

SUPREME COURT, STATE OF COLORADO

Case No. 99 SC 213

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**BRIEF OF THE COLORADO MUNICIPAL LEAGUE AS AN AMICUS CURIAE**

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THE TOWN OF EAGLE, COLORADO, a Colorado statutory town, ROXIE DEANE, in her capacity as Mayor of the Town of Eagle, RICK DUNFORD, JEAN JOHNSON, BILL HEICHER, PAUL GREGG, TOM EHRENBERG, and BRUCE HASBROUCK, in their capacities as members of the Board of Trustees of the Town of Eagle,

Petitioners

v.

PAUL SCHEIBE and JUDY SCHEIBE, d/b/a BEST WESTERN EAGLE LODGE; and EAGLE ECONOMY LODGING, L.L.C., d/b/a HOLIDAY INN EXPRESS,

Respondents.

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Certiorari to the Colorado Court of Appeals: Division IV; Case No. 97 CA 1977  
Opinion of Ruland, J.; Ney and Rothenberg, JJ., concur

On appeal from the District Court, County of Eagle, Civil Action 97-CV-46, Division H, Honorable Richard Hart, District Judge

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Comes now the Colorado Municipal League (the “League”) by its undersigned attorney, and, pursuant to Rule 29, C.A.R., submits this brief as an *amicus curiae* in support of the position of the Petitioners, the Town of Eagle.

### I. Interests of the League

The League is a voluntary nonprofit association consisting of 264 of the 269 municipalities in the state of Colorado. The League’s membership includes every home rule municipality and 186 of the 191 statutory municipalities in Colorado, which collectively represent 99.9% of the municipal population in the state. The League has for decades appeared before this Court as an *amicus curiae* to present the perspective of Colorado municipalities.

Municipalities throughout the state, both statutory and home rule, have for many years imposed occupational excise taxes pursuant to the broad grant of authority contained in § 31-15-501 (1)(c), C.R.S.<sup>1</sup> (as well as counterpart provisions contained in various home rule charters<sup>2</sup>). Municipalities have understood that, according to the plain wording of the statute and pronouncements by the courts over the years, this broadly worded enabling statute contemplates a wide variety of taxes on businesses which may be imposed based upon a reasonable exercise of local legislative discretion, subject only to certain constitutional constraints. For example,

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<sup>1</sup>The statute provides in relevant part, “The governing bodies of municipalities have the following powers to regulate businesses: . . . To license, regulate, and tax, subject to any law of this state, any lawful occupation, business place, amusement, or place of amusements and to fix the amount, terms, and manner of issuing and revoking licenses issued therefor. . . .”

<sup>2</sup>Although home rule municipalities do not necessarily depend on the enabling statute, it may provide supplemental authority for them to the same extent it does for statutory municipalities if there is no contrary provision in their own charter or if their charter is simply silent. This and other provisions of Title 31 apply equally to home rule municipalities in such circumstances. § 31-1-102 (1), C.R.S. See also, *Leek v. City of Golden*, 870 P.2d 580 (Colo. App. 1993).

municipalities have often imposed occupational excise taxes which are based on the extent to which an occupational privilege is exercised in their jurisdiction, which are transaction-based, which may fluctuate on a periodic basis, and which arguably bear some *indirect* relationship to the economic success of the business being taxed.

Thus, the decision of the Court of Appeals, invalidating Eagle's lodging occupation tax (which is assessed against the business owner on a per occupied room, per night basis) is of great concern to many Colorado municipalities. Unless reversed by this Court, the Court of Appeals' decision that such taxes are unconstitutional local income taxes, or that the enabling statute implicitly prohibits any occupation tax that fluctuates based upon the extent to which a taxable privilege is exercised, threatens to render similar municipal taxes throughout the state invalid.

## **II. Issue Presented for Review**

As announced by the Court in its order of September 13, 1999, the issue before this Court is limited to the following: whether the court of appeals erred in holding that, in accordance with this Court's decision in Board of Trustees of the Town of Minturn v. Foster Lumber Co., 190 Colo. 479, 548 P.2d 1276 (1976), Eagle's tax is not a valid "occupation tax" under section 31-15-501(1)(c), C.R.S., because it fluctuates each month based upon the number of room "sales".

## **III. Statement of the Case**

The League hereby adopts by reference the statement of the case and the statement of facts as contained in the Town of Eagle's Opening Brief.

## **IV. Summary of Argument**

It is not completely clear whether the Court of Appeals invalidated Eagle's specific occupation tax based upon some sort of implied exception to the statutory grant of taxing authority in § 31-15-501(1)(c) C.R.S. or upon a finding that the Eagle tax operates as an unconstitutional local income

tax. The Court of Appeals' opinion concludes that Eagle's tax is not a "valid" occupation tax, but does so based on two of this Court's leading precedents invalidating percent-of-gross-revenues "occupation taxes" as unconstitutional local income taxes. Yet, nowhere does the Court of Appeals expressly find that Eagle's tax is an unconstitutional local income tax.

Whatever the basis of the Court of Appeals' decision, however, the League urges this Court to reverse the decision.

The Eagle tax at issue here has no direct relation to the income of those who pay the tax. Taxpayers' income may rise or fall without the amount of tax owed being affected; taxpayers' income may remain constant, but the amount of tax owed may change. Thus, the Eagle tax cannot fairly be characterized as an unconstitutional local income tax under the "direct relation" test announced by this Court in *Town of Minturn v. Foster Lumber Company*, 190 Colo. 479, 548 P.2d 1276 (Colo. 1976) (hereafter, *Minturn*). Language in *Minturn* that occupation taxes don't fluctuate based on "sales" should be read in the context of the facts of that case and not as announcing a wooden rule that any occupation tax that fluctuates based upon business activity is an "income tax," regardless of whether the requisite "direct relation" to the income of the taxpayer exists.

Nor should the language in the *Minturn* opinion regarding occupation taxes not fluctuating based on "sales" be divorced from the factual context of the *Minturn* case and used to infer some sort of exception to the broad enabling statute that grants municipalities the authority to impose business taxes. Such an exception is not provided for in the plain language of the statute. To the extent that the Court of Appeals has discovered such an exception, its decision violates the most axiomatic rules of statutory construction and amounts to "judicial legislation." Contrary to the Court of Appeals' apparent conclusion, municipalities enjoy not only the broad, expressed grant of

authority set forth in this or similar statutes, but also the implied authority to take any action necessary or incidental to carrying out the expressed grant.

The Court of Appeals' new "fluctuation test" could wreak havoc with occupational excise taxes throughout Colorado, many of which may be deemed to fluctuate based upon the economic activity of the business being taxed. The Town of Eagle is not alone among Colorado municipalities in imposing a lodging tax based upon a per-room, per night rental. Of even greater concern, however, is the fact that many other municipal occupation taxes are transaction-based, and thus might well flunk this new "fluctuation test." For example, many municipalities impose a telephone occupation tax on a per-month, per account basis; these taxes are functionally indistinguishable from the lodging excise tax imposed by the Town of Eagle.

Furthermore, the adoption of a tax is a legislative act, which is entitled to deference by the courts under principles of separation of powers and a host of precedents. This deferential standard of review has been demonstrated in a variety of contexts, including judicial review of occupational excise taxes. Of added significance in the instant case is the fact that the legislative act here challenged was taken directly by the *voters* of the Town of Eagle.

## V. Argument

**A. If the Court of Appeals' holding was that the Town of Eagle's occupation tax operates as an unconstitutional local income tax, that decision was in error and should be reversed.**

The Court of Appeals explained its unfortunate finding that the Eagle occupation tax was invalid as follows:

. . . the amount of tax necessarily fluctuates each month based upon the plaintiff's room "sales." And, as we read *Minturn* and *Mountain States*, this mathematical reality precludes the tax from being characterized as an occupation tax (see Appendix A; Op. at 3).



As indicated, the Court of Appeals relied on *Minturn* and *Mountain States Telegraph Company v. City of Colorado Springs*, 194 Colo. 404, 572 P.2d 834 (Colo. 1977) (hereafter *Mountain States*) for its conclusion. In those two cases, this Court invalidated two municipal “occupation taxes” assessed as a percentage of the gross revenues of the taxpaying business. The ordinances in *Minturn* and *Mountain States* were found to function as local income taxes, in violation of Colo. Const. Art. X, Sec. 17.

The issue in this case is whether the *Minturn* and *Mountain States* decisions, which invalidated taxes *necessarily* related to the gross income of the business, compel the invalidation of the Town of Eagle’s tax, which has no necessary relation to the income of the business. The League urges that they do not.

The express holding in *Minturn* makes it completely clear that *Minturn*’s occupation tax was invalidated for the sole reason that it was a local income tax: “We . . . hold that this tax is a tax on income, the levy of which is in excess of the powers delegated to Colorado municipalities” *Minturn*, 548 P.2d at 1278. The League respectfully suggests that in *Minturn*, and its successor *Mountain States*, this Court was not attempting to generally define the extent of municipal authority to adopt occupation taxes pursuant to § 31-15-501(1)(c) C.R.S., nor to determine whether certain exceptions not expressly included in that statute ought to be read into it. Rather, this Court was simply trying to decide whether the occupation taxes at issue in those cases violated the prohibition in Colo. Const. Article X, Sec. 17 on local income taxes. After all, as the *Minturn* Court stated plainly at the outset of its analysis, the “determinative issue” in that appeal was:

. . .whether the tax imposed is a genuine ‘occupation tax’ enacted pursuant to § [31-15-501(1)(c), C.R.S.], or whether it is in reality an income tax which

only the state of Colorado may impose, Colo. Const. Art. Sec. X, Sec. 17

[citation omitted].

*Ibid.* 548 P.2d at 1277.

The *Minturn* Court cited numerous decisions in which occupation taxes had been upheld and recalled its decision in *Johnson v. Denver*, 186 Colo. 398, 527 P.2d 883 (Colo. 1974), wherein the Denver head tax was found not to be an income tax because “it was a uniform, flat fee which bore no relation to income”. *Minturn*, 548 P.2d at 1278. The *Minturn* Court then defined what an income tax is, and followed this statement with the language that has spawned the controversy in this appeal.

The clear inference is that **an income tax, whether net or gross, bears a direct relation to the income or receipts of a business.** An occupation tax bears no such relationship. The latter is a tax upon the very privilege of doing business, and does not fluctuate from month-to-month depending upon the financial success or sales of the enterprise.

*Ibid.* (emphasis added)

The Court concluded that *Minturn*’s percent of gross revenue tax possessed a sufficiently “direct relation” to the income of the business on which it was levied to constitute an unconstitutional local income tax, and held the tax invalid on that basis.

In the present case, the Court of Appeals quoted the language setting forth *Minturn*’s “direct relation” test, but then failed to apply it. Instead, the Court of Appeals zeroed in on the *Minturn* Court’s subsequent statement that occupation taxes don’t fluctuate based on the “sales” of the business.

Without analysis of the fact that this language appeared in an opinion invalidating a percent of gross revenues tax as an unconstitutional local income tax, the Court of Appeals’ decision announces a rule that, as a practical matter, if a tax fluctuates based on some measure of business

activity, *this alone* precludes the tax from being a valid occupation tax. The Court of Appeals cites *Minturn* and *Mountain States* as compelling this result.

