

ORDINANCE NO. 1053

AN ORDINANCE AMENDING TITLE 3, RETAIL SALES
AND USE TAX TITLE OF THE GOLDEN REVISED
ORDINANCES OF 1965,

WHEREAS, as a result of recent administrative and legislative review, it has been determined to make certain policy and administrative changes to the Retail Sales and Use Tax Title.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. The word "and" in the fourth line of Section 3.02.005 of the Golden Revised Ordinances of 1965 is hereby changed to "or".

Section 2. Section 3.02.020 of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

3.02.020 Sale. "Sale" means the exchange of property for property or for money, including installment and credit sales, and leases and rentals, conditional or otherwise, and also includes the sale of furnishing of electrical energy, natural and manufacturer gas, steam, and telecommunications services.

Section 3. Section 3.02.035 of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

3.02.035 Retailer or vendor. "Retailer" or "vendor" means any person selling, leasing or renting tangible personal property at retail.

Section 4. Section 3.02.040 of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

3.02.040 Retail sale. "Retail sale" includes all sales except wholesale sales.

Section 5. Chapter 3.02 of the Golden Revised Ordinances of 1965 is hereby amended by the addition of the following:

3.02.060 Telecommunications services.
"Telecommunications services" means the transport of signs, signals, writings, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, electromagnetic, digital or electronic means.

3.02.070 Tangible personal property. "Tangible personal property" means corporeal personal property which may be seen, weighed, measured, felt or touched, or is in any manner perceptible to the senses.

3.02.080 Engaged in business in the city. "Engaged in business in the city" means performing taxable services or engaging in the sale of tangible personal property at retail in the city or for storage, use, or consumption within the city.

Section 6. Section 3.03.010 of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

3.03.010 License required. It shall be unlawful for any person to be engaged in business in the city without first having obtained a license therefor. A license may be obtained upon the filing of an application in the form prescribed by the enforcement officer. For the period ending June 30, 1989, licenses shall be issued by the treasurer at no charge. Any license issued at no charge shall expire on June 30, 1989. Commencing July 1, 1989, licenses shall be issued and renewable annually for an annual fee of \$25.00, such licenses to expire on the thirtieth day of June following their issuance. Any applicant not previously licensed whose application is received during the period January 1 through June 30 shall be issued a license for a fee of \$12.50. Nonprofit corporations shall be licensed annually, but exempt from annual license fees. Any new license application or application for renewal not timely filed shall be subject to a late charge of \$5.00 per month or portion thereof. A license shall be applied for and issued in the name of the person and at the specific address of the applicant. A separate license shall be applied for and issued for each location if more than one location is used by the applicant in the conduct of business of sales at retail. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation or not for resale under this title. A sales tax license obtained under this title shall supplant and operate in lieu of the requirement of a business license as provided in Chapter 4.04.

Section 7. Within existing Section 3.03.020 of the Golden Revised Ordinances of 1965 all reference to "city clerk" shall be changed to "treasurer".

Section 8. Section 3.04.010 through and including (c) of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

3.04.010 Property and services taxed. There is levied and there shall be collected and paid a tax in the amount stated in Section 3.04.040 on all transactions resulting from a person being engaged in business in the city as follows:

(a) On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail; except as the purchase price is reduced by an allowance for an exchange of tangible personal property, at fair market value, and which is intended to be sold thereafter in the usual course of the retailer's business. All retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer, his agent or by mail to a destination outside the city or to a common carrier for delivery to a destination outside the city;

(b) Upon the charge for telecommunications services;

(c) Upon the charge for gas and electric service, whether furnished by municipal, public, or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption not constituting a wholesale sale, 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;

Section 9. Section 3.04.020 (h)(1)(B)(5) of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

(5) All sales of personal property except motorized vehicles; provided, that such sales are conducted no more than three times a year, that the sale occurs at the residence of the owner and that the property to be sold was originally purchased for use by members of the household where such sale is being conducted.

Section 10. Section 3.04.020 (h)(1)(B)(6) of the Golden Revised Ordinances of 1965 is hereby deleted.

Section 11. Beginning on the fifth line of Section 3.04.030 of the Golden Revised Ordinances of 1965 delete the words "on forms prescribed by the enforcement officer".

