

CHAPTER 4

Revenue and Finance

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ARTICLE I

Fiscal Year

Sec. 4-1. Fiscal year established.

The fiscal year of the Town shall be the calendar year. (Prior code 3.04.010)

Secs. 4-2—4-10. Reserved.

ARTICLE II

General and Special Funds

Sec. 4-11. 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) Account groups of the Town shall include:
 - a. General Fixed Assets; and
 - b. General Long Term Debt Fund. (Ord. 1-1992 § 1)

Sec. 4-12. Special funds created.

- (a) There is hereby created a special revenue fund to be known as the Street Systems Fund.
- (b) There is hereby created a special revenue fund to be known as the Recreation and Culture Fund.
- (c) There is hereby created a special revenue fund pursuant to the provisions of Section 29-21-101, C.R.S., to be known as the Conservation Trust Fund, and such fund shall be received, budgeted, appropriated and used in accordance with state law.
- (d) There is hereby created a proprietary fund to be known as the Waterworks Enterprise Fund.
- (e) There is hereby created a proprietary fund to be known as the Sanitation Enterprise Fund.
- (f) There is hereby created a fiduciary fund to be known as the Police Pension fund.
- (g) There is hereby created a Sales Tax Capital Improvements Fund for the purpose of municipally provided capital utility improvement projects. That portion of the sales tax imposed by

Section 4-36 of this Chapter equal to one and one-half percent (1.5%) of gross taxable sales shall be deposited to the Sales Tax Capital Improvements Fund immediately upon receipt or collection. Upon deposit in this fund, such revenue and earnings from such revenues is available only for improvements to municipally provided capital projects, such as water, sewer, stormwater and not for general municipal purposes, except as provided in Section 4-41. (Prior code 3.16.010; Ord. 1-1992 §1; Ord. 3-1992 §5; Ord. 9-1992 §§ 1, 2; Ord. 8-1993 §§ 1, 2; Ord. 3-2006 § 1)

Sec. 4-13. Custody and management of funds.

Moneys in the funds herein created 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 Article or by other ordinances or laws or by this Code, 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. (Ord. 1-1992 § 1)

Secs. 4-14—4-30. Reserved.

ARTICLE III

Sales Tax

Sec. 4-31. Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services upon every retailer in the Town as set forth in Section 29-2-105(1)(d), C.R.S. (Prior code 3.08.010)

Sec. 4-32. Definitions.

For the purpose of this Article, the definitions of words contained in this Chapter shall be as defined in Section 39-26-102, C.R.S., and said definitions are incorporated in this Article by this reference. (Prior code 3.08.020)

Sec. 4-33. License requirements.

(a) It is unlawful for any person to engage in the business of selling tangible personal property at retail without first having obtained a license therefor. A sales tax license granted by the Town and issued by the Town Clerk shall be in force and effect until the 31st day of December of the year in which it is issued, or until it is renewed pursuant to this Article, unless sooner revoked.

(b) Such licenses shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business, the location and such other facts as the Town Clerk may require.

(c) It shall be the duty of each licensee, on or before January 31st of each year during which this Article remains in effect, to obtain a renewal thereof if the licensee remains in the retail business or liable to account for the tax provided in this Article, but nothing contained in this Article shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of the licensee's prior license.

(d) In case business is transacted at one (1) or more separate premises by one (1) person, a separate license for each place of business shall be required.

(e) Any person engaged in the business of selling tangible personal property at retail in the Town without having secured a license therefor, except as specifically provided in this Article, shall be guilty of a violation of this Article.

(f) Each license shall be numbered and shall show the name, residence, place and character 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.

(g) No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Article.

(h) The annual fee for such license shall be the sum of ten dollars (\$10.00), which shall be paid to the Town Clerk prior to the issuance of such license.

(i) No license shall be issued without proof of the issuance of a valid state sales tax license to the applicant. (Prior code 3.08.030; Ord. 1-1992 § 1; Ord. 1-1995 § 1)

Sec. 4-34. General provisions.

(a) For the purpose of this Article, all retail sales shall be considered 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.

(b) 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, Title 39, C.R.S., regardless of the places to which delivery is made.

(c) In the event a retailer has no permanent place of business in the Town, or more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26, Title 39, C.R.S., and by the rules and regulations promulgated by the State Department of Revenue.

(d) The amount subject to tax under this Article shall not include state sales and use tax imposed by Article 26, Title 39, C.R.S.

(e) The tangible personal property and services taxable pursuant to this Article shall be the same as the tangible personal property and services taxable pursuant to Section 29-2-105(1)(d), C.R.S.

(f) All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Town sales tax when such sales meet both the following conditions:

(1) The purchaser is a nonresident of, or has his or her principal place of business outside of, the Town; and

(2) Such personal property is registered or required to be registered outside the limits of the Town under the laws of the State. (Prior code 3.08.040)

Sec. 4-35. Collection.

The collection, administration and enforcement of the Town sales tax shall be performed by the Executive Director of the State Department of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. Unless otherwise provided in this Article, the provisions of Article 26, Title 39, C.R.S., shall govern the collection, administration and enforcement of sales tax authorized under this Article. (Prior code 3.08.050)

Sec. 4-36. Schedule of sales tax.

There is hereby imposed on all sales of tangible personal property a tax equal to three and one-half percent (3.5%) of the gross receipts. The imposition of the tax on individual sales shall be in accordance with schedules set forth by the ordinances of the Town. (Prior code 3.08.060; Ord. 1-1987 §1; Ord. 5-1987 §1; Ord. 3-