

CITY OF GLENDALE, COLORADO

ORDINANCE NO. 4

SERIES OF 2005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GLENDALE, COLORADO, AMENDING CERTAIN SECTIONS OF CHAPTER 3.20 REGARDING THE COLLECTION OF SALES AND USE TAX OF THE CODE OF ORDINANCES OF THE CITY OF GLENDALE

WHEREAS, the City Council of the City of Glendale has a fiduciary responsibility to the residents of the City to insure that all municipal taxes properly and fairly assessed are collected; and

WHEREAS, the City Council recognizes the right of a local and municipal concern to levy a tax to raise revenue with which to conduct the affairs and business of the City. This right is clearly within the constitutional grant of power to the home rule cities contained in Article XX, Section 6 or the Constitution of Colorado; and

WHEREAS, the City Council enacted Ordinance Number 5, Series of 2004 on June 1, 2004 amending certain sections to Chapter 3.20 and enacting a use tax; and

WHEREAS, the City Council wishes to make certain amendments to Chapter 3.20 to further streamline the administration and collection of sales and use taxes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Glendale, Colorado, that:

SECTION 1. Select Sections of Chapter 3.20 are hereby amended to read as follows (words to be deleted shown in ~~strikeout~~; words to be added are underlined):

Chapter 3.20

SALES AND USE TAX

3.20.020 Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:

"Price" or "purchase price" includes:

- A. The amount of money received or due in cash credits;
- B. Property at fair market values taken in exchange but not for resale in the usual course of the retailer's business;
- C. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange;
- D. The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price 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;

- E. Installation, delivery and wheeling-in charges ~~included in the purchase price and not separately stated~~;
- F. Transportation and other charges to effect delivery of tangible personal property to the purchaser;
- G. Indirect federal manufacturers' excise taxes, such as taxes on automotive vehicles, tires and floor stock;
- H. The gross purchase price of articles sold after manufacturing or having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

3.20.160 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 3.20.150, 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 3.20.150 to the Tax Inspector for the preceding period covered by the remittance on forms prescribed by the Tax Inspector, 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 3.20.150 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~~ 3.20.170, 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 3.20.150, then at the time that such storage, use, or consumption becomes taxable under Section 3.20.150, collect the tax imposed by Section 3.20.150 from the purchaser and give the purchaser a receipt therefor, 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 3.20.150 shall make returns on forms provided by the Tax Inspector 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~~ 3.20.130. 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~~ 3.20.130.

3.20.220 Reporting period—Collection provisions—Report forms—Deductibles.

- A. Every vendor shall be liable as a taxpayer and responsible for the reporting to the City Manager and paying the tax at the rate of 3.75 percent of the net total of taxable sales or charges for service during the reporting period, plus any overage of collections of tax on sales or charges for service resulting from the use of the bracket system prescribed in this chapter. A reporting period shall be monthly for vendors who exceed a sixty-dollar (\$60.00) tax liability per month, quarterly for a vendor with less than one hundred dollars (\$100.00) in tax liability per quarter, and annually only upon approval of the Tax Inspector. A report shall be made and tax paid under the provisions of this chapter on or before the twentieth day of the month following the reporting period. Timely filing shall be evidenced by the postmark date. A report shall be made for each place of business if more than one location is used in the business of sales at retail within the city. A report shall be made for the reporting period previously established whether or not tax is due for that period. A vendor's failure to timely file a tax return when one is due for the reporting period as provided in this Chapter shall be assessed penalty of one hundred dollars (\$100.00). A \$100 penalty shall be assessed for every month said tax return remains unfiled to a maximum of \$500 for each return.

3.20.300 Violation—Penalties—Period of limitations.

- A. It is a violation of this chapter to refuse to make any return provided to be made in this chapter, or to make any false or fraudulent return, or any false statement in any return, or to fail or refuse to make timely payment to the City Manager or his authorized agent of any taxes collected or due to the city, or in any manner to evade the collection and timely payment of the tax, or any part thereof, imposed by this chapter, or for any person or purchaser to fail or refuse to pay such tax or evade the timely payment thereof, or to aid or abet another in any attempt to evade the timely payment of such tax.
1. In his discretion the City Manager may direct the issuance of a complaint and summons to appear before the Glendale Municipal court to any person who may be in violation of any of the provisions of this chapter or the rules and regulations promulgated by the City Manager to enforce this chapter.
 2. Any person, corporation, partnership, company, association or other entity which violates Section ~~3.20.180~~ 3.20.220 of this chapter shall be guilty of a misdemeanor and, upon conviction of such violation, shall be subject to a fine of not more than ~~seven hundred fifty dollars (\$750.00)~~ nine hundred ninety nine dollars (\$999.00), or imprisonment not to exceed ~~one hundred eighty (180)~~ three hundred sixty (360) days, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subjected to such imprisonment; and provided further, that issuance of a summons and complaint by the city, and subsequent conviction of a violation of this chapter in the municipal court, shall not prohibit the court from requiring payment of all taxes, penalties and interest found to be due under this chapter in addition to any fine imposed by the court. Each and every twenty-four (24) hour period of violation shall constitute a separate violation of this chapter.
 3. Nothing contained in this section shall preclude the City Manager from instituting a legal or equitable action in the Arapahoe County District Court for the purposes of enforcing the provisions of this chapter. In the event such an action is undertaken, the city shall be entitled to recover its attorney's fees and costs of litigation expended in the action as a portion of its judgment rendered therein.

SECTION 3. Validity and Severability. If any action, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining section, subsections or clauses shall not be affected thereby, each provision, to the extent possible, being severable from the others.

SECTION 4. Repeal. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. Effective date. This ordinance shall take effect July 1, 2005.

INTRODUCED BY COUNCIL MEMBER Dunafon, SECONDED BY COUNCIL MEMBER St. James AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLENDALE, COLORADO THIS 3rd, DAY OF May, 2005, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING.

ADOPTED ON SECOND READING BY THE CITY COUNCIL OF THE CITY OF GLENDALE, COLORADO THIS 3rd, DAY OF May, 2005 AND ORDERED PUBLISHED.

Larry Harte, Mayor

ATTEST:

APPROVED AS TO FORM:

Anna S. Fine, City Clerk

Jeff Springer, City Attorney