice shall contain a notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to 29-2-106.1 (3), C.R.S. The taxpayer shall also have the right to elect a state hearing on the City's denial of such taxpayer's claim for a refund of use tax paid.

(4) The taxpayer shall request the state hearing within thirty days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he/she has not exhausted local remedies or if he/she fails to request such hearing within the time period provided for in this subsection (4). For purposes of this subsection (4), "exhaustion of local remedies" means:

(a) The taxpayer has timely requested in writing a hearing before the City and such City has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the City may submit a brief. The City shall hold such hearing and issue the final decision thereon within ninety days after the City's receipt of the taxpayer's written request therefor, except the City may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any event, the City shall hold such hearing and issue the decision thereon within one hundred eighty days of the taxpayer's request in writing therefor; or

(b) The taxpayer has timely requested in writing a hearing before the City and the City has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in paragraph (a) above.

(5) If a taxpayer has exhausted his/her local remedies as provided in subsection (4) above, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in Section 29-2-106.1 (3) through (7), C.R.S.

(6) If the deficiency notice or claim for refund involves only the City, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the District Court of the County of Las Animas as provided in 29-2-106 (8), C.R.S., provided the taxpayer complies with the procedures set forth in subsection (4) of this section.

(7) If the City reasonably finds that the collection of Use Tax will be jeopardized by delay, the City may utilize the procedures set forth in section 39-21-111, C.R.S.

## **ARTICLE 5 . BUSINESS AND OCCUPATION TAX ON UTILITY COMPANIES.**

### **Section 7-30. Levy of tax.**

There is levied on and against utility companies operating within the City a tax on the occupation and business of:

(1) Maintaining a telephone exchange and lines connected therewith in the City and of supplying local exchange telephone service to the inhabitants of the City;

(2) Maintaining and operating within the City a plant for the transmission and distribution of artificial or natural gas, or a mixture thereof, and of furnishing either or both of said products to the inhabitants of the City; and

(3) Maintaining and operating within the City a plant for the transmission and distribution of electrical energy and of furnishing and distributing electricity or electrical energy to the inhabitants of the City.

**Section 7-31. Amount of tax.**

That the amount of tax hereby levied for 1978 shall be a flat sum in the amount of Thirty Eight Thousand Two Hundred Dollars (\$38,200.00), and for years subsequent to 1978, Two and 75/100 Dollars (\$2.75) annually for each telephone account for which local exchange service is provided within the City of Trinidad, as provided in Section 2 of this Ordinance No. 998, Series 1971.

**Section 7-32. Payment of tax and filing statements.**

(1) The tax levied by this Ordinance No. 988, Series 1971, which were made under protest or accrued by telephone utilities, shall be applied against the flat fee tax for 1978. Payment of the 1978 tax shall be made fifty percent (50%) on July 31, 1978 and fifty percent (50%) on or before October 31, 1978 and for years subsequent to 1978, the tax shall be payable in twelve (12) equal monthly installments each installment to be payable on the last business day of each calendar month.

(2) Within fifteen (15) days after the effective date of this Ordinance, each telephone utility subject to the tax imposed herein shall file with the Clerk in such form as the Clerk may require, a statement showing the total number of telephone accounts for which local exchange telephone service was provided within the City on January 1, 1978. Such statements shall be filed in each subsequent year within fifteen (15) days after January 1, showing the total number of such accounts on January 1.

**Section 7-33. Failure to pay tax.**

If any utility company subject to this Article shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten (10%) percent of the amount of taxes due, shall be and hereby is declared to be a debt due and owing from such company to the City. The City Attorney upon the direction of the City Council, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the said debt in the name of the people of the State. (Ord. 988, Sec. 4, 12/6/71.)

**Section 7-34. Penalty for violation.**

If any officer, agent or manager of a utility company which is subject to the provisions of this Article shall fail, neglect or refuse to make or file any quarterly statement in the manner herein prescribed, the said officer, agent, or manager shall, on conviction thereof, be punished by a fine of not less than Twenty Five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00). (Ord. 988, Sec. 5, 12/6/71.)

**Section 7-35. Inspection of records.**

The City, its officers, agents or representatives shall have the right at all reasonable hours and times

to examine the books and records of the utility companies which are subject to the provisions of this Article and to make copies of the entries or contents thereof. (Ord. 988, Sec. 6, 12/6/71.)