Section 12. Section 3.04.031(a)(b) of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

3.04.031 Refund procedure. (a) A refund shall be made, or a credit allowed, for the tax so paid under dispute by a purchaser who has an exemption as in this chapter provided. Such refund shall be made by the enforcement officer after compliance with the following conditions: Applications for refund must be made within

sixty days after the purchase of the goods whereon an exemption is claimed; and, must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and a certificate issued by the seller.

(b) Upon receipt of such application, the enforcement officer shall examine the same with all due speed and shall give notice to the applicant in writing of his decision thereon. Aggrieved applicants, within thirty days after such decision is mailed to them, may petition the officer for a hearing on the claim in the manner provided in § 39-21-103, CRS, 1973, as amended, and may appeal to the district court for the county of Jefferson in the manner provided in § 39-21-105, CRS, 1973, as amended. The right of any person to a refund under this chapter shall not be assignable and, except as provided in paragraph (c) such application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale thereof. Any applicant for refund under the provisions of this section, or any other person who makes any false statement in connection with an application for a refund of any taxes is guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than three hundred dollars or by imprisonment in the city or county jail of not more than ninety days or by both such fine and imprisonment.

Section 13. Section 3.04.060 (a) of the Golden Revised Ordinances of 1965 is hereby amended by the deletion of the word "average" on line five and inserting the word "excess" in its place; and further amended by the deletion of the words "resulting in the use" on line six and inserting in their place the words "resulting from the use".

Section 14. Section 3.04.060 (c) of the Golden Revised Ordinances of 1965 is hereby repealed and reenacted as follows:

(c) Burden of Proof -- Keeping of Records. The burden of proving that any person is exempt or any article or commodity is exempt as taxable under the provisions of this chapter shall be upon the person asserting the claim for exemption under such reasonable requirements of the enforcement officer. It shall be the duty of every person engaging or continuing in business within the city or otherwise subject to the tax under the provisions of this chapter or a person requiring a license under Chapter 3.03 to keep and preserve suitable records of all sales and purchases and transactions as may be necessary from time to time to determine the applicability of the provisions of this chapter thereto, and to keep such invoices, sales memoranda, books and

records for a period of three years; and they shall be open at any time for examination by the enforcement officer or his agents.

Section 14. Section 3.05.050 of the Golden Revised Ordinances of 1965 is hereby amended by the insertion of the words "and purchases" on line eight following the words "records of all sales".

Section 15. Section 3.10.170 of the Golden Revised Ordinances of 1965 is hereby amended by the insertion of the word "Colorado" on the third line following the words "executive director of the".

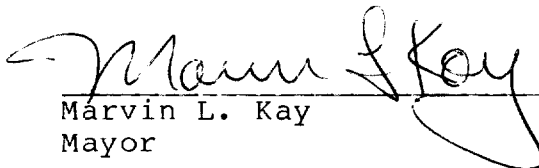
Section 16. Section 3.10.190 (a) of the Golden Revised Ordinances of 1965 is hereby amended by the insertion of the word "Colorado" on the second line following the words "executive director of the".

Section 17. Violations - Penalty. The penalty for violation of any of the provisions of this ordinance shall be as provided by Section 3.08.010 of the Golden Revised Ordinances of 1965.

Section 18. Any ordinances or portions of ordinances in conflict herewith are hereby repealed.

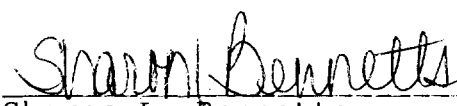
Introduced, read and ordered published this 8th day of December, 1988.

Adopted, approved and ordered published this 22nd day of December, 1988.



Marvin L. Kay
Mayor

ATTEST:



Sharon L. Bennetts
City Clerk

Approved as to form:

BRADLEY, CAMPBELL & CARNEY
Professional Corporation

By: Victor F. Boog
Victor F. Boog
Acting City Attorney

I, Sharon L. Bennetts, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read at a regular meeting of the City Council of said city, held on the 8th day of December, 1988 and was published as a proposed ordinance in the Golden Transcript, legal newspaper, as the law directs seven days or more prior to its passage. A public hearing was held on the 22nd day of December, 1988, the said proposed ordinance was read on second reading and passed by the City Council and ordered published in the aforesaid newspaper as the law directs.

Witness my hand and official seal of the City of Golden, Colorado, this 23rd day of December, 1988.

(SEAL)

Attest: Sharon L. Bennetts
Sharon L. Bennetts, City Clerk
of the City of Golden, Colorado