In its opinion, the Court of Appeals did not purport to discover in § 31-15-501(1)(c) language adopted by the General Assembly that precludes occupation taxes which fluctuate based on sales or any other measure of business activity. Presumably then, the basis of the Court of Appeals' decision was its assumption that any occupation tax (including a flat tax, such as the one that Eagle has imposed; see Appendix B), which is tied to business activity, operates as an income tax.<sup>3</sup>

The League urges that the Court of Appeals took the language of the *Minturn* decision outside of its context and thus beyond a common-sense construction of the local income tax prohibition in Art. X, Sec. 17 of the Colorado Constitution.

As noted above, *Minturn* involved a local tax at a percent of the taxpayer's gross revenue. When the *Minturn* Court said occupation taxes shouldn't be tied to the financial success or "sales" of a business, it is a fair assumption that the Court was using the term "sales", in context, to indicate or equate to gross revenues. Viewed this way, the language makes sense, since there was a "direct relation" between gross revenue and gross income, sufficient to invalidate the tax.

Extracting the term "sale" from its *Minturn* context and applying it as the Court of Appeals has done here, leads to an unfortunate fiction, in which taxes that obviously lack a "direct relation" to the income of a business are nonetheless invalidated as unconstitutional local "income taxes".

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<sup>3</sup> The precise basis of the Court of Appeals' decision in the case at bar is not altogether clear from the court's opinion. The Court of Appeals either (a) held the Eagle tax invalid as an unconstitutional local income tax, or (b) held the Eagle tax invalid according to some sort of implied exception to § 31-15-501(1)(c), purportedly derived from this Court's instruction in *Minturn* and *Mountain States*. The League objects to the result on either basis, as set forth herein.

To illustrate, a hotel operator in Eagle might have a “bad night”, with only ten low-priced rooms occupied at \$100./night and generating gross income of \$1,000. The next night might be a “good night,” with ten \$200./night rooms occupied and gross income of \$2,000.

Significantly, on both nights, the Town of Eagle’s tax is exactly the same: \$20.00. The hotel’s income is irrelevant to the amount of the tax. There is no “direct relation” between the Town’s tax and the hotel’s income.

Or suppose the hotelier has two \$500/night deluxe suites occupied on one night and ten \$100/night economy rooms occupied the next night. The hotel’s income for each night is exactly the same (\$1,000.00) yet the Town’s tax is \$4 for the first night and \$10 for the second night. Again, the hotel’s income is completely irrelevant to the amount of the tax; there is no “direct relation” between the Town’s tax and the hotel’s income.

It is noteworthy that in *Minturn*, this Court did not find that a tax is an income tax if it bears “some” relation, no matter how indirect or oblique, to the business activity of the business taxed. Instead, *Minturn* requires a “direct relationship”.

There is no such direct relationship here. To the extent that the Court of Appeals’ decision is that the Town of Eagle’s occupation tax operates as an unconstitutional local income tax, that decision was error, and should be reversed.

**B. If the Court of Appeals’ holding was that the Town’s tax runs afoul of some sort of implied exception to the statute granting occupation tax authority to the Town, that decision was in error and should be reversed.**

**(i) Creation of an implied exception to § 31-15-501 (1)(c) defies axiomatic rules of statutory construction.**

The language contained in § 31-15-501 (1)(c), C.R.S. is both broad and plain. Perhaps the

sheer breadth of this enabling authority for municipalities to tax any lawful occupation or business explains why there is only one reported modern case where a municipal occupation tax has been struck down on the theory that it is *ultra vires* the language of the statute itself. In *City of Sheridan v. City of Englewood*, 609 P.2d 108 (Colo. 1980) , the municipality made the mistake of invoking the statute to impose a tax upon the *patrons* of a particular type of business, rather than on the business itself. This gambit obviously flew in the face of the plain language contained in the statute which calls for the taxation of an “occupation” or “business place.”

No court, including the Court of Appeals in the case at bar, has ever found that the language of § 31-15-501 (1)(c) is somehow ambiguous or unclear. The Court of Appeals apparently has simply inferred an exception or a combination of exceptions to the statute which are not evident on the face of the statute itself. Such an inference ignores some of the most basic rules of statutory construction.

It is well established that “Courts will not interpret a statute or an ordinance to mean that which it does not express.” *Burns v. City and County of Denver*, 759 P.2d 748, 749 (Colo. App. 1988). “An exception not made by the Legislature cannot be read into the statute.” *Karoly v. Industrial Commission of Colorado*, 176 P. 284, 286, 65 Colo. 239 (1918). “For the court to infer an implied exception (to a statute) is tantamount to judicial legislation.” *Golden Animal Hospital v. Horton*, 897 P.2d 833 (Colo. 1995).

On the contrary, when enabling authority is expressed in very broad terms, the courts will naturally construe it expansively and inclusively. For example, in one recent case construing broadly worded zoning enabling statutes, the Court of Appeals held that a statutory town could adopt off-site parking restrictions (even though the statute did not “specifically mention” such restrictions) on the theory that the statute “grants municipalities broad discretion” to make this determination for

themselves. *Lanzi v. Town of Grand Lake*, 937 P.2d 785, 789 (Colo. App. 1996). In another land use exaction case involving the construction of an enabling statute, this Court ruled, “While the imposition of a development fee as such is not authorized in this section, we hold that such a charge is *within the general contemplation of this broadly worded statute.*” *City of Arvada v. City and County of Denver*, 663 P.2d 611, 614 (Colo. 1983) (emphasis supplied).

These holdings are no doubt closely related to the principle that municipalities enjoy not only those powers expressly set forth in the statutes, but also a range of implied authority that can and should be inferred from the statutes. In fact, construction of the entirety of Title 31 is governed by this principle as codified at § 31-15-101 (2), C.R.S.:

All such municipalities shall have the powers, authority, and privileges granted by this title and by any other law of this state together with such implied and incidental powers, authority, and privileges as may be reasonably necessary, proper, convenient, or useful to the exercise thereof. All such powers, authority, and privileges are subject to the restrictions and limitations provided for in this title and in any other laws of this state.

Applied in: *Durango Transportation, Inc. v. City of Durango*, 824 P.2d 48 (Colo. App. 1991).

The statute enabling municipalities to impose occupational excise taxes does not, on its face, purport to spell out the administrative details of such taxes, including the incidents of taxation or the methodology that municipalities must use in imposing such taxes. The obvious import of this broadly worded delegation of authority is that municipalities are left with considerable legislative discretion to structure occupational excise taxes as necessary to meet the needs of their own communities.

**(ii) The Court of Appeals’ “fluctuation test” could result in the invalidation of occupational excise taxes in many other municipalities.**

One basis upon which many municipalities calculate and impose occupational excise taxes is the “extent” to which an occupational privilege is exercised within the municipality. In fact, this

Court has acknowledged this to be one of the defining characteristics of an excise tax. “Where the tax is imposed directly by the legislature without assessment, *and is measured by the extent of a privilege exercised by a taxpayer without regard to the nature or value of his assets*, it is an excise.” *Cherry Hills Farms v. City of Cherry Hills Village*, 670 P.2d 779, 782 (Colo. 1983), citing *Walker v. Bedford*, 93 Colo. 400, 405, 26 P.2d 1051, 1053 (1933). Of course, if the “extent” to which a particular taxpayer exercises the privilege varies over time, the taxpayer’s obligation will necessarily fluctuate.

A fluctuating occupational excise tax was specifically condoned by this Court in a Commerce City case involving a method of taxation quite similar to that adopted by the Town of Eagle. In the Commerce City case, the municipality taxed the business of an auto auctioneer by imposing a flat levy on each vehicle sold. The decision in favor of the City turned on the question of the distinction between a specific occupation (excise) tax and a sales tax; the discussion by the Court is instructive on the issue of fluctuation:

We acknowledge that the tax imposed by Commerce City will fluctuate with the number of motor vehicles transferred at auction. This fluctuation, however, does not render the tax a sales tax, since the amount of the tax is not based on the purchase price of the vehicle sold at auction. Rather, the amount of the tax varies with the number of cars transferred and, to that extent, is directly related to the volume of business conducted at the auction. The tax, therefore, is clearly not a sales tax. Because the tax ordinance imposes a fixed amount upon the transfer of ownership of a motor vehicle at auction without regard to the value of the vehicle sold, we conclude that the tax in question is an excise tax imposed on the privilege of conducting a motor vehicle auction within the city.

*Colorado Auto Auction v. City of Commerce City*, 800 P.2d 998 (Colo. 1990). Once again, to the “extent” a business privilege is exercised, and to the extent the “volume” of business activity increases, the obligation to pay an excise tax may increase. These principles appear to have been taken for granted in many of the occupation tax cases decided through the years, especially in several

of the so-called "head tax" cases, where the amount of the tax payable is more or less correlated to the size (i.e. prosperity) of the business taxed. Indeed, in some of the earlier cases, the courts seemed to favor graduated head taxes whereby, as an employer grew or became more prosperous, the business would have to remit a higher tax. See: *Jackson v. City of Glenwood Springs*, 122 Colo. 323, 221 P.2d 1083 (1950).

If the Court of Appeals decision is that periodic fluctuation somehow renders an occupational excise tax *ultra vires* the authority of § 31-15-501 (1)(c) (or perhaps not an excise tax at all), this novel theory places many municipal occupation taxes at risk, unless reversed by this Court.

First at least two other Colorado municipalities, Ridgway and Ouray, impose a lodging occupation tax in precisely the same manner as does the town of Eagle. Copies of the ordinances from those two towns are attached hereto as Appendix C.

Second, other types of occupational excise taxes are imposed by municipalities on a per-account or per-transaction basis in a manner which closely parallels the Eagle tax. The most outstanding example of this approach is in the area of telephone occupation taxes.

For over thirty years, U S West Communications has not been required to obtain a franchise from any municipality in order to provide services within the municipality. *Englewood v. Mountain States Telephone and Telegraph Co.*, 163 Colo. 400, 431 P.2d 40 (1967). Prior to the decision in *Englewood*, a number of municipalities had entered into franchise agreements with the phone company that included a franchise fee imposed on a percentage of gross receipts basis (these franchise provisions did not constitute unconstitutional local income taxes, because franchise fees are a matter of contract with the franchisee, rather than an exercise of the municipal taxing power). Since franchise agreements could not be required after the Court's decision, many municipalities replaced the franchise fee with a telephone occupation tax, again measured on a gross receipts basis.



However, in *Mountain States* this Court ruled that a municipal telephone occupation tax measured on a gross receipts basis is an unconstitutional income tax. Subsequent to that decision, many municipalities that had imposed a gross receipts tax on the phone company replaced those taxes with telecommunications excise taxes measured on some sort of flat rate basis.

For example, over fifty municipalities assess the tax on a per account basis (see Appendix D<sup>4</sup>). Significantly, some of these cities, such as Denver and Fort Collins (see Appendix E), require the tax to be remitted monthly, and the tax obligation will necessarily fluctuate based upon the amount of business activity conducted by the phone company in any particular month. The League would submit that an active telephone account bears a striking resemblance to an occupied hotel room when used as the basis for assessment of an excise tax and that the decision of the Court of Appeals thus jeopardizes telephone specific occupation taxes statewide.