**Section 7-36. Credit against tax.**

Any utility company maintaining facilities within the City pursuant to a franchise granted by the City may claim as a credit against the tax levied by this Article the amount of any franchise payments made in accordance with the terms of such franchise. (Ord. 988, Sec. 7, 12/6/71.)

**Section 7-37. Exemption from Article.**

The provisions of this Article shall not apply to any utility owned and operated by the City. (Ord. 988, Sec. 8, 12/6/71.)

**Section 7-38. Construction of Article.**

This Article shall not be construed as granting a franchise or franchise rights to any utility company. (Ord. 988, Sec. 9, 12/6/71.)

## **ARTICLE 6. ECONOMIC DEVELOPMENT FUND**

**Section 7-39. Economic Development Fund established.<sup>9</sup>**

(1) There is hereby established an Economic Development Fund derived from the following sources: (Ord. 1546, 12/17/96., Ord 1550, 1/18/97)

- (a) Repealed.<sup>9</sup>
- (b) all revenues from the sale, lease or rental of real property owned or controlled by the City located within the Trinidad Industrial Park shall be set aside into the Economic Development Fund;
- (c) any other funds received by the City from grants, gifts or donations intended for use in the same manner and purpose herein shall be set aside into the Economic Development Fund;
- (d) any other funds transferred by the City Council action from other monies under the City's control not restricted for any other purpose;
- (e) any other funds remaining in the Economic Development fund as repealed by this ordinance shall automatically be transferred into the Economic Development Fund as established by this ordinance.

(2) As used herein, the term Economic Development Fund shall be defined as those monies committed from non-restricted sales tax revenues of the City in such amounts as provided for by this Ordinance.

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<sup>9</sup> 7-39(1)(a) Repealed (Ord. 1546, 12-17-1996 & Ord. 1550, 1-18-1997)

**Section 7-40. Economic Development Fund purpose.**

(1) The Economic Development Fund is hereby intended to provide a source of revenues to be used to offset expenses associated with the following:

- (a) development or inducement of the startup, location, relocation of industry resulting in the creation of new job opportunities including manufacturing, assembly, fabrication; or
- (b) development or inducement of the startup, location or relocation of retail or wholesale business resulting in the creation of new job opportunities including product warehousing, distribution, shipping and the sale of products, goods and materials at retail including durable goods and consumable goods and other general merchandise; or
- (c) development or inducement of the startup, location or relocation of service industry business resulting in the creation of new job opportunities including professional services, personal services, contractual services and other general services.

(2) All such industry, wholesale or retail business or service shall prospectively consider location within the corporate limits of the City or within the Trinidad Industrial Park.

**Section 7-41. Determination of use of Economic Development Fund.**

(1) Before the commitment, encumbrance or expenditure of any monies from the Economic Development Fund, City Council shall, by resolution, make a finding that the prospective expenditures of said funds is within the scope of allowable purpose(s) as set out by this ordinance. Such finding need not specifically state the identity of the industry, business or service prospect. A clear expectation of job creation shall however be recited.

(2) Upon the adoption of a resolution by City Council making a finding of the propriety of commitment, encumbrance or expenditure of Economic Development Funds, such monies may be expended directly by the City, transferred to a recognized economic development agency or combined with funding commitments by other entities including the County, the State or the Federal government or private funds committed for a like purpose.

## **ARTICLE 7. LODGING TAX**

**Section 7-42. Lodging Tax Imposed on Transaction of Furnishing Rooms or Accommodations.**

Subject to the approval of the eligible registered electors in the City of Trinidad at the election to be held on November 6, 2001, there is hereby imposed and levied and shall be collected a 3% lodging tax on the purchase price paid or charged to persons for the transaction of furnishing rooms or accommodations by any person, partnership, association, corporation, estate, receiver, trustee, assignee, lessee, or person acting in a representative capacity or any other combination of individuals by whatever name known to a person who for consideration uses, possesses, or has the right to use or possess any room in a hotel, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch,

trailer coach, mobile home, auto camp, or trailer court and park, under any concession, permit, right of access, license to use, or other agreement, or otherwise. (Initiative approved by voters November 6, 2001, effective January 1, 2002)

**Section 7-43. Point of Imposition.**

For the purpose of the lodging tax imposed by this Ordinance, all sales are consummated at the place where the actual rooms or accommodations, which are provided, are located. (Initiative approved by voters November 6, 2001, effective January 1, 2002)

