

**INTRODUCED BY:**

**Councilperson Clark**

**Councilperson Havercroft**

**ORDINANCE OF THE CITY COUNCIL  
OF  
THE CITY OF CASTLE PINES NORTH**

**Series of 2008**

**Ordinance No. 08-03**

**AN ORDINANCE IMPOSING A SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL AND THE FURNISHING OF TAXABLE SERVICES, AND LEVYING A USE TAX ON BUILDING AND CONSTRUCTION MATERIALS AND MOTOR AND OTHER VEHICLES IN THE CITY OF CASTLE PINES NORTH, COLORADO, AND REQUIRING A SALES AND USE TAX LICENSE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO:**

**ARTICLE I - AUTHORITY**

The City of Castle Pines North (the "City") is a statutory municipality incorporated and organized pursuant to the provisions of section 31-2-101 et seq., C.R.S. Section 29-2-102, C.R.S. provides that any incorporated town or city in the State of Colorado may adopt a sales and use tax in accordance with the provisions of article 2 of Title 29, Colorado Revised Statutes.

**ARTICLE II - DECLARATIONS OF POLICY**

A. Section 20(4) of Article X of the Constitution of Colorado ("TABOR") requires any tax policy change by a district that results or would result in a net tax revenue gain to have voter approval in advance; and

B. The City is a "district" subject to the requirements of TABOR; and

C. At an election duly called and conducted on November 6, 2007 pursuant to an order of the Douglas County District Court, a majority of the electors of the City of Castle Pines North voting on the question approved the following Ballot Question 2C:

**BALLOT QUESTION 2C**

SHALL THE CITY OF CASTLE PINES NORTH BE AUTHORIZED TO INSTITUTE A NEW SALES AND USE TAX, ON ALL ITEMS TAXABLE BY LAW, RESULTING IN AN INCREASE TO THE CITY OF CASTLE PINES NORTH OF \$ 420,650 ANNUALLY (ESTIMATED FIRST FISCAL YEAR DOLLAR INCREASE), BEGINNING THE FIRST FISCAL YEAR OF 2008, AND BY WHATEVER ADDITIONAL AMOUNTS ARE

PRODUCED EACH YEAR THEREAFTER, WITH SUCH REVENUES TO BE GENERATED FROM A SALES AND USE TAX NOT TO EXCEED A RATE OF 2.75%, AND SHALL SUCH INCREASED TAXES CONSIST OF SALES AND USE TAXES IMPOSED BY THE CITY THROUGH ORDINANCES ADOPTED FROM TIME TO TIME, SUCH ORDINANCES SUBJECT ONLY TO THE LIMITATIONS CONTAINED IN THE COLORADO AND U.S. CONSTITUTIONS; AND IN CONNECTION THEREWITH AS A VOTER-APPROVED TAX INCREASE, SHALL THE PROCEEDS OF ANY SUCH TAXES, AND INVESTMENT INCOME THEREON, BE RETAINED, COLLECTED, AND SPENT BY THE CITY WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUE THAT MAY BE COLLECTED AND SPENT BY THE CITY, AND SHALL A PERCENTAGE OF THE SALES AND USE TAX AUTHORIZED BE SHARED WITH THE CITY OF CASTLE PINES, IF SUCH A CITY IS INCORPORATED, PURSUANT TO THE REVENUE SHARING AND SETTLEMENT AGREEMENT ENTERED INTO BY THE CITIZENS FOR THE PRESERVATION OF CASTLE PINES NORTH, THE CASTLE PINES NORTH HOMEOWNERS ASSOCIATION, THE COMMITTEE TO PROTECT CASTLE PINES VILLAGE AND THE CASTLE PINES HOMES ASSOCIATION AND APPROVED BY THE DOUGLAS COUNTY DISTRICT COURT IN CASE NO. 06CV2550?

D. TABOR permits the registered electors of the City of Castle Pines North to approve a tax policy change and to adopt a "voter approved revenue change," thus allowing the City to keep and spend revenues in excess of the limitations provided in TABOR and in Section 20(7) thereof.