**(iii) The adoption of any tax is a legislative act which is entitled to deference when reviewed by the courts.**

This Court recently had occasion to reiterate the standard of review to be applied when a plaintiff challenges a legislative act of a municipality, where a municipality is acting pursuant to statutory authority:

The General Assembly has plenary power to establish legislative authority in municipal and quasi municipal entities over matters of public policy, and narrow judicial review thereof under a declaratory judgment action is available. Such review must respect the separation of powers and avoid intruding into the policy making function of the legislative body.

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<sup>4</sup> The Court will note that a few jurisdictions are listed as imposing a “percent of gross revenues” fee in the “rate or fee” column. This is because these jurisdictions generally receive telephone service from phone companies other than U.S. West and these fees are thus franchise terms (not taxes). The court’s decision in *Englewood v. Mt. States Tel. And Tel.*, *supra* did not foreclose franchises with these small independent telephone companies.

*Bennett Bear Creek Farm Water and Sanitation District v. City and County of Denver*, 928 P.2d 1254, 1268 (Colo. 1996); see also, *Cottrell v. City and County of Denver*, 636 P.2d 703 (Colo. 1981). The Court went on to observe, “The applicable test for reviewing legislative or quasi-legislative action involves ascertaining the reasonable relationship between the determination made and the legitimate governmental purpose forwarded.” *Id.*, at 1269. The League respectfully urges this Court to apply the same standard of review in the case at bar.

The Town of Eagle essentially made a policy decision in determining to impose its lodging occupation tax in the way that it did. As more fully set forth in the ordinance itself (attached as Appendix B), revenue derived from the tax is earmarked for the preservation of open space, and the general purpose of the tax was to preserve the “small town” atmosphere of the community. §5.05.010, Eagle Municipal Code. Thus, it was perfectly rational for the tax to be assessed on a per occupied unit basis, because the greater the number of occupied units, the greater the impacts on the community by the traveling public.

Judicial deference toward legislative tax decisions by municipalities has been demonstrated over and over again in appellate decisions, many of which have dealt with occupational excise taxes. In general the courts have simply refused to supplant the legislative choices made by individual municipalities absent some extraordinary circumstance, *e.g.* the patent unconstitutionality of a particular excise.

“In the absence of any showing that it was arbitrarily done, the council’s action is not subject to review by the courts, unless the ordinance so enacted operates as a prohibition of a legitimate occupation or business and one not inherently dangerous to the public welfare.” *Hollenbeck v. City and County of Denver*, 97 Colo. 370, 372, 49 P.2d 435, 436 (Colo. 1935). “It is uniformly held that wide discretion is allowed the legislative power in making classifications of trade and businesses

which may be subject to a license tax.” *Ping v. City of Cortez*, 139 Colo. 575, 577, 342 P.2d 657, 658, (1959).

“The amount of an excise tax is a matter of legislative determination, *as is the subject of the excise.*” *Springston v. City of Fort Collins*, 184 Colo. 126, 131, 518 P.2d 939, 941 (Colo. 1974) (emphasis supplied). Once again, the Town of Eagle has made a perfectly legitimate policy decision that the “subject” of their excise tax should be occupied rooms, not unoccupied rooms and not some combination of the two.

Finally, it should be noted that the tax ordinance at issue in this case was subject to prior voter approval, and represents the majority sentiment of those casting ballots at the Eagle town election held on April 2, 1996.<sup>5</sup> Indeed all municipal tax increases are now subject to advance voter approval pursuant to the requirements of the Taxpayer’s Bill of Rights (TABOR), Art. X, Sec. 20 (4)(a), Colo. Const. This Court has had several occasions to address the validity of voter-approved tax and revenue measures since the adoption of TABOR, and has done its best to respect the democratic process whereby such measures are now adopted. The Court has expressed a generalized “concern for the exercise of the franchise” when a measure is challenged after running the gauntlet of voter approval, and has held that “[p]reventing the voters from considering and approving such a measure, in the absence of clear provisions to the contrary, would unduly restrict the electorate’s prerogative. . . .” *Havens v. Board of County Commissioners of the County of Archuleta*, 924 P.2d 517, 522 (Colo. 1996); see also, *Bickel v. City of Boulder*, 885 P.2d 215 (Colo. 1994); *City of Aurora v. Acosta*, 892 P.2d 264 (Colo. 1995).

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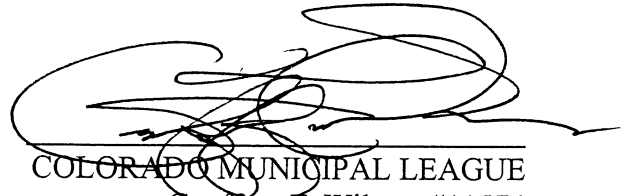
<sup>5</sup>See the preamble to Town of Eagle Ordinance No. 9 (Series of 1996), attached hereto as Appendix B.

The legislative decision to impose the lodging excise tax at issue in this case was made by the citizens of Eagle, exercising their constitutional right to decide on taxes for their community. This fact simply underscores the need for this Court to exercise considerable restraint in determining whether to overturn that decision.

## VI. Conclusion

For the reasons set forth herein, and for the reasons explained in the Town of Eagle's Opening Brief, the League respectfully requests that the decision of the Court of Appeals be reversed.

Respectfully Submitted this 24th day of November 1999.



COLORADO MUNICIPAL LEAGUE

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## CERTIFICATE OF MAILING

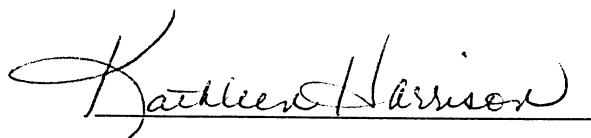
I hereby certify that a true and correct copy of the foregoing Brief of the Colorado Municipal League as an *Amicus Curiae* was placed in the U.S. Postal System by first class mail, postage prepaid, on the 24th day of November 1999, addressed to the following:

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Kathleen Harrison

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COLORADO COURT OF APPEALS  
No. 97CA1977

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February 4, 1999

Paul Scheibe and Judy Scheibe, d/b/a Best Western Eagle Lodge;  
and Eagle Economy Lodging, L.L.C., d/b/a Holiday Inn Express,

Plaintiffs-Appellants,

v.

Town of Eagle, a Colorado statutory town; Roxie Deane, in her  
capacity as Mayor of Eagle; Rick Dunford, Jean Johnson, Bill  
Heicher, Paul Gregg, Tom Ehrenberg, and Bruce Hasbrouck, in their  
capacities as members of the Board of Trustees of the Town of  
Eagle,

Defendants-Appellees.

---

Appeal from the District Court of Eagle County  
Honorable Richard H. Hart, Judge  
No. 97CV46

Division IV  
Opinion by JUDGE RULAND  
Ney and Rothenberg, JJ., concur

JUDGMENT REVERSED  
AND CAUSE REMANDED  
WITH DIRECTIONS

---

Alexander & Crabtree, P.C., C. Scott Crabtree, Stephen  
Fitzsimmons, Denver, Colorado, for Plaintiffs-Appellants

Carter & Sands, P.C., Edward P. Sands, Rifle, Colorado, for  
Defendants-Appellees

Michael T. McDonnell, Englewood, Colorado, Amicus Curiae for  
Colorado Hotel & Lodging Association

David W. Broadwell, Denver, Colorado, Amicus Curiae for Colorado  
Municipal League

Plaintiffs, Paul Scheibe, Judy Scheibe, and Eagle Economy Lodging, appeal from a summary judgment determining that an occupation tax imposed by defendant Town of Eagle is valid. Defendants Roxie Deane, Rick Dunford, Jean Johnson, Bill Heicher, Paul Gregg, Tom Ehrenberg, and Bruce Hasbrouck appear in their official capacities as mayor and trustees of Eagle. We reverse and remand with directions.

Eagle is a statutory town established pursuant to §31-1-203, C.R.S. 1998. Section 31-15-501(1)(c), C.R.S. 1998, authorizes Eagle to levy occupational taxes.

Voters in the Town of Eagle approved an ordinance establishing a "lodging occupation tax." The tax is imposed upon every person or business that furnishes any hotel or motel room or guest house for less than 30 consecutive days. The amount of the tax is \$2 per day per room "sold," and is payable at the end of each month.

Plaintiffs filed this action seeking a declaratory judgment that Eagle is not authorized to impose this type of tax. Following submissions of the parties in connection with cross-motions for summary judgment, the trial court held that the ordinance was valid. This appeal followed.

Relying upon Board of Trustees of the Town of Minturn v. Foster Lumber Co., 190 Colo. 479, 548 P.2d 1276 (1976), and its

sequel, Mountain States Telephone & Telegraph Co. v. City of Colorado Springs, 194 Colo. 404, 572 P.2d 834 (1977), plaintiffs argue that the occupation tax adopted by defendants must be set aside because it fluctuates from month-to-month depending upon the "sales" of lodging by plaintiffs. Defendants respond that the tax is valid because it does not bear a direct relation to the income or profits of plaintiffs' businesses. We agree with plaintiffs.

In Minturn, our supreme court had occasion to address the validity of an "occupation tax" adopted by the Town of Minturn for sales of construction and building materials. The tax was levied at the rate of 2% of the total gross revenue derived from those sales occurring within the corporate limits of the town.

The court concluded the tax was invalid because, in fact, it was an income tax that only the State of Colorado may impose. See Colo. Const. art. X, §14. In so doing, the Minturn court noted its prior decision in Johnson v. City & County of Denver, 186 Colo. 398, 527 P.2d 883 (1974), in which the Denver head tax was addressed in the context of a federal statute. The court stated:

In holding that it [the head tax] was not an income tax, we noted that the tax was levied on the person and the privilege of working in Denver, and that it was a uniform, flat fee which bore no relation to income. The clear inference is that an income tax, whether net



or gross, bears a direct relation to the income or receipts of a business. An occupation tax bears no such relationship. The latter is a tax upon the very privilege of doing business, and does not fluctuate from month to month depending upon the financial success or sales of the enterprise. (emphasis supplied)

Board of Trustees v. Foster Lumber Co., supra, 190 Colo. at 482, 548 P.2d at 1278.

Later, in Mountain States, our supreme court quoted with approval the above statement in Minturn concerning the fact that an occupation tax does not vary depending on the income of the enterprise. On this basis, a tax adopted by Colorado Springs, based upon the total gross revenues derived from service sales by the telephone company, was deemed an invalid income tax.

Here, defendants contend, and the trial court agreed, that Eagle's tax is valid because it consists of a flat rate of \$2 per room rental per day and because this rate remains constant regardless of the price of the rooms or the gross sales of the business. On this basis, defendants argue that there is no direct relationship between the gross revenues and the tax. We are not persuaded.

Although the rate may be constant, the tax paid is not. Rather, the amount of tax necessarily fluctuates each month based upon the number of plaintiffs' room "sales." And, as we read

Minturn and Mountain States, this mathematical reality precludes the tax from being characterized as an occupation tax.