**Section 7-44. Administration.**

The City lodging tax shall be collected, administered, and enforced, to the extent feasible, pursuant to Section 29-2-106, C.R.S., as amended. (Initiative approved by voters November 6, 2001, effective January 1, 2002)

**Section 7-45. Persons Liable.**

Any person or entity providing rooms or accommodations as included in the definition of “sale” referred to in Section 7-42 of this Article, and at Section 39-26-102(11) C.R.S., as Amended, shall be liable and responsible for the payment of an amount equal to 3% of all such sales made, and shall quarterly, unless otherwise provided by law, make a return to the City of Trinidad the preceding tax-reporting period and remit an amount equivalent to the said three percent on such sales. (Initiative approved by voters November 6, 2001, effective January 1, 2002)

**Section 7-46. City Lodging Tax Tourism Fund Created.**

All revenue collected from such City lodging tax shall be credited to a special fund designated as the City Lodging tax tourism fund, which is hereby created. The fund shall be used only to advertise and market tourism. No revenue collected from such City lodging tax shall be used for any capital expenditure, with the exception of tourist information center. (Initiative approved by voters November 6, 2001, effective January 1, 2002)

**Section 7-47. Lodging Panel**

Upon approval of a lodging tax by the electors, the City Council shall select a panel of no less than three citizens of the City of Trinidad to a tourism board to administer the fund. Members of the panel shall be appointed for terms of no more than two (2) years from the tourism industry within the City of Trinidad. A proven marketing entity shall be contracted with for the purpose of advertising and marketing tourism; the panel shall oversee the contracted entity, and that entity shall provide an audited accounting to the panel and the City Council, on a monthly basis. Preference should be given to proven marketing entities domiciled within the city limits. (Initiative approved by voters November 6, 2001, effective January 1, 2002; amended Ord. 1874, eff., 2/13/09)

**Section 7-47.1 Membership; appointment; term; removal; organization and meetings.**

(1) The City Tourism Board shall consist to five (5) members who shall be appointed by the City

Council, and shall not be a member of the City Council or a Council Officer, as defined in Section 2-16 of the Code of Ordinances. Pursuant to Section 8.3 of the City Charter, any member of the Board must be a resident of the City and have resided within the City for a period of not less than one year immediately preceding appointment, and be registered to vote. Of the five members, at least one member shall be employed in the lodging industry, and at least one member shall be employed in a restaurant operation. The remaining three members shall be employed in or volunteer in miscellaneous other businesses or activities including museums, which serve tourists. (Ord. 1677, eff., 12-04-01; amended Ord. 1874, eff., 2-13-09)

(2) Initial appointments to the Tourism Board shall be made no later than February 10, 2002. Three members shall be appointed for initial terms of two (2) years. Two members shall be appointed for initial terms of one (1) year. Thereafter, all terms shall be two (2) years. (Ord. 1677, eff., 12-04-01)

(3) <sup>10</sup>The City Tourism Board members shall be subject to removal for just cause by a majority vote of the Council. Just cause shall include but not be limited to inefficiency, neglect of duty, acts detrimental to the City's interests, malfeasance in office, or excessive absences. Absences by members of the board of three consecutive meetings or three absences in a six-month rolling period shall be cause for evaluation by City Council for the purpose of consideration of the member's removal. The City Clerk shall advertise vacancies in a newspaper of general circulation requesting that interested individuals submit a letter so indicating their interest and qualifications for the position advertised. (Ord. 1677, eff., 12-04-01, Ord. 1749, eff., 4-16-04)

(4) If any member ceases to reside in the City, his/her membership on the Board shall immediately terminate. (Ord 1677, eff., 12-04-01)

(5) Organization and meetings. The Board shall elect a Chairperson from among the appointed members and create and fill such other offices as it may determine. The term of the Chairperson shall be one (1) year, with eligibility for reelection. The Board shall hold one (1) regular meeting per month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, and transactions, which record shall be a public record. (Ord. 1677, eff., 12-04-01)

#### **Section 7-48      Budgeting; spending; reporting.**

(1) No later than April 1, 2002, the Tourism Board shall submit to the City Council an interim annual Budget for 2002. Thereafter, the Board shall submit to the City Manager a proposed Annual Budget for the following year setting forth the specific line items for expenditure of the funds in the City Lodging Tax Tourism Fund, on or before September 15<sup>th</sup> of each year. The City Manager shall include the proposed budget within his/her proposed budget for the following year submitted to City Council. (Ord. 1677, eff., 12-04-01)