### **ARTICLE III. – LEGISLATIVE INTENT, ADOPTION, AND DEFINITIONS**

#### **Section 1. Declarations of Policy.**

A. The City declares that the purpose of the levy of the taxes imposed by this Ordinance is for raising funds for the payment of expenses of operating and improving the City and its facilities and for the payment of the principal of and interest due upon any general obligation or special revenue bonds that may in the future be lawfully authorized and issued by or on behalf of the City; and, in accordance with these purposes, the proceeds of the taxes shall be placed in the sales and use tax fund, or other appropriate fund or funds, from which shall be allocated, apportioned, and transferred such sums as may be lawfully appropriated and authorized by the City Council from time to time.

B. It is further declared to be the legislative intent of the City, acting through its duly elected representatives, that, for purposes of this Article, the taxes imposed hereunder shall be reduced by the amount of tax which the City is prohibited from collecting under the State and federal Constitutions and laws by reason of a tax legally imposed and paid to another State or local, including municipal, government on a transaction that would otherwise be taxable pursuant to this Ordinance.

C. It is hereby further declared to be the legislative intent of the City, acting through its duly elected representatives, that, for the purposes of this Article, every person who stores, uses, distributes or consumes in the City any article of tangible personal property or any taxable service subject to the provisions of this Article, which has been purchased at retail, is exercising a taxable privilege.

D. It is hereby further declared to be the legislative intent of the City, acting through its duly elected representatives, that, for the purposes of this Ordinance, every vendor who is engaged in business in the City and who delivers or causes to be delivered to a purchaser in the City any property or service taxable hereunder shall collect the tax imposed by this Ordinance by adding it to the purchase price of such property or service that is purchased in the manner set forth herein.

## **Section 2--Definitions.**

For purposes of this ordinance, the definition of words herein contained shall be as said words are defined in Sections 39-26-102 and 39-26-201, C.R.S., as amended, provided that references to the "state" as the jurisdictional taxing authority shall be read to mean "City." The enumerated definitions set forth in Sections 39-26-1-2 and 39-26-201, C.R.S. shall control, supersede, and govern where there is a conflict between the statutory definitions and the definitions herein set forth. Further, in instances in which the statutory definitions give rise to an exclusion or exemption from the taxes herein imposed, the terms of the statutes shall control. Said definitions of Sections 39-26-102 and 39-26-201, C.R.S., as amended from time to time, are incorporated herein by this reference.

A. "Auction" means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

B. "Business" means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

C. "Charitable organization" means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and which does not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office, or any veterans' organization registered under section 501(c)(19) of the "Internal Revenue Code of 1986," as amended, for the purpose of sponsoring a special event, meeting or other function in the state of Colorado so long as the event, meeting, or function is not part of such organization's regular activities in the state.

D. "City" means the statutory municipality of the City of Castle Pines North or the area within its territorial limits, depending on the context.

E. "City Clerk" means the duly elected and acting City Clerk of the City of Castle Pines North.

F. "Commercial packaging materials" means containers, labels, and shipping cases used or transferred by a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing, or bottling for sale, profit or use that meets all of the following conditions: (1) is used by the person to contain or label a finished product; (2) is transferred by the person along with and as a part of the finished product to the purchaser; and (3) is not returnable to the person so engaged for reuse.

G. "Construction materials" means tangible personal property which, when combined with other tangible property, loses its identity to become an integral and inseparable part of a structure or building project, and the term includes public and private improvements to real property. Construction and building materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling conduit, pipes, and equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms or other items which do not remain as an integral or inseparable part of a structure or project are not construction materials.

H. "Engaged in, or doing business in the City" means the selling, leasing, hiring for use, or delivering in the City, or any activity in the City in connection with the selling, leasing, hiring for use, or delivering in the City, of tangible personal property and taxable services by a retail sale for use, storage, distribution or consumption within the City. This term shall include, but shall not be limited to, the following acts or methods of transacting business:

1. The maintaining within the City directly or indirectly or by a subsidiary of an office, distributing house, sales room or house, warehouse, or other place of business.

2. The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio, or television advertising media, or by any other means whatsoever, of business from persons residing in this state and by reason thereof receiving orders from or selling or leasing tangible personal property to such persons residing in this state for use, consumption, distribution, and storage for use or consumption in this state.

I. "Person" means any individual, firm, partnership, joint venture, corporation or company, association, estate or trust, receiver, trustee, assignee, lessee, or fiduciary, or any group or combination acting as a unit and includes the plural as well as the singular number.