Nor do we view City & County of Denver v. Duffy Storage & Moving Co., 168 Colo. 91, 450 P.2d 339 (1969) as support for defendants' contention. There, a tax was imposed on the number of employees earning more than \$250 per month. However, the tax had no relationship to the gross sales of any employer's business. Further, to the extent defendants suggest that Duffy's analysis should be applied as indicating an exception to the Minturn rule, we note that Minturn was decided after Duffy.

Finally, our supreme court has acknowledged the validity of the Minturn analysis recently in Apollo Stereo Music v. City of Aurora, 871 P.2d 1206 (Colo. 1994).

We recognize, as defendants argue, that, by limiting the tax to only rooms that are rented as opposed to both rented and unrented rooms, the assessments benefit plaintiffs because the amount of the tax is less than it could be. We also note the suggestion in the brief by the Colorado Municipal League that a number of towns have adopted taxes similar to Eagle's and that this opinion may impact those ordinances. Nevertheless, under established rules of stare decisis, this court is not at liberty to disregard the analysis in Minturn. See Order of United

Commercial Travelers v. Boaz, 27 Colo. App. 423, 150 P. 822

(1915).

The judgment is reversed and the cause is remanded with directions to enter judgment declaring the Eagle "lodging occupation tax" invalid.

JUDGE NEY and JUDGE ROTHENBERG concur.

Marilene M. Miller, Town Clerk

Dated: 8.11.97

By: *Marilene Miller*

ORDINANCE NO. 9  
(Series of 1996)

AN ORDINANCE OF THE TOWN OF EAGLE, COLORADO, AMENDING TITLE 5 OF THE EAGLE MUNICIPAL CODE BY THE ADDITION OF CHAPTER 5.05 IMPOSING AN OCCUPATION TAX ON THE PROVISION OF LODGING WITHIN THE TOWN OF EAGLE; SETTING FORTH THE PURPOSES OF SUCH TAX; ESTABLISHING ADMINISTRATIVE AND ENFORCEMENT PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE OF SUCH TAX.

WHEREAS, Section 31-15-501(1)(c), C.R.S., and other applicable law authorizes the Town of Eagle to license, regulate and tax the owners of businesses or the privilege of conducting various classes of businesses within the Town; and

WHEREAS, the registered electors of the Town of Eagle approved the adoption of an occupation tax on the provision of lodging at the rate of two dollars (\$2.00) per day on the short term rental of any hotel room, motel room, lodging room, motor hotel room, guest house room or other similar accommodation located in the Town; and that all revenues derived from such occupation tax be used exclusively for the preservation of agricultural lands and for the acquisition, maintenance and management of land and easements in and around the Town of Eagle for open space buffer zones, trails within open space areas, wildlife habitats and wetland preservation, with such revenues to be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution, at the regular Municipal Election held on April 2, 1996; and

WHEREAS, it is necessary to establish procedures for the imposition and collection of such occupation tax on the provision of lodging.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That Title 5 of the Eagle Municipal Code is hereby amended to include the following Chapter 5.05, entitled "Lodging Occupation Tax", to read as follows:

5.05.010 Purpose. The Board of Trustees hereby finds, determines and declares:

(a) For the purposes of this Chapter, every person that furnishes a lodging room or accommodation for consideration in the Town of Eagle is exercising a taxable privilege. The purpose of this Chapter is to impose a tax which will be paid by every vendor providing such lodging room or accommodation in the Town of Eagle, which tax will provide revenues for the preservation of agricultural lands and for acquisition, maintenance and management of land and easements in and around the Town for open space buffer zones, trails within open space areas, wildlife habitats and wetland preservation;

(b) The Town of Eagle desires to maintain a small Town, not a resort, atmosphere, desires to preserve open space and provide access to public lands, desires to protect wildlife habitat and corridors, and desires to protect riparian corridors, all of which serves to attract tourists, the traveling public and others to the Eagle area, who use lodging rooms and accommodations; and

(c) The provision of lodging rooms and accommodations to the traveling public results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial effect upon the health, safety and welfare of the citizens of the Town of Eagle and upon the expenditures budgeted by the Town which is a matter of local concern; and

(d) The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.

5.05.020 Definitions. When not clearly otherwise indicated by the context, the following words and phrases as used in this Chapter shall have the following meanings:

(a) "Lodging" shall mean hotel rooms, motel rooms, lodging rooms, motor hotel rooms, guest house rooms, or other similar accommodations that are rented to persons for a period of less than one (1) month or thirty (30) consecutive days, but shall not include rentals under a written agreement for occupancy for a period of at least one (1) month or thirty (30) days.

(b) "Person" means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust, or any group or combination acting as a unit, but shall not include the United States of America, the State of Colorado and any political subdivision thereof.

(c) "Sale" means the furnishing for consideration by any person of lodging within the Town.

(d) "Tax" means the tax payable by the vendor or the aggregate amount of taxes due from vendor during the period for which the vendor is required to pay the occupation tax on the provision of lodging under this Chapter.

(e) "Taxpayer" means the vendor obligated to pay the tax under the terms of this Chapter.

(f) "Vendor" means a person furnishing lodging for consideration within the Town.

5.05.030 Levy of Tax. Effective July 1, 1996, there is hereby levied by the Town of Eagle an occupation tax on the provision of lodging upon every person or business that furnishes any hotel room, motel room, lodging room, motor hotel room, guest house room or other similar accommodation for consideration for less than one (1) month or thirty (30) consecutive days within the Town of Eagle in the amount of two dollars (\$2.00) per day, per occupied lodging room or accommodation.

5.05.040 Exemptions. The following transactions shall be exempt from the tax imposed by this Chapter:

(a) Accommodations provided by the United States, the State of Colorado, its departments and institutions, and the political subdivisions of the State in their governmental capacities only;

(b) Accommodations provided by those charitable, religious and eleemosynary organizations that have received from the Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue Code as a tax exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities; and

(c) Accommodations provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar business pursuant to a written agreement for a period of at least one (1) month or thirty (30) consecutive days.

5.05.050 Exemption From General Occupation Tax. Any taxpayer who pays taxes imposed by this Chapter in the amount of fifty dollars (\$50.00) or more in any calendar year shall be exempt from payment of the General Occupation Tax set forth in Chapter 5.02 of this Code.

5.05.060 Collection of Tax. (a) Every vendor providing lodging taxable under this Chapter shall remit such tax on or before the tenth (10th) day of each month on account of lodging provided in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

(b) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.

(c) If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at

such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than sixty dollars (\$60.00) to make returns and pay taxes at intervals not greater than three (3) months.

(d) It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this Chapter. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk or his designee.

(e) The tax to be paid by a vendor shall not be stated and charged separately from the sales price of lodging on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued, provided, vendor may indicate the sales price "includes \$2.00 Town of Eagle Lodging Occupation Tax."

5.05.070 Audit of Records. (a) For the purpose of ascertaining the correct amount of the occupation tax on the provision of lodging due from any person engaged in such business in the Town under this Chapter, the Town Clerk or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.

(b) All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination.

(c) Any exempt organization claiming exemption under the provisions of this Chapter is subject to audit in the same manner as any other person engaged in the lodging business in the Town.

5.05.080 Tax Overpayments and Deficiencies. An application for refund of tax monies paid in error or by mistake shall be made within three (3) year after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date, a vendor overpaid the occupation tax on the provision of lodging, he shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Chapter, the difference together with the interest shall be paid by the vendor within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

5.05.090 Tax Information Confidential. (a) All specific information gained under the provisions of this Chapter which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Chapter, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Chapter or by law, shall be guilty of a violation hereof.

(b) The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.

(c) Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or their duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

5.05.100 Forms and Regulations. The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said occupation tax on the provision of lodging and in particular and without limiting the general language of this Chapter, to provide for:

- (a) A form of report on the provision of lodging to be supplied to all vendors;
- (b) The records which vendors providing lodging are to keep concerning the tax imposed by this Chapter.

5.05.110 Enforcement and Penalties. (a) It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Chapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Chapter. Any person convicted of a violation of this Chapter shall be deemed guilty of a municipal criminal offense and shall be punished by a fine of not more than three hundred dollars (\$300.00), or by imprisonment for a period of ninety (90) days, or by both such fine and imprisonment. Each day, or portion thereof, that any violation of this Chapter continues shall constitute a separate offense.

(b) A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the tenth (10th) day of the month as required by this Chapter, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.

(c) If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.

(d) If any vendor fails to make a return and pay the tax imposed by this Chapter, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at his address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.

(e) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty or perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Chapter. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed under the Rule 106(a)(4) of the Colorado rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.

5.05.120 Tax Lien. (a) The tax imposed by this Chapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior lien superior to all other liens on all the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any Town police officer, the Eagle County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner

as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.

(b) The tax imposed by this Chapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

5.05.130      Recovery of Unpaid Tax. (a) The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.

(b) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any attorney's time or the reasonable attorney's fees charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

(c) The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

(d) Such actions may be actions in attachment, and writs of attachment may be issued to the Eagle police or Eagle County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any police officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing bond therefor.

(e) It shall be the duty of the Town Attorney, when requested by the Town Clerk, 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.

(f) The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent ad valorem taxes.

5.05.140      Status of Unpaid Tax in Bankruptcy and Receivership. Whenever the business or property of a taxpayer subject to this Chapter shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Chapter and for which the taxpayer is in any way liable under the terms of this Chapter shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and 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 Town Clerk the amount of any taxes due and payable under this Chapter, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.

5.05.150      Hearings, Subpoenas and Witness Fees. (a) Hearings before the Town Clerk pursuant to provisions in this Chapter shall be held pursuant to Chapter 2.20, Procedures for Hearings, of this Code. Any subpoena issued pursuant to this Chapter may be enforced by the Eagle Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Chapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at his discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.



(b) The Eagle Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the Court.

5.05.160 Depositions. (a) The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

5.05.170 Statute of Limitation. (a) Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Chapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable. Nor shall any lien continue after such period, except for taxes assessed before the expiration of such three (3) year period, notice of lien with respect to which has been filed prior to the expiration of such period.

(b) In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.

(c) Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

5.05.180 Open Space Preservation Fund. There is hereby created a fund to be known as the "Open Space Preservation Fund". All of the revenues derived from the occupation tax on the provision of lodging imposed by this Chapter shall be placed in such Fund. All expenditures from such Fund shall be used exclusively for the preservation of agricultural lands and for the acquisition, maintenance and management of land and easements in and around the Town for open space buffer zones, trails within open space areas, wildlife habitats and wet land preservation.

5.05.190 Exemption From Revenue Limitation. The occupation tax on the provision of lodging imposed by this Chapter and the use of revenues derived from said tax for open space preservation was approved by the electors of the Town of Eagle on April 2, 1996. As a part of said approval, the revenues are to be collected and spent as a voter approved revenue change, not withstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.

Section 2. The Sections, sentences, clauses and provisions of this Ordinance are intended to be severable; if any such Section, sentence, clause or provision is declared unconstitutional, invalid or unenforceable by the valid judgment of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not effect the remaining portions of this Ordinance.