(2) The City Finance Director shall be the custodian of City Lodging Tax Tourism Fund. The fund shall be expended only upon warrants signed by the Chairperson or his/her designee and one other member of the Tourism Board. (Ord. 1677, eff., 12-04-01)

(3) At the close of each year, the Tourism Board shall make a report to the City Council showing the condition of its trust during the year, the sums of money expended, and the purposes of the

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expenditures. The report shall include such other statistics and information as the Board deems of public interest and as may be requested by the City Council. (Ord. 1677, eff., 12-04-01)

## **ARTICLE 8. PURCHASES.**

### **Section 7-50      Small purchases.**

The Purchasing Agent shall establish written procedures for purchase of goods involving the estimated expenditure of \$500.00 or more, but less than \$10,000.00 of public money. These procedures shall require that competition be sought and written records adequate to document the competition be maintained in order to properly account for the funds expended, and to facilitate an audit of the small purchases made. (Ord. 1684, eff., 3-29-02)

### **Section 7-51      Purchases based on informal bids.**

All contracts for the purchase of goods involving the estimated expenditure of \$10,000.00 or more, but less than \$30,000.00 of public money, shall be made after informal bids are secured. All such contracts shall be in writing and shall be awarded to the lowest responsible bidder, upon authorization of the City Manager. The quality and performance of the good(s) offered by each bidder, and the time specified for delivery of the good shall be considered in determining the lowest responsible bid. The Department Head and/or the Purchasing Agent shall keep a record of all bids submitted and the record shall be available for public inspection after the contract is awarded, in the manner provided by law. (Ord 1684, eff., 3-29-02)

### **Section 7-52      Purchases based on formal bids.**

Except as otherwise provided in this Article, no contract for the purchase of goods involving the estimated expenditures of \$30,000.00 or more of public money shall be awarded unless the provisions of this Section are followed. (Ord. 1684, eff., 3-29-02)

(1) Proposals shall be invited by advertisement in a newspaper having general circulation in the City. The advertisement shall state the time and place where specifications may be obtained, and the time and place for the opening of bids. At least seven (7) full days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the City reserves the right to reject any or all of the bids. (Ord. 1684, eff., 3-29-02)

(2) The City may require that bid deposits be submitted with each bid. If bid deposits are required, they shall be in an amount equal to five percent (5%) of the amount of the bid and may be submitted in the form of cash, a cashier's check, a certified check issued by a bank or trust company insured by the Federal Deposit Insurance Corporation, a bid bond, or any other form of bid security deemed sufficient by the City Attorney. The bid deposit requirement, including the form in which bonds or other forms of bid security may be submitted, shall be included in the specifications. (Ord. 1684, eff., 3-29-02)

(3) Bids shall be sealed. All bids shall be opened in public and the Purchasing Agent or Department Head shall make a record of the bids received. The record and the bids received shall be subject to

public inspection after the bid opening in the manner prescribed by law. (Ord. 1684, eff., 3-29-02)

(4) The City may require the successful bidder to furnish a performance bond to secure the faithful performance of all of the terms of the contract. The performance bond shall be in a form approved by the City Attorney and the form of the bond shall be included in the specifications. The City Council may reject the bond of any bidder if it finds it to be unacceptable. (Ord. 1684, eff., 3-29-02)

(5) All contracts to which this Section applies shall be in writing and shall be approved by the City Council. The City Council may reject any and all bids. (Ord. 1684, eff., 3-29-02)

**Section 7-53      Exceptions.**

(1) The provisions of this Article do not apply to the purchase of goods when:

(a) a good is available from only one source of supply, or when standardization or compatibility is the overriding consideration; (Ord. 1684, eff., 3-29-02)

(b) the purchase is pursuant to a contract with either the United States of America or any agency thereof, or any other government unit or agency thereof within the United States for the purchase, lease or other acquisition of goods; or (Ord. 1684, eff., 3-29-02)

(c) a special emergency exists involving the health and safety of the people or their property. (Ord. 1684, eff., 3-29-02)

(2) All such purchase of \$30,000 or more shall be approved by the City Council. (Ord. 1684, eff., 3-29-02)