J. "Pre-press preparation supplements" means inserts, attachments, or supplements circulated in or with newspapers that (1) are primarily devoted to advertising and (2) the distribution, insertion, or attachment of which is commonly paid for by the advertiser.

K. "Purchase price" means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the time and place of the exchange, if:

1. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or

2. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft.

In the case of the sale or transfer of wireless telecommunication equipment as an inducement to a consumer to enter into or continue a contract for telecommunication services that are taxable pursuant to this part 1, "purchase price" means and shall be limited to the monetary amount paid by the consumer and shall not reflect any sales commission or other compensation received by the retailer as a result of the consumer entering into or continuing a contract for such telecommunication services. Nothing in this subparagraph shall be construed to define "purchase price" as it applies to the amount a retailer collects from a consumer who defaults or terminates a contract for telecommunication services.

L. "Return" means the sales and use tax reporting forms used to report sales and use tax.

M. "Retailer" or "vendor" means a person doing a retail business, known to the trade and public as such, and selling to the user or consumer, and not for resale.

N. "Security system services" means electronic security services engaged for the warning or protection of persons or property.

O. "Sale" or "sale and purchase" includes installment and credit sales and the exchange of property as well as the sale thereof for money; every such transaction, conditional or otherwise, for a consideration, constituting a sale; and the sale or furnishing of electrical energy, gas, steam, telephone, or telegraph services taxable under the terms of this article. Neither term includes:

1. A division of partnership or limited liability company assets among the partners or limited liability company members according to their interests in the partnership or limited liability company;

2. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;

3. The transfer of assets of shareholders in the formation or dissolution of professional corporations;

4. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;

5. The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

6. The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

7. A transfer of a limited liability company or partnership interest;

8. The transfer in a reorganization qualifying under section 368(a)(1) of the "Internal Revenue Code of 1986", as amended;

9. The formation of a limited liability company or partnership by the transfer of assets to the limited liability company or partnership or transfers to a limited liability company or partnership in exchange for proportionate interests in the limited liability company or partnership;

10. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

11. The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor corporation at the time it acquired such assets, except to the extent provided by subsection (13) of this section. For the purposes of this paragraph (11), a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock.

12. "Sale" or "sale and purchase", in addition to the items included in subsection (N) of this section, includes the transaction of furnishing rooms or accommodations by any person, partnership, limited liability company, association, corporation, estate, receiver, trustee, assignee, lessee, or person acting in a representative capacity or any other combination of individuals by whatever name known, to a person who for a consideration uses, possesses, or has the right to use or possess any room in a

hotel, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, under any concession, permit, right of access, license to use, or other agreement, or otherwise.

13. Except as otherwise provided in this subsection (13), the sales tax is imposed on the full purchase price of articles sold after manufacture or after having been made to order and includes the full purchase price for material used and the service performed in connection therewith, excluding, however, such articles as are otherwise exempted in this article. In connection with the transactions referred to in paragraph (11) of subsection (N) of this section, the sales tax is imposed only on the amount of any increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. Except as otherwise provided in this subsection (13), the sales price is the gross value of all materials, labor, and service, and the profit thereon, included in the price charged to the user or consumer.

P. "Storage" means any keeping or retention of or exercise of dominion or control over tangible personal property within the City.

Q. "Tangible personal property" means corporeal personal property. The term shall not be construed to include newspapers, as legally defined by section 24-70-102, C.R.S., pre-press preparation newspaper supplements which become attached to or inserted in and distributed with such newspapers, or direct mail advertising materials which are distributed in Colorado by any person engaged solely and exclusively in the business of providing cooperative direct mail advertising.

R. "Tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which the vendor is required to report his or her collections, as the context may require.

S. "Taxpayer" means any person obligated to account to the Colorado State Department of Revenue, Treasurer or other designated officials of the City for taxes collected or to be collected or from whom a tax is due under the terms of this Article.

T. "Taxable services" or "services" mean services subject to tax pursuant to this Article.

U. "Treasurer" means the duly elected and acting Treasurer of the City of Castle Pines North, with the duties provided by Sections 31-4-111 and 31-20-301, C.R.S. as well as all other provisions of Colorado law defining the duties of the Treasurer in a statutory city.

V. "Use" means the exercise, for any length of time, by any person within the City of any right, power or dominion over tangible personal property or taxable services including those (1) under a lease or license to use, or (2) pursuant to a transaction whereby tangible personal property together with the services of an operator thereof, is furnished for another person,

irrespective of the fact that during all times that the said property is so furnished, the control of the operation of the same remains in the person so providing the said property, or (3) pursuant to a purchase at retail, either within or without the City.

W. "Wholesale sale" means a sale by wholesalers to retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale, and the latter sales shall be deemed retail sales and subject to the provisions of this Article. This term includes sales of all pre-press preparation printing supplements, as defined by subsection (I) of this section, which are used by a printer for a specific printing contract where the printed product is sold at retail to a customer accepting delivery within this state.

#### ARTICLE IV. LICENSES

A. It shall be unlawful for any person to engage in the business of selling tangible personal property at retail, or to furnish certain services as herein specified, without first having obtained a license therefore, which license shall be granted and issued by the City Clerk, and shall be in force and effect until the thirty-first day of December of the year in which it is issued, unless sooner revoked. Such license shall be granted or renewed only upon application stating the name and address of the person desiring such license, the name of such business and location, and such other facts as the City Clerk may require.

B. It shall be the duty of each such licensee on or before January first of each year during which this Article remains in effect to obtain a renewal thereof if the licensee remains in retail business or is liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the City Clerk to refuse such renewal except revocation for cause of licensee's prior license.

C. For each license issued, a fee of Ten Dollars (\$10.00) shall be paid, which fee shall accompany the application. A further fee of Ten Dollars (\$10.00) shall be paid for each year or fraction thereof for which said license is renewed, provided that only one-half of said Ten Dollar fee shall be charged on licenses issued after July first of any year.

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

E. Each license shall be numbered and shall show the name and place of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

F. Any license may be revoked for cause as provided in Section 39-26-103, C.R.S., as amended, which provision is incorporated herein by this reference.

G. Any person engaged in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, without having first secured a license therefore as provided in this Article, shall be guilty of a violation of this Article.

## ARTICLE V. SALES TAX

### Section 1. Imposition and Rates.

A. SALES TAX. There is hereby levied and there shall be collected and paid a sales tax of two and three-fourths percent (2.75%) upon the sale of tangible personal property and the furnishing of services as follows, subject to the exemptions specified in this ordinance. The sales tax shall apply to the following:

1. On the purchase price paid or charged upon all sales of tangible personal property at retail;
2. In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in the definition of purchase price;
3. For gas and electric service, whether furnished by municipal, public, or private corporations or enterprises; for gas, coal, fuel oil, coke, and electricity furnished and sold for commercial or industrial consumption and not for resale, and upon steam furnished or sold by municipal, public, or private corporations or enterprises when consumed or used by commercial or industrial purchasers;
4. Upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resort, snack bars, caterers, carryout shops, grocery delicatessens, and other like places of business at which prepared food or drink is sold, including sales from pushcarts, motor vehicles, and other mobile facilities. Cover charges, by whatever name known, required to be paid in order to obtain food or drink so furnished, and mandatory service charges, whether described as tips, gratuities, or otherwise, shall be included as part of the amount paid for such food or drink. However, meals provided to employees of the places mentioned in this subsection A.4 at no charge or at a reduced charge and which are considered as part of their salary, wages, or income shall be exempt from taxation under the provisions of this section;
5. Upon the purchase price or charge for the furnishing or sale to persons within the City of informational or entertainment service wherein the relay or transmission of electromagnetic waves through any medium, tangible or intangible, including cable, glass fiber and ambient air, is necessary for the service to be received, including, but not limited to, pay television service, excepting however, telephone and telecommunications services taxable under other provisions of this Article;
6. Upon the purchase price or charge for data processing equipment and pre-written computer programs, but not including modified or customized computer programs

where the modification or customization charge represents more than fifty percent (50%) of the final purchase price or charge of the computer program; and

7. Upon telephone and telegraph services, whether furnished by public or private corporations or enterprises for all intrastate telephone and telegraph service. Mobile telecommunications service shall be subject to the tax imposed by this section only if the service is provided to a customer whose place of primary use is within the City of Castle Pines North and the service originates and terminates within the state of Colorado.

## **Section 2. Collection, Administration, and Enforcement.**

A. The collection, administration, and enforcement of the sales tax imposed by this Article shall be performed by the Executive Director of the Department of Revenue of the State of Colorado in the same manner as the collection, administration, and enforcement of the Colorado State Sales Tax. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, C.R.S., as amended, and all rules and regulations promulgated by the Executive Director of the Department of Revenue pertaining to such collection, administration, and enforcement, are incorporated herein by this reference.

B. At the time of making his return of the tax, as required by this Article, every retailer shall be entitled to subtract from the tax so remitted a sum equal to Three and Thirty One-Hundredths percent (3.30%) of said tax as his fee, said fee to be known as the "Vendor's Fee."

C. If said retailer shall be delinquent in remitting said tax, he shall forfeit the "Vendor's Fee," unless good cause can be shown for such delinquent remittance.

## **ARTICLE VI. USE TAX**

### **Section 1. Imposition and Rates.**

A. There is hereby levied and there shall be collected and paid a use tax of two and three-fourths percent (2.75%) by every person exercising the taxable privilege of using or consuming in the City building and construction materials and for the privilege of storing, using, or consuming in the City any motor or other vehicles, purchased at retail on which registration is required, as set forth in § 29-2-109, C.R.S. The use tax shall not apply to the following:

1. The storage, use, or consumption of any building and construction materials the sale of which is subject to a retail sales tax imposed by the City;

2. To the storage, use, or consumption of building and construction materials purchased for resale in the City either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

3. To the storage, use, or consumption of building and construction materials brought into the City by a nonresident thereof for his own storage, use, or consumption while temporarily within City; however, this exemption does not apply to the storage, use, or consumption of building and construction materials brought into this state by a nonresident to be used in the conduct of a business in this state;

4. To the storage, use, or consumption of building and construction materials by the United States government, or the state of Colorado, its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;

5. To the storage, use, or consumption of building and construction materials by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which building and construction materials enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label, or the furnished shipping case thereof;

6. To the storage, use, or consumption of any article of building and construction materials the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city, county, or city and county equal to or in excess of that imposed by this Article. A credit shall be granted against the use tax imposed by this Article with respect to a person's storage, use, or consumption in the town or city of building and construction materials purchased by him in a previous statutory or home rule town, city, county, or city and county. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city, county, or city and county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Article.

7. To the storage, use, or consumption of building and construction materials and household effects acquired outside of the City and brought into it by a nonresident acquiring residency;

8. To the storage, use, or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of this use tax ordinance;

9. To the storage, use, or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to the effective date of this use tax ordinance.

## **Section 2. Motor and Other Vehicle Use Tax Collection**

A. The two and seventy-five one hundredths per cent ( 2.75 %) use tax provided for herein shall be applicable to every motor vehicle for which registration is required by the laws of the State of Colorado, and no registration shall be made of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents until any tax due upon the use, storage, or consumption thereof pursuant to this ordinance has been paid.

B. The use tax imposed by this ordinance shall be collected by the authorized agent of the Department of Revenue in this county.

C. The proceeds of said use tax shall be paid to the City of Castle Pines North periodically in accordance with an agreement entered into by and between the City of Castle Pines North and the Colorado Department of Revenue.

### **Section 3. Construction and Building Materials Use Tax Collection**

A. The collection of the use tax for construction and building materials shall be administered by the City Council of the City of Castle Pines North, Colorado.

B. The collection and administration of the use tax imposed by this ordinance shall be performed by the City Council of the City of Castle Pines North in substantially the same manner as the collection, administration and enforcement of the Colorado Sales and Use Tax.

## **ARTICLE VII EXEMPTIONS**

A. SALES TAX. There shall be exempt from the sales tax levied under the provisions of this Article the following:

1. All sales to the United States government, to the State, its departments and institutions, and the political subdivisions thereof only when purchased in their governmental capacities.

2. All sales made to charitable organizations when purchased for their regular religious or charitable functions and activities as determined by the Colorado Department of Revenue.

3. All sales of cigarettes.

4. All sales of motor fuel and special fuel.

5. All sales of medical supplies and prosthetic devices.

6. All sales of food for domestic home consumption as defined in 7 U.S.C. section 2012(g), as amended, excluding carbonated water marketed in containers, chewing gum, seeds and plants to grow foods, prepared salads and salad bars, packaged and unpackaged cold sandwiches, deli trays, and hot or cold beverages served in unsealed

containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor and excluding those sales of prepared food and drink.