Section 3. The tax imposed by this Ordinance shall be effective July 1, 1996.

INTRODUCED, READ, PASSED, ADOPTED, AND ORDERED PUBLISHED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado, held on May 14, 1996.

TOWN OF EAGLE, COLORADO,

By: [Signature]  
Mayor

ATTEST:

[Signature]  
Town Clerk

Publication Date:

May 23, 1996

Trustee Dunford introduced, read and moved the adoption of the ordinance titled,

AN ORDINANCE OF THE TOWN OF EAGLE, COLORADO, AMENDING TITLE 5 OF THE EAGLE MUNICIPAL CODE BY THE ADDITION OF CHAPTER 5.05 IMPOSING AN OCCUPATION TAX ON THE PROVISION OF LODGING WITHIN THE TOWN OF EAGLE; SETTING FORTH THE PURPOSES OF SUCH TAX; ESTABLISHING ADMINISTRATIVE AND ENFORCEMENT PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE OF SUCH TAX.

and upon adoption that it be published pursuant to law and recorded in the Book of Ordinances.

Trustee Hasbrouck seconded the motion. On roll call, the following

Trustees voted "Aye":

Deane Dunford

Ehrenberg Gregg

Hasbrouck Heicher

\_\_\_\_\_

\_\_\_\_\_

Johnson - Absent

Trustees voted "Nay":

\_\_\_\_\_

\_\_\_\_\_

tating the settlement of estates and corporate dissolutions.

(Code 1950, § 166E.23)

**Sec. 53-377. Statute of limitation.**

(a) The taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this article shall not be assessed, nor shall any notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced more than three (3) years after the date on which the tax was first 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 (1) year after the filing of notice thereof.

(b) In case of a false or fraudulent return made with intent to evade the tax imposed by this article, the tax, together with interest and penalties thereon, may be assessed or proceedings for the collection of such taxes begun at any time.

(c) Where, before the expiration of the time prescribed in this section for the assessment of tax, both the manager and the taxpayer have consented in writing to an assessment after such time, the tax may be assessed any any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. No lien shall continue under this article beyond the period provided for assessing the tax unless taxes have been assessed within the period, as it may be extended, and the lien shall then continue for one (1) year after expiration of any such period, unless otherwise specifically provided in this article.

(Code 1950, § 166E.18; Ord. No. 927-91, § 7, 12-9-91)

**Sec. 53-378. Violations; evasion of collection or payment of tax.**

It shall be a violation of this article for any vendor to refuse to make any return provided to be made in this article or to make any false or

fraudulent return or any false statement in any return or to fail or refuse to make payment to the manager of revenue of any taxes collected or due the city, or in any manner to evade the collection and payment of the tax, or any part thereof, imposed by this article, or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax imposed by this article. Any corporation making a false return or a return containing a false statement shall be guilty of a violation of this article.

(Code 1950, § 166E.24)

**Secs. 53-379—53-395 Reserved.**

**ARTICLE VIII. TELECOMMUNICATIONS  
BUSINESS TAX**

**Sec. 53-396. Title.**

This article may be referred to and shall be known as the telecommunications business tax article.

(Code 1950, § 166G.1)

**Sec. 53-397. Purpose of tax.**

The tax levied under this article is imposed purely for the purpose of raising revenue to support the government of the city, and is in addition to all other taxes, excises, license fees or charges levied or imposed under any other provision of the Code or ordinance of the city, or under the general laws of the state. Payment of the tax imposed by this article shall not relieve a person from the payment of any other tax or charge unless specifically so provided in the other taxing or charging enactment. Neither the nonpayment, delinquency in payment, nor any violation of this article shall be grounds for the suspension or revocation of any license issued by any licensing authority pursuant to the statutes of the state or the Charter or Code of the city.

(Code 1950, § 166G.5)

**Sec. 53-398. Administration of article; rules and regulations.**

The administration of this article is vested hereby in, and shall be exercised by, the manager of revenue, who may prescribe rules and regulations in conformity with this article pertaining to the making of returns, the payment of the tax, and for its ascertainment, assessment and collection. The manager may delegate the administration of this article or any part thereof to employees or agents of the department of revenue. (Code 1950, § 166G.12)

**Cross reference**—Rules and regulations generally, § 2-91 et seq.

**Sec. 53-399. Definitions.**

As used in this article, the following words, phrases and their declensional and inflectional forms shall have the meanings given to them in this section except where the context clearly indicates and requires a different meaning:

- (1) *Account* means a periodically rendered statement to a customer of a telecommunications business listing charges and credits.
- (2) *Local exchange telecommunications* means telecommunication services of the type that provide through any means, irrespective of ownership of the media through which such services are provided, a local dial-tone line and local usage necessary to send or receive a telecommunication within an "exchange area" as defined by the Public Utilities Commission of the State of Colorado and, further, includes any other service or feature that may be added to the statutory definition of "basic local exchange service" found in Subsection 40-15-102(3), C.R.S., by the commission under Subsection 40-15-502(2), C.R.S.
- (3) *Shall* and *must* are mandatory and not directory.
- (4) *Telecommunications* means communication services wherein devices or instruments, operable by the general public as opposed to the employees of a telecommunications business only, using electromag-

netic wire or radio waves control or direct the sending and receiving of messages at a distance. Telephone and telegraph companies operating as public utilities are included in the definition, but commercial broadcasters of radio and television programs are not.

- (5) *Telecommunications business* means a business providing telecommunications to its customers.

(Code 1950, § 166G.2; Ord. No. 730-98, § 1, 11-2-98)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

**Sec. 53-400. Imposition of tax.**

For each Gregorian calendar month from and after September 30, 1976, a tax on the privilege of engaging in the telecommunications business within the city is levied hereby upon each business so engaged in the following amounts: For each of the months of 1976 remaining after September 30, 1976, of three and thirty-hundredths dollars (\$3.30) and, for each of the months ensuing, beginning January 1, 1977, until December 31, 1983, of eighty-eight hundredths dollars (\$0.88) and, for each of the months thereafter ensuing, beginning with January 1, 1984, of one and twelve-hundredths dollars (\$1.12), for each account of such business regarding a customer for which local exchange telecommunications are provided by said business within the city.

(Code 1950, § 166G.3; Ord. No. 555-83, § 1, 10-11-83; Ord. No. 730-98, § 2, 11-2-98)

**Sec. 53-401. Exemptions.**

Nothing in this article shall be construed so as to empower the city to levy and collect the tax imposed hereby upon any person not within the taxing power of the city under the Constitutions of the United States and the State of Colorado.

(Code 1950, § 166G.11)

**Sec. 53-402. Payment of tax.**

The tax imposed by this article shall be due and payable to the manager of revenue on the fifteenth calendar day of the second month immediately following the calendar month for which

the tax is levied; and on or before the due and payable date, each business subject to the tax shall prepare and file a return for the , calendar month for which the tax is levied with, and pay to, the manager the tax due for such period.  
(Code 1950, § 166G.4)

**Sec. 53-403. Contents of return.**

The return made by each telecommunications business liable for the payment of the tax under this article shall be in such form as the manager of revenue may require and shall state the total number of accounts for which local exchange telecommunications are provided by the telecommunications business within the city on the first calendar day of the month for the taxable period involved.  
(Code 1950, § 166G.6; Ord. No. 730-98, § 3, 11-2-98)

**Sec. 53-404. Investigations by manager.**

The manager of revenue shall have the right, at any reasonable time, to examine the books and records of any telecommunications business within the city and to make copies of the contents thereof, the manager having the power to cause the deposition of witnesses to be taken in the course of such examination in the manner prescribed by law for depositions in civil actions in courts of this state of general jurisdiction, to the end that the attendance of witnesses and the production of books, records or memoranda may be had. The inspection of books, records and memoranda and the deposing of witnesses relating to an investigation by the manager for the purpose of ascertaining the correctness of a return or for determining the amount of tax due shall be enforceable by citation, capias or other process of the district court of the second judicial district, upon application by the manager, and the remedies for contempt shall apply.  
(Code 1950, § 166G.7)

**Sec. 53-405. Assessments.**

If any person neglects or refuses to make a return as required by this article, the tax shall be assessed in the amount estimated by the manager of revenue to be due, based upon such information

as may be available, with or without conducting an investigation, for the period for which no return was made, adding thereto the penalty and interest set forth herein; and, further, the assessment shall be modified only in accordance with such facts that the manager finds to be correct received from such person within twenty (20) calendar days from the date of mailing to such person by certified mail notice of the assessment.  
(Code 1950, § 166G.8)

**Sec. 53-406. Penalties and interest.**

If any part of a deficiency in the payment of the tax imposed by this article is caused by

or due to the negligence of the taxpayer or intentional disregard of this article or rules and regulations promulgated by the manager of revenue hereunder, but without the intent to defraud, there shall be added as penalty ten (10) per centum of the total amount of the deficiency, and in such case interest shall be collected at the rate of one per centum for

or due to the negligence of the taxpayer or intentional disregard of this article or rules and regulations promulgated by the manager of revenue hereunder, but without the intent to defraud, there shall be added as penalty ten (10) per centum of the total amount of the deficiency, and in such case interest shall be collected at the rate of one per centum for each month or fraction thereof on the amount of the deficiency from the time the return and payment were due. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added as penalty fifty (50) per centum of the total amount of the deficiency and interest shall be collected at the rate of one per centum for each month or fraction thereof on the amount of the deficiency from the date the return and payment of the tax were due.  
(Code 1950, § 166G.9)

#### Sec. 53-407. Remedy by action at law.

If a telecommunications business liable for the payment of the tax imposed under this article shall fail to pay the tax, or any portion thereof, or any penalty or interest thereon, when due, the manager of revenue may recover in an action at law, without first attempting extrajudicial remedies, the amount of such taxes, penalties and interest in any court having jurisdiction, and the assessment made by the manager, shall be prima facie evidence of the amount of the debt due the city.  
(Code 1950, § 166G.10)

#### Sec. 53-408. Tax credit.

All amounts due under Ordinance No. 131, Series of 1946, as amended, and Ordinance No. 35, Series of 1917, from and after June 30, 1976, and paid by a telecommunications business and not refunded by the city shall be a credit in favor of such telecommunications business on account for any liability created under this article, and such amounts shall be and remain unconditionally due and payable, constituting a debt to the city payable in

conformity with the terms and provisions of such ordinances, as amended, without regard to the enactment of the ordinance creating this article and the provisions hereof.  
(Code 1950, § 166G.14)

#### Secs. 53-409—53-425. Reserved.

#### ARTICLE IX. RESERVED\*

#### Secs. 53-426—53-470. Reserved.

#### ARTICLE X. TAX UPON TAXICAB OPERATORS†

#### Sec. 53-471. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

- (1) *Operator* shall mean any person engaged in the business of transporting persons for hire in and upon the streets, ways and public places of the city by means of one or more taxicabs.
- (2) *Taxicabs* shall mean any vehicle used to transport persons for hire, having a seating capacity of not more than five (5) persons, not including the driver.

