

CHAPTER 4 Revenue and Finance

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CHAPTER 4 Revenue and Finance

ARTICLE I Fiscal Year

Sec. 4-1-10. Fiscal year established.

The fiscal year of the Town shall commence on January 1 of each year and shall extend through December 31 of the same year.

ARTICLE II General and Special Funds

Sec. 4-2-10. Custody and management of funds.

Moneys in the funds created in this Chapter shall be in the custody of and managed by the Town Treasurer. The Town Treasurer shall maintain accounting records and account for all of said moneys as provided by law. Moneys in the funds of the Town shall be invested or deposited by the Town Treasurer in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the Board of Trustees may transfer out of any fund any amount at any time to be used for such purpose as the Board of Trustees may direct.

Sec. 4-2-20. General Fund created.

There is hereby created a fund, to be known as the General Fund, which shall consist of the following:

- (1) All cash balances of the Town not specifically belonging to any existing special fund of the Town.
- (2) All fixed assets of the Town (to be separately designated in an account known as the General Fund Fixed Assets) not specifically belonging to any existing special fund of the Town.

Sec. 4-2-30. Capital Improvement Fund created.

There is hereby created a special fund, to be known as the Capital Improvement Fund, and the funds therein shall be used only for the purposes allowed by law.

Sec. 4-2-40. Conservation Trust Fund created.

There is hereby created a separate fund, to be known as the Conservation Trust Fund. The funds therein shall be used only in accordance with state law and appropriate action by the Board of Trustees.

ARTICLE III Accommodation Tax

Sec. 4-3-10. Legislative intent.

It is declared to be the legislative intent of the Board of Trustees that, on or after January 1, 2011, every person who, for consideration, leases or rents any room, dwelling unit or other accommodation located in the Town shall pay, and every person who furnishes for leasing or rental any such accommodation shall collect, the tax imposed by this Article.

Sec. 4-3-20. Application of tax.

The tax herein imposed shall apply to the leasing or rental of any room or other accommodation in any condominium, dwelling unit, guesthouse or any similar place which any person, for a consideration, uses or possesses or has the right to use or possess for a duration of less than thirty (30) days. As used herein, *person* means and includes any individual, firm, copartnership, joint venture, corporation, society, club, association, joint stock company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity; whether appointed by court or otherwise, or any group or combination acting as a unit, including the United States of America, the State and any political subdivision thereof; and the plural as well as the singular in number.

Sec. 4-3-30. Imposition and rate of tax.

On and after January 1, 2011, there is levied, and shall be paid and collected, an excise tax of three and four tenths percent (3.4%) on the price paid for the leasing and rental of any room, dwelling unit or other accommodation located in the Town.

Sec. 4-3-40. Payment and collection required.

It shall be a violation of this Article for any lessee of a room, dwelling unit or other accommodation located in the Town to fail to pay, or for any lessor of such accommodation to fail to collect, the tax levied by this Article.

Sec. 4-3-50. Recordkeeping.

The Town Clerk may require any person to make such return, render such statement or keep and furnish such records as the Town Clerk may deem sufficient and reasonable to show whether or not such person is liable under this Article for the payment or collection of the tax imposed in this Article.

Sec. 4-3-60. Investigation of books.

For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any taxpayer, the Town Clerk may hold investigations and hearings concerning any matters covered by this Article and may examine any relevant books, papers, records, or memoranda of any such person, requiring the attendance of such taxpayer, or of any such person having knowledge, and taking such testimony and proof as may be necessary to properly ascertain any tax liability. The Town Clerk shall have the power to administer oaths to any person in the course of such investigations or hearings. Production of documents and attendance of witnesses shall be requested by the Town Clerk on his or her own motion or on motion of any party; any request for production or attendance shall inform persons that compliance is voluntary but that, if the request is not complied with, the Town Clerk may apply to the Municipal Judge for issuance of a subpoena.

Sec. 4-3-70. Judge compels attendance.

The Municipal Judge, upon the application of the Town Clerk or Town Attorney, may compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Town Clerk or Town Attorney or any of his or her duly authorized agents, by the issuance and enforcement of subpoenas in the same manner as production of evidence may be compelled before the Court.

Sec. 4-3-80. Tax information confidential.

- (a) Except in accordance with judicial order, or as otherwise provided in this Article, the Town shall not divulge any information

gained from any return filed or as a result of any investigation or hearing held pursuant to the provisions of this Article.

- (b) Nothing contained in this Section shall be construed to prohibit:
- (1) The delivery to a person, or to his or her duly authorized representative, of a copy of any return filed in connection with his or her tax;
 - (2) The publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof;
 - (3) The inspection by the Town Attorney, or any other legal representative of the Town, of the return or other information relating to any taxpayer who may become involved in litigation with the Town in which the information may become material.
- (c) Reports and returns shall be preserved for three (3) years and thereafter until the Town Clerk shall order them destroyed.

(Ord. 10-05 §1, 2010)

Sec. 4-3-90. Licensee - remittance.

Every person who has a duty to collect the tax imposed in this Article must obtain, without charge, a license to collect the tax, and must report on forms prescribed by the Town Clerk such taxes and remit to the Town the collected taxes on or before the twentieth day of the month for the preceding month or months under report.

Sec. 4-3-100. Interest penalties.

If remittances and reports are not received on the due dates specified in Section 4-3-90, a penalty shall be imposed in the amount of ten percent (10%) of the tax liability, and the total amount due, including tax and penalty, will bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof until such reports and remittances are received by the Town Clerk.

Sec. 4-3-110. Violations, penalty.