7. Sales of tangible personal property to purchasers residing or doing business outside the City, provided delivery thereof is made to the purchaser at such residence or business address of the purchaser outside the City by a common carrier, by the seller, or by mail.

8. All sales which the City is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Colorado.

9. All sales of construction materials for use in improving real property outside the City if the purchaser presents to the retailer or vendor a building permit or similar documentation approved by the Treasurer providing evidence that a locally imposed use tax has been paid or is required to be, and will be, paid to the locality in which the real property is located and on which the construction materials are to be used.

10. Sales and purchases of electricity, coal, wood, gas, fuel oil, or coke sold, but not for resale, to occupants of residences, whether owned, leased, or rented by said occupants, for the purpose of operating residential fixtures and appliances that provide light, heat, and power for such residences. "Gas" shall include natural, manufactured, and liquefied petroleum gas.

11. Subject to the provisions above, occasional sales by a charitable organization as provided in Section 39-26-114(18), C.R.S.

12. No sales tax shall apply to the sales of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another municipality or county equal to or in excess of that sought to be imposed by the City. A credit shall be granted against the sales tax imposed by the City with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city, or town. The amount of the credit shall not exceed the sales tax imposed by the City.

13. Wholesale sales.

14. Registered pesticides in agricultural use as defined in Title 35, article 9, Colorado Revised Statutes.

B. USE TAX. There shall be exempt from the use tax levied under the provisions of this Article the use, storage, distribution, or consumption of tangible personal property as follows:

1. Those upon which a sales tax has been imposed and paid under this Article or that are specifically exempted from the sales tax.

2. Those by the United States government, the State, its departments and institutions, and the political subdivisions thereof only when used, stored, distributed, or consumed in their governmental capacities.

3. Those by religious or charitable corporations when property or services are purchased for their regular religious or charitable functions and activities as determined by the State of Colorado Department of Revenue.

4. Those of tangible personal property purchased outside the City for use, storage, distribution, or consumption outside the City by a nonresident of the City while the property is temporarily within the City for the purchaser's own personal, but not business, use, storage, or consumption.

5. Those of tangible personal property purchased at retail or of taxable services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another municipality or county equal to or in excess of that sought to be imposed by the City. A credit shall be granted against the use tax imposed by the City with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous municipality or county. The amount of the credit shall not exceed the sales or use tax imposed by the City.

6. Those of tangible personal property acquired outside the City and brought into the City by a non-resident purchaser acquiring residency in the City.

7. The temporary storage for ninety (90) days or less of construction materials intended for use outside the City, but any use, storage, distribution, or consumption beyond temporary storage shall be taxable.

#### **ARTICLE VIII. SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

#### **ARTICLE IX. EMERGENCY**

The City Council hereby finds, determines and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public health or safety and the same shall be in full force and effect after publication and final passage as by law provided.

In order to provide for collection of the sales and use taxes imposed by this Ordinance through the Colorado Department of Revenue, and their use by the City of Castle Pines North to fund the expenses of municipal government through the balance of 2008, the approved Ordinance must be submitted to the Department of Revenue by May 15, 2008 with the Ordinance to be effective July 1, 2008. For this reason, the public health, safety, and welfare require that the Ordinance become effective immediately.

**INTRODUCED, READ, AND ORDERED PUBLISHED ON APRIL 23, 2008.**

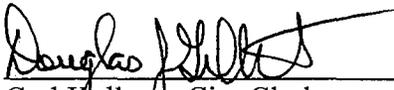
**PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON THURSDAY, APRIL 24, 2008.**

**ADOPTED ON SECOND READING THIS 7th DAY OF MAY, 2008.**

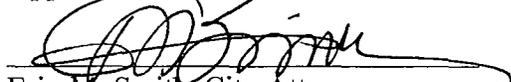
**CITY OF CASTLE PINES NORTH**

  
Maureen A. Shul, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Carl Kollmar, City Clerk  
Doug Gilbert, Deputy Interim City Clerk

Approved as to form:

  
\_\_\_\_\_  
Erin M. Smith, City Attorney