(Code 1950, § 169C.1)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

\*Editor's note—Ord. No. 701-86, § 1, adopted Oct. 27, 1986, repealed Div. 2, public service company, which comprised the substantive provisions of article IX, utilities taxes, of this Code. Div. 2, §§ 53-451—53-453, was derived from §§ 168.3-1—168.3-3 of the 1950 Code.

†Cross reference—Taxicabs generally, § 55-16 et seq.

*F.A. Collins*

**Sec. 25-290. Review of District Court decisions by Supreme Court.**

The decision of the District Court may be reviewed in the state Supreme Court upon writ of error by any party.  
(Code 1972, § 103-48)

**Sec. 25-291. Notices to be sent by registered or certified mail.**

All notices required to be given to any taxpayer under the provisions of this Article shall be in writing and, if mailed, prepaid by certified or registered mail, return receipt requested, to the last-known address, and such notice shall be sufficient for the purposes of this Article.  
(Code 1972, § 103-49)

**Sec. 25-292. Tax in addition to other taxes.**

The tax imposed by this Article shall be in addition to all other taxes imposed by law except as herein otherwise provided.  
(Code 1972, § 103-50)

**Sec. 25-293. Hearings to be held in city.**

Every hearing before the Financial Officer shall be held in the city.  
(Code 1972, § 103-51)

**Sec. 25-294. Administrative officer designated.**

The administration of all provisions of this Article is hereby vested in and shall be exercised by the Financial Officer who shall prescribe forms and reasonable rules and regulations in conformity with this Article for the making of returns, for the ascertainment, assessment and collection of taxes imposed and for proper administration and enforcement.  
(Code 1972, § 103-52)

**Sec. 25-295. Statute of limitations.**

(a) The taxes for any period, together with interest and penalties imposed by this Article shall not be assessed nor shall any notice of lien be filed, or distraint warrant be issued or suit for collection be instituted or any other action to collect the same be commenced more than three (3) years after the date on which the tax was or is Supp. No. 1

payable. No lien shall continue after such period, except for taxes assessed before the expiration of such period, a notice of lien with respect to which has been filed prior to the expiration of such period, and in such cases, such lien shall continue only for one (1) year after the filing of notice thereof.

(b) In case of a false or fraudulent return with intent to evade the tax, the tax together with interest and penalties may be assessed or proceedings for the collection of such taxes may be begun at any time.

(c) Before the expiration of such period of limitation, the taxpayer and the Financial Officer may agree in writing to an extension, and the period agreed on may be extended by subsequent agreement in writing.  
(Code 1972, § 103-53)

**Sec. 25-296. Violations.**

It shall be a violation of this Article for any lodging provider or any other person subject to the tax levied herein to refuse to make any return required in this Article or to make any false or fraudulent return or any false statements in any return; or to fail or refuse to make payment to the Financial Officer of any taxes collected or due the city, or in any manner to evade the collection and payment of the tax, or any part imposed by this Article. It shall be unlawful for any person or lodging customer to fail or refuse to pay such tax or evade the payment or to aid or abet another in any attempt to evade the payment of the tax imposed by this Article. Any person making a false return or a return containing a false statement shall be guilty of a violation of this Article.  
(Code 1972, § 103-54; Ord. No. 154, 1987, § 3, 10-20-87)

Secs. 25-297—25-310. Reserved.

**ARTICLE V. UTILITY TAX\***

**DIVISION 1. GENERALLY**

Secs. 25-311—25-325. Reserved.

\*Cross reference—Utilities, Ch. 26.



## DIVISION 2. TELEPHONE

**Sec. 25-326. Levy of tax.**

There is hereby levied against every telephone utility company engaged in the business of furnishing local exchange telephone service within the city, a tax on the privilege of engaging in such business. The amount of such tax shall be seventy cents (\$0.70) per account per month. For the purposes of this Division, *account* shall be defined as a billing of a telephone utility company for service to a customer.  
(Code 1972, § 105-1)

**Sec. 25-327. Local purpose.**

The tax levied in this Division is upon the affected occupation and business in their performance of local functions and is not a tax upon those functions relating to interstate commerce.  
(Code 1972, § 105-3)

**Sec. 25-328. Payment of tax.**

The tax levied by this Division shall be due to the city by the tenth day of each month.  
(Code 1972, § 105-2)

**Sec. 25-329. Failure to pay.**

If any telephone utility company subject to this Division fails to pay any of the taxes due under this Division on the date that the tax is due, the amount in default shall bear interest at the rate of ten (10) percent per annum from the date of default of payment. The full amount of the tax together with all interest accruing shall be and is hereby declared to be a debt due and owing from such utility to the city which shall be due and collectible from such company by civil action in any court of competent jurisdiction.  
(Code 1972, § 105-4)

**Sec. 25-330. Prior occupation tax.**

In enacting this Division, the City Council recognizes that an occupation tax on the business of furnishing local exchange telephone service within the city was previously imposed on Mountain States Telephone and Telegraph Company by virtue of an agreement for the payment of an occupation  
Supp. No. 1

tax equal to two (2) percent of the gross exchange revenues within the city, such agreement being evidenced by a resolution adopted by the City Council on April 3, 1942. Any tax owing by virtue of such agreement which accrued prior to the effective date of the ordinance from which this Division was derived shall remain unconditionally due and payable and shall constitute a debt owing to the city, payable in conformity with the terms and provisions of the agreement as evidenced by the resolution referred to above. All of the terms and provisions of such agreement and of the resolution evidencing the agreement shall remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this Division. The previous agreement for the payment of an occupation tax and the resolution evidencing the agreement, dated April 3, 1942, shall be canceled and of no other force and effect, and the tax herein provided shall be in lieu of all other occupation taxes on the privileges of doing business within the city on any telephone utility company, subject to the provisions of this Division.  
(Code 1972, § 105-5)

**Sec. 25-331. Effective date.**

This Division shall take effect on January 1, 1979.  
(Code 1972, § 105-6)

**Secs. 25-332—25-341. Reserved.**

## ARTICLE VI. GAS COMPANY OCCUPATION TAX

**Sec. 25-342. Short title.**

This Article shall be known and may be cited as the "Fort Collins Gas Company Occupation Tax."  
(Ord. No. 133, 1987, 9-15-87)

**Sec. 25-343. Legislative intent.**

The City Council does hereby find, determine, and declare:

1995  
1995  
1995  
1995

The characteristics  
and rates of the most  
common taxes levied  
by Colorado municipalities

# Municipal Taxes

Municipal Taxes  
Municipal Taxes  
Municipal Taxes  
Municipal Taxes  
Municipal Taxes  
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Municipal Taxes  
Municipal Taxes  
Municipal Taxes  
Municipal Taxes

**Colorado Municipal League**  
1660 Lincoln Street, Suite 2100  
Denver, Colorado 80264  
(303) 831-6411 FAX (303) 860-8175

**Table 11. Utility Occupation Tax - Telephone**

Municipality	Supplier or Franchisee	1995 Rate or Fee	Year*	Duration
Akron	PTI Communications, Inc.	3% of gross revenues	--	20 years
Alamosa	U S West	\$1.25 per account	1979	--
Alma	--	--	--	--
Antonito	PTI Communications, Inc.	--	--	--
Arriba	Eastern Slope Rural Tel.	5% of gross revenues	1990	20 years
Arvada	U S West	\$24,714 per month	1986	20 years
Aspen	U S West	\$6 per account	1979	ongoing
Aurora	U S West	\$3.36 per account per quarter	1986	ongoing
Avon	not specific	\$6 per account	1980	--
Bennett	--	--	--	--
Berthoud	U S West	\$3 per account	1980	ongoing
Black Hawk	--	--	--	--
Blanca	--	--	--	--
Boone	U S West	\$4 per account	1980	25 years
Bow Mar	U S West	\$1,500	1979	periodic
Breckenridge	U S West	\$6.75 per phone account	1980	--
Brighton	U S West	\$4 per account	1978	ongoing
Brush	U S West	\$4 per account (adopted in 1940, renewed in 1976)	1976	--
Buena Vista	U S West	\$3,000	1976	--
Burlington	PTI (Eagle Telecomm.)	5% of gross revenues	1995	10 years
Calhan	U S West	0	--	--
Canon City	U S West	\$4.50 per account	1980	ongoing
Carbondale	U S West	\$340	1966	--
Castle Rock	--	--	--	--
Cedaredge	Delta County Tele-Comm	0	1992	10 years
Center	PTI Communications, Inc.	0	--	--
Central City	--	--	--	--
Cheraw	--	--	--	--
Cherry Hills Village	U S West	\$1.80 per account	1980	ongoing
Cheyenne Wells	--	--	--	--
Coal Creek	--	--	--	--
Collbran	PTI Communications, Inc.	--	--	--
Colorado Springs	U S West	0	1994	--
Columbine Valley	U S West	--	--	ongoing
Commerce City	--	--	--	--
Craig	U S West	\$23,231	1986	ongoing
Crawford	Delta County Tele-Comm	3% of gross revenues	1992	12 years
Crested Butte	U S West	\$0.36/month/telephone acct for local exchange provided	1980	ongoing
DeBeque	U S West	\$3 per account	1981	ongoing
Deer Trail	--	--	--	--
Del Norte	U S West	\$2,000	--	--
Delta	U S West	\$10,500	--	periodic
Denver	Mountain Bell (U S West)	\$1.12 per account per month	1976	ongoing
Dillon	U S West	\$4.80 per telephone account for local exchange service	1976	--
Dinosaur	--	--	--	--
Dolores	PTI Communications, Inc.	being negotiated	--	--
Dove Creek	pending	--	--	--
Durango	U S West	\$4.50 per account	1979	ongoing
Eads	Eastern Slope Rural Tel.	3%	--	--
Eagle	PTI Communications, Inc.	2% of gross revenues	--	--
Eaton	U S West	\$5,000 flat fee	1976	periodic
Elizabeth	Mountain Bell	\$900	1979	ongoing
Empire	--	--	--	--
Englewood	U S West	\$160,000 flat fee	1983	ongoing
Estes Park	U S West	\$4 per account	1978	--
Evans	U S West	\$20,000	1991	--
Fairplay	U S West	\$200	1963	ongoing
Federal Heights	any telephone company	\$4 per account	1978	ongoing
Firestone	U S West	\$50	1966	6 mos.
Flagler	--	--	--	--

\* year of agreement or enactment \*\* indicates "see footnotes"