Any person violating any of the provisions of this Chapter shall be deemed to have committed a violation hereof for each and every day during which any violation is committed, continued or permitted and shall be subject to the penalties contained in Section 1-4-20 of this Code.

Sec. 4-3-120. Estimated tax assessment for nonpayment.

If a taxpayer obligated to collect or to remit any tax in accordance with this Article neglects or refuses to make a return as required by this Article or otherwise fails to pay any accommodation tax as required by this Article, the Town Clerk shall make an estimate of the amount of taxes due for the period for which the taxpayer is delinquent. Such estimate may be based on the average accommodation tax paid by other taxpayers to the Town or be based on another method reasonably determined by the Town Clerk to approximate the taxes owned. The Town Clerk shall provide written notice to the taxpayer of the estimate and any penalty and interest imposed pursuant to Section 4-3-100 and the notice shall inform the taxpayer of the right of appeal and the time limit for filing an appeal. The Town Clerk shall either hand deliver the notice or mail the estimated tax assessment notice to the taxpayer by certified mail addressed to the last known address of the taxpayer.

(Ord. No. 18-04, § 1, 12-18-2018)

Sec. 4-3-130. Appeal of estimated tax assessment.

The taxpayer may appeal the Town Clerk's estimated tax assessment issued pursuant to Section 4-3-120 within thirty (30) calendar days of the date of mailing of the estimated tax assessment notice. An appeal must be made in writing and shall state the reasons for the appeal, the taxpayer's statement of taxes owed, and include documentation to support such appeal and statement of taxes owed. Upon failure to timely file an appeal, the Town Clerk's estimate of taxes owed shall be final and shall be due and owing to the Town. An appeal which is filed timely shall be considered and acted upon by the Town Clerk within forty-five (45) days after the date of receipt. The Town Clerk may conduct a hearing if determined necessary by the Town Clerk to ascertain additional facts relevant to the appeal. The Town Clerk shall provide at least ten (10) calendar days' notice to the taxpayer stating the date, time and location where the Town Clerk will conduct a hearing. 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 by the issuance and enforcement of subpoenas in the same manner as production of evidence may be compelled before the court. The decision of the Town Clerk shall be made in writing, shall be final, and may not be subject to appeal to the Board of Trustees.

(Ord. No. 18-04, § 1, 12-18-2018)

ARTICLE IV Sales Tax

Sec. 4-4-10. Purpose.

The purpose of this Article is to impose a sales tax upon the sale at retail of tangible personal property and the furnishing of certain services in the Town pursuant to the authority granted to incorporated towns of the State by Article 2 of Title 29, C.R.S. This Article shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State, levied by Article 26 of Title 39, C.R.S.

Sec. 4-4-20. Definitions.

For the purpose of this Article, the definition of words herein contained shall be as said words are defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein.

Sec. 4-4-30. Property and services taxed.

- (a) There is hereby levied and there shall be collected and paid a sales tax in the amount as in this Article provided, upon the sale at retail of tangible personal property and the furnishing of certain services, as provided in Section 39-26-104, C.R.S.
- (b) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.
- (c) The gross receipts from sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made.
- (d) No sales tax shall apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid.
- (e) No sales or use tax shall apply to the sale of food purchased with food stamps. For the purposes of this Subsection, *food* shall have the same meaning as provided in 7 U.S.C. § 2012(g), as such section exists on October 1, 1987, or is thereafter amended.

- (f) No sales or use tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. § 1786. For the purposes of this Subsection, *food* shall have the same meaning as provided in 42 U.S.C. § 1786, as such section exists on October 1, 1987, or is thereafter amended.
- (g) No sales tax shall apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city or town equal to or in excess of that sought to be imposed by the Town. A credit shall be granted against the sales tax imposed by the Town 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 Town.
- (h) Notwithstanding any other provision of this Article, the value of construction and building materials on which a use tax has previously been collected by an incorporated town, city or county shall be exempt from the town, city or county sales tax if the materials are delivered by the retailer or his or her agent to a site within the limits of such town, city or county.

(Ord. 13-10 §1, 2013)

Sec. 4-4-40. Exemptions.

- (a) There shall be exempt from taxation under the provisions of this Article all of the tangible personal property and services which are exempt under the provisions set forth in Article 26 of Title 39, C.R.S.
- (b) All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from sales tax when such sales meet both of the following conditions:
 - (1) The purchaser is a nonresident of, or has its principal place of business outside of the Town; and
 - (2) Such tangible personal property is registered or required to be registered outside the limits of the Town under the laws of the State.

(Ord. 13-10 §1, 2013)

Sec. 4-4-50. Amount of tax.

There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in Section 4-4-30 above, a sales tax of two and one-half percent (2.5%) upon the sale at retail of tangible personal property and the furnishing of certain services as provided herein.

Sec. 4-4-60. General provisions.

- (a) For the purposes of this Article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town.
- (b) In the event a retailer has no permanent place of business in the Town or has more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue of the State.

(Ord. 13-10 §1, 2013)

Sec. 4-4-70. 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 in the same manner as the collection, administration and enforcement of the state sales tax. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, C.R.S., and all rules and regulations promulgated by the Executive Director of the Colorado Department of Revenue pertaining to such collection, administration and enforcement, are incorporated herein by this reference.
- (b) At the time of making his or her 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 two percent (2%) of said tax as his or her fee, said fee to be known as the "vendor's fee."
- (c) If said retailer is delinquent in remitting said tax, he or she shall forfeit the vendor's fee unless good cause can be shown for such delinquent remittance.

(Ord. 13-10 §1, 2013)