Table 11. Utility Occupation Tax - Telephone

Municipality	Supplier or Franchisee	1995 Rate or Fee	Year*	Duration
Fleming	Haxtun Telephone Co.	--	--	--
Florence	U S West	\$4.20 per account	1976	--
Fort Collins	U S West	\$0.70 per account per month	1979	--
Fort Lupton	U S West	\$4 per account	1979	ongoing
Fort Morgan	U S West	\$5 per telephone account	1979	--
Fowler	PTI (U S West)	\$900	1978	ongoing
Frisco	U S West	5% of gross revenues	1992	--
Fruita	--	--	--	--
Garden City	--	--	--	--
Genoa	--	--	--	--
Gilcrest	--	\$720	1976	--
Glendale	U S West	\$4.25 per account per quarter + 3% of gross revenue	1978	open
Glenwood Springs	U S West	\$10,800	1976	--
Golden	U S West	\$8 per account	1979	--
Granada	--	--	--	--
Granby	U S West	2% of gross revenues	1970	ongoing
Grand Junction	U S West	\$48,000	1978	revocable
Grand Lake	U S West	\$12 per account	1985	ongoing
Greeley	U S West	\$8.28 per account (no specific contract in force)	1970	--
Greenwood Village	--	--	--	--
Gunnison	U S West	3% of gross revenues	1965	ongoing
Gypsum	PTI Communications, Inc.	3% of gross revenues	1992	20 years
Haswell	Eastern Slope Telephone	two payments a year	--	--
Haxtun	--	--	--	--
Hayden	U S West	\$1,200 per year flat fee	1975	--
Hillrose	--	--	--	--
Holyoke	Phillips County Telephone	0	1975	20 years
Hooper	--	--	--	--
Hotchkiss	--	--	--	--
Hudson	U S West	\$5 per account	--	--
Hugo	Eastern Slope Rural Tel.	5% of gross revenues	1989	20 years
Ignacio	PTI Communications, Inc.	4% of revenue	1995	20 years
Johnstown	U S West	\$3.60 per account	1979	--
Julesburg	U S West	\$4,950	1977	--
Keenesburg	U S West	\$800	1977	ongoing
Kit Carson	--	--	--	--
Kremmling	--	--	--	--
Lafayette	U S West	\$20,000	--	--
La Jara	PTI Communications, Inc.	3% of gross revenues	1995	ongoing
La Junta	Eagle Telecomm./PTI	\$5 per phone	1980	--
Lakewood	U S West	\$842,446	1969	--
Lamar	PTI Communications, Inc.	\$12,540	1979	ongoing
La Salle	U S West	\$5,000	--	--
La Veta	PTI Communications, Inc.	--	--	--
Leadville	U S West	\$6,400 flat fee	1976	--
Limon	U S West	\$3.60 per account	1976	ongoing
Littleton	U S West	\$92,000	1983	ongoing
Log Lane Village	U S West	\$4 per account	--	--
Longmont	U S West	\$263,952 flat fee	1986	annual
Louisville	U S West	\$8 per account	1979	--
Loveland	U S West	\$8.28 per account (assessed annually, based on costs)	1938	--
Lyons	U S West	\$6 per customer	1979	ongoing
Manitou Springs	U S West	\$15,000 flat fee	--	--
Manzanola	--	--	--	--
Meeker	U S West	\$3 per account	1980	--
Minturn	every telephone utility	local service: \$5 per account	1977	ongoing
Monte Vista	U S West	\$5,421	1979	ongoing
Montrose	U S West	\$1.11 per account	--	--
Monument	U S West	\$4.50 per account	1980	ongoing
Morrison	U S West	\$400	1979	--

\* year of agreement or enactment \*\* indicates "see footnotes"

Table 11. Utility Occupation Tax - Telephone

Municipality	Supplier or Franchisee	1995 Rate or Fee	Year*	Duration
Mountain View	U S West	\$2,000	1976	annual
Naturita	Nucla-Naturita Tel. Co.	0	1980	20 years
Nederland	U S West	\$950 flat fee	1979	perpetual
New Castle	U S West	\$6 per account	--	periodic
Northglenn	U S West	\$57,000	--	--
Norwood	--	--	--	--
Nucla	Nucla-Naturita Tel. Co.	n/a	1982	20 years
Nunn	--	--	--	--
Olathe	U S West	\$375 flat rate	--	--
Olney Springs	--	--	--	--
Orchard City	Delta County Tele-Comm	3% of gross revenues	1993	10 years
Orway	--	--	--	--
Ouray	--	--	--	--
Pagosa Springs	Universal Telephone	3% of gross revenues	1972	20 years
Palisade	--	--	--	--
Palmer Lake	U S West	\$6,984 flat fee	--	--
Parachute	--	--	--	--
Parker	--	--	--	--
Pierce	U S West	\$3 per account	1979	--
Poncha Springs	U S West	\$600 flat fee	--	periodic
Pueblo	U S West	\$6 per account	1977	ongoing
Rangely	PTI (U S West)	\$4.50 per account (PTI continued U S West contract)	1978	--
Raymer	--	--	--	--
Rifle	U S West	\$3 per account	1979	--
Rockvale	U S West	\$4.50 per account	--	--
Rocky Ford	PTI Communications, Inc.	\$4.50 per account	1977	--
Saguache	U S West	\$504 until sold to PTI in 1995, then PTI, \$504	1995	ongoing
Salida	U S West	\$8,000 flat fee	1976	--
Sanford	each telephone utility	\$3.50 per telephone account	1988	ongoing
San Luis	--	--	--	--
Seibert	--	--	--	--
Sheridan	U S West	\$25,000	1992	ongoing
Silt	U S West	\$900	--	--
Silver Cliff	--	--	--	--
Silverton	U S West	\$2.75 for each account in town	1978	--
Simla	--	--	--	--
Snowmass Village	U S West	\$14,000	--	--
Steamboat Springs	U S West	\$1.50 per account per quarter	1979	ongoing
Sterling	U S West	--	--	--
Stratton	--	--	--	--
Superior	--	--	--	--
Telluride	U S West	\$.25 per account per month	1976	--
Thornton	U S West	\$8 per account and sales tax on service	1985	20 years
Timnath	--	--	--	--
Vail	U S West	\$5.60 per account	1976	ongoing
Victor	U S West	--	--	--
Walden	PTI Communications, Inc.	--	--	--
Walsenburg	--	--	--	--
Westcliffe	PTI Communications, Inc.	subject to sales tax	1995	20 years
Westminster	U S West	\$0.38 per account per month	1979	ongoing
Wheat Ridge	U S West	\$190,575	1994	annual
Wiggins	Wiggins Telephone Assoc.	\$6 per line	1978	ongoing
Wiley	PTI Communications, Inc.	\$500 flat fee	1978	--
Windsor	U S West	\$4.20 per account	1979	consent
Winter Park	--	--	--	--
Woodland Park	U S West	\$16,000	1989	ongoing
Wray	PTI Communications, Inc.	\$3 per service	1977	--
Yampa	--	--	--	--
Yuma	PTI Communications, Inc.	5% of gross revenues within city limits	1995	10 years

\* year of agreement or enactment \*\* indicates "see footnotes"

*Ouray*ORDINANCE NO. 4  
(Series 1987)

AN ORDINANCE OF THE CITY OF OURAY, COLORADO, ENACTING A LODGING OCCUPATION TAX AND FARMARKING THE REVENUES FROM SUCH TAX TO A TOURISM PROMOTIONAL FUND.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO, as follows:

Section 1:

That Chapter 3 of the Code of the City of Ouray, Colorado, is amended by the addition of a new Section 3-6 to read as follows:

3-6 Lodging Occupation TaxA. Imposition of Tax:

There is hereby levied and charged a Lodging Occupation tax in the amount of \$1.00 per night per occupied room, upon the business of furnishing rooms or accommodations for consideration in a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar lodging business. The tax rate shall be subject to annual review by City Council.

B. Exemptions:

The following transactions shall be exempt from the tax imposed by this section.

1. Accommodations provided to the United States, State of Colorado, the City of Ouray, or any of their agencies or political subdivisions.
2. Accommodations provided to an individual who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, guest ranch or other similar business and who enters into a written agreement for occupancy for a period of at least thirty (30) consecutive days.

C. Collection of Tax:

1. Every vendor providing accommodations taxable by this Section shall collect the tax from each customer and shall remit such tax and make a return to the City on or before the 20th day of each month, on account of accommodations provided in the preceding month. Said return shall contain such information and be in such form as the City may prescribe.

2. The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
3. In the event any vendor collects more than the tax imposed by this Section, such amount shall nonetheless be remitted, in full, to the City.
4. The tax collected by the vendor shall be held in trust by the vendor for the City until remitted to the City.
5. The vendor shall maintain, keep and preserve suitable records of all transactions and such other books and accounts as may be necessary to determine the amount of taxes for which the vendor is liable. All such records shall be kept for at least a period of three (3) years and shall be open to inspection and audit by the City at any reasonable time.
6. Tax returns shall be kept confidential by the City and used only for administration and enforcement purposes.

D. Enforcement:

1. It shall be unlawful for any person to fail to pay the tax imposed by this Section or for any vendor to fail to collect it and remit it to the City or for any person to otherwise violate any provision of this Section.
2. A penalty in the amount of 10% of the tax due or the sum of \$10.00, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the 20th of the month, as required by this Section and 1% interest shall accrue each month on the unpaid balance.
3. If any vendor fails to make an accurate return and pay the tax imposed by this Section, the City may make an estimate, based upon available information of the amount of tax due, and add the penalty and interest provided above. The City shall mail notice of such assessment to the vendor at his address as indicated in City records. If payment is not made within ten (10) days from the date of mailing, the City may proceed as provided in this Section or otherwise allowed by law to collect such estimate and other amounts due.
4. The Tax imposed by this Section shall be a lien upon the goods and business fixtures of the vendor and upon the real property and appurtenant premises

at which the taxable transactions occurred. The City may foreclose such lien in accordance with law and record notices of such lien in the Ouray County records.

5. The City may certify the amount of any delinquent taxes as a delinquent charge upon the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent general ad valorem taxes are collected.
6. Any person convicted of violation of any provision of this Section may be sentenced to a fine not to exceed \$300 or imprisonment in jail not to exceed ninety (90) days, or by both such fine and imprisonment; provided, however, no person under the age of eighteen may be sentenced to any term of imprisonment.

E. Tourism Promotional Fund:

1. There is hereby created a fund to be known as the "Tourism Promotional Fund", which is to be a special fund, separate and distinct from the City's general fund. All of the revenues derived from the Lodging Occupation Tax imposed by this Section shall be placed in this Tourism Promotional Fund. All interest derived from the investment of revenues within this special fund shall also be deposited for the benefit of said fund.
2. All expenditures of revenue derived from the imposition of tax hereby authorized shall be for one or more of the following purposes: promoting tourism; advertising the community; attracting conferences, conventions, and meetings; or for other purposes related to attracting tourist and visitor business to the City.
3. The City shall appoint a five-member tourism board. Said board shall be responsible for establishing a plan to accomplish the purposes set forth above. Thereafter, the board shall prepare a budget, based on the plan, for the following year. Budget preparation shall coincide with that of the City's annual budget preparation. Membership on the tourism board shall consist of one City representative, one representative at large from the Ouray business community, and three representatives from the Ouray Lodging Association selected by the Ouray Lodging Association. Board members shall be subject to reappointment every two years during the month of January following each general election. Board members may serve successive terms.



4. There shall be budgeted from the money received from imposition of the Lodging Occupation Tax an amount equal to three (3) percent thereof to reimburse the City for administrative, enforcement, and clerical expenses incurred in the administration and collection of the tax authorized in this Section, provided, however, that for the first year there shall be allocated to the City such additional monies as may be required to defray the actual cost of organizational, clerical, and administrative expenses.

Section 2:

If any provision of this Ordinance or the application of it to any person or circumstance is held invalid by a Court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications. The provisions of this Ordinance are expressly declared to be severable.

Section 3:

The effective date of the tax imposed by this Ordinance shall be September 1, 1987.

INTRODUCED, READ, PASSED and ORDERED PUBLISHED on first reading by the Ouray City Council this 20th day of July, 1987.

CITY OF OURAY, COLORADO

By [Signature]  
Mayor

ATTEST:

[Signature]  
City Clerk

INTRODUCED, READ and ADOPTED on second reading this 3rd day of August, 1987, by the Ouray City Council.

CITY OF OURAY, COLORADO

By [Signature]  
Mayor

ATTEST:

[Signature]  
City Clerk

CERTIFICATE OF ATTESTATION

I, Lucile Zellar, Ouray City Clerk, hereby certify and attest that Ordinance No. 4 (Series 1987) was introduced, read and passed by the Ouray City Council on first reading on July 20, 1987. Said Ordinance was published, in full, in the Ouray County Plaindealer on July 23, 1987, and was thereafter introduced, read and adopted by the City Council on August 3, 1987, and thereafter published in the Ouray County Plaindealer, as required by law.

[Signature]  
Lucile Zellar, City Clerk

3-5 (H)

In addition to any other remedy provided by this ordinance, the City of Ouray shall have the right to recover all sums due by the terms of this ordinance by the obtainance of a judgment and execution thereon in a civil action in any court of competent jurisdiction, and as such remedy shall be cumulative with all other remedies provided herein for the enforcement of this ordinance. For the collection of amounts under Three Hundred Dollars (\$300.00), the Municipal Court of the City of Ouray is hereby declared to be a Court of competent jurisdiction, and any court of record in the County of Ouray is also hereby declared to be a court of competent jurisdiction for the bringing thereof any such actions for the collection of delinquent taxes, interests and costs, due under this ordinance.

H. Unlawful Acts and Penalties: It shall be unlawful for any person or his agent to engage in or carry on any business within the City for which an occupational tax is required until he shall have made payment in full of all taxes imposed by this ordinance and obtained a revenue receipt as herein provided.

Each twenty-four (24) hour period during which said business is conducted without such payment shall constitute a separate offense and violation of this ordinance. For the purpose of this section, the opening of a place of business, or offering to sell, followed by a single sale or the doing of any act or thing in furtherance of the business, shall be construed as to be engaging in carrying on such business.

(Source: New and 1950-1, as amended by 1952-2.)

3 6 A. Imposition of Tax: There is hereby levied and charged a Lodging Occupation tax upon the Business of furnishing rooms or accommodations for consideration in a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar lodging business and upon the business of furnishing sites for consideration for recreation vehicles, trailers, tents, campers and other similar businesses; at the following rates:

	1997	1998	1999	2000 and thereafter
\$1.25/night per occupied rm.	\$1.50/night per occupied rm.	\$1.75/night per occupied rm.	\$2.00/night per occupied rm.	\$2.00/night per occupied rm.
\$1.50/night per occupied space	\$.50/night per occupied space	\$.50/night per occupied space	\$.50/night per occupied space	\$.50/night per occupied space

(Ord. 6, 1997)

B. Exemptions: The following transactions shall be exempt from the tax imposed by this section.

1. Accommodations provided to the United States, State of Colorado, the City of Ouray, or any of their agencies or political subdivisions.

## 3-6(B)(2)

2 Accommodations provided to an individual who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home park, trailer park or other similar business, pursuant to a written agreement for a period of at least thirty (30) consecutive days.

C. Collection of Tax:

1 Every vendor providing accommodations taxable by this section shall collect the tax from each customer and shall remit such tax and make a return to the City on or before the 10th day of each month, on account of accommodations provided in the preceding month. Said return shall contain such information and be in such form as the City may prescribe. (Ord.9-98)

2. The burden of proving that any transaction is exempt from the tax shall be upon the vendor.

3. In the event any vendor collects more than the tax imposed by this section, such amount shall nonetheless be remitted, in full, to the City.

4. The tax collected by the vendor shall be held in trust by the vendor for the City until remitted to the City.

5. The vendor shall maintain, keep and preserve suitable records of all transaction and such other books and accounts as may be necessary to determine the amount of taxes for which the vendor is liable. All such records shall be kept for at least a period of three (3) years and shall be open to inspection and audit by the City at any reasonable time.

6 Tax returns shall be kept confidential by the City and used only for administration and enforcement purposes.

D. Enforcement:

1 It shall be unlawful for any person to fail to pay the tax imposed by this section or for any vendor to fail to collect it and remit it to the City or for any person to otherwise violate any provision of this section.

2 A penalty in the amount of 10% of the tax due or the sum of \$10.00, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the 10th of the month, as required by

## 3-6(D)(3)

this section and 1% interest shall accrue each month on the unpaid balance.

3. If any vendor fails to make an accurate return and pay the tax imposed by this section, the City may make an estimate, based upon available information of the amount of tax due, and add the penalty and interest provided above. The City shall mail notice of such assessment to the vendor at his address as indicated in City records. If payment is not made within ten (10) days from the date of mailing, the City may proceed as provided in this Section or otherwise allowed by law to collect such estimate and other amounts due.

4. The tax imposed by this section shall be a lien upon the goods and business fixtures of the vendor and upon the real property and appurtenant premises at which the taxable transactions occurred. The City may foreclose such lien in accordance with the law and record notices of such lien in the Ouray County records.

5. The City may certify the amount of any delinquent taxes as a delinquent charge upon the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent general ad valorem taxes are collected.

6. Any person convicted of violation of any provision of this section may be sentenced to a fine not to exceed \$300 or imprisonment in jail not to exceed ninety (90) days, or by both such fine and imprisonment; provided, however, no person under the age of eighteen may be sentenced to any term of imprisonment.

E. Tourism Promotional Fund:

1. There is hereby created a fund to be known as the "Tourism Promotional Fund", which is to be a special fund, separate and distinct from the City's general fund. All of the revenues derived from the Lodging Occupation Tax imposed by this Section shall be placed in this Tourism Promotional Fund. All interest derived from the investment of revenues within the special fund shall also be deposited for the benefit of said fund.

2. (a) All expenditures of revenue derived from the first \$1.25 per night, per occupied room and first \$.25 per night, per occupied space and one half of the revenue in excess thereof, shall be for one or more of the following purposes: promoting tourism; advertising the community; attracting

## 3-6(E)(2)(b)

conferences, conventions, and meetings; or for other purposes related to attracting tourist and visitor business to the City.

(b) The remainder of the revenue derived from the tax hereby authorized shall be used for the construction, installation and other acquisition of street, water, drainage, sidewalk, lighting, signage or other public facilities for the improvement and beautification of the City.  
(Ord. 6, 1997)

3. Repealed by Ordinance 13, 1992

4. There shall be budgeted from the money received from imposition of the Lodging Occupation Tax an amount equal to Three (3) percent thereof to reimburse the City for administrative, enforcement, and clerical expenses incurred in the administration and collection of the tax authorized in this section, provided, however, that for the first year there shall be allocated to the City such additional monies as may be required to defray the actual cost of organization, clerical, and administrative expenses.

( Source: Ordinance No. 4, Series 1987)

ORDINANCE NO. 1  
(Series 1992)

AN ORDINANCE OF THE TOWN OF RIDGWAY, COLORADO, ADOPTING A LODGING OCCUPATION TAX.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RIDGWAY, COLORADO, as follows:

Section 1

Chapter 3 of the Ridgway Municipal Code is amended by the addition of a new Section 3 to read as follows:

## CHAPTER 3

## Section 3

## Lodging Occupation Tax

## SUBSECTIONS:

- 3-3-1: Imposition of Tax
- 3-3-2: Exemptions
- 3-3-3: Collection of Tax
- 3-3-4: Enforcement

## 3-3-1: Imposition of Tax:

There is hereby levied and charged a Lodging Occupation tax upon the business of furnishing rooms or accommodations for consideration in a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar lodging businesses in the amount of \$1.00 per night, per occupied room.

## 3-3-2: Exemptions:

The following transactions shall be exempt from the tax imposed by this section.

1. Accommodations provided to the United States, State of Colorado, the Town of Ridgway, or any of their agencies or political subdivisions.
2. Accommodations provided to an individual who is a permanent resident of a hotel, motel, apartment

hotel, lodging house, motor hotel, guest house, or other similar business, pursuant to a written agreement for a period of at least thirty (30) consecutive days.

3-3-3: Collection of Tax:

- A. Every vendor providing accommodations taxable by this Section shall collect the tax from each customer and shall remit such tax and make a return to the Town on or before the 20th day of each month, on account of accommodations provided in the preceding month. Said return shall contain such information and be in such form as the Town may prescribe.
- B. The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
- C. In the event any vendor collects more tax than the tax imposed by this Section, such amount shall nonetheless be remitted, in full, to the Town.
- D. The tax collected by the vendor shall be held in trust by the vendor for the Town until remitted to the Town.
- E. The vendor shall maintain, keep and preserve suitable records of all transactions and such other books and accounts as may be necessary to determine the amount of taxes for which the vendor is liable. All such records shall be kept for at least a period of three (3) years and shall be open to inspection and audit by the Town at any reasonable time.
- F. Tax returns shall be kept confidential by the Town and used only for administration and enforcement purposes.

3-3-4: Enforcement:

- A. It shall be unlawful for any person to fail to pay the tax imposed by this Section or for any vendor to fail to collect it and remit it to the Town or for any person to otherwise violate any provision of this Section.
- B. A penalty in the amount of 10% of the tax due or the sum of \$10.00, whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the 20th of the month, as required by this Section and interest at 1.5%/month shall accrue on the unpaid balance.



- C. If any vendor fails to make an accurate return and pay the tax imposed by this Section, the Town may make an estimate, based upon available information of the amount of tax due, and add the penalty and interest provided above. The Town shall mail notice of such assessment to the vendor at his address as indicated in Town records. If payment is not made within ten (10) days from the date of mailing, the Town may proceed as provided in this Section or otherwise allowed by law to collect such estimate and other amounts due.
- D. The tax imposed by this Section shall be a lien upon the goods and business fixtures of the vendor and upon the real and personal property and appurtenant premises at which the taxable transactions occurred. The Town may foreclose such lien in accordance with law and record notices of such lien in the Ouray County records.
- E. The Town may certify the amount of any delinquent taxes as a delinquent charge upon the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent general ad valorem taxes are collected.
- F. Any person convicted of violation of any provision of this Section may be sentenced to a fine not to exceed \$300 or imprisonment in jail not to exceed ninety (90) days, or by both such fine and imprisonment; provided, however, no person under the age of eighteen may be sentenced to any term of imprisonment.

Section 2 Effective Date

The tax imposed by this ordinance shall be effective March 1, 1992.

INTRODUCED, READ and PASSED by the Board of Trustees of the Town of Ridgway, Colorado, this 8th day of January, 1992.

TOWN OF RIDGWAY, COLORADO

By [Signature]  
Mayor

ATTEST:

[Signature]  
Town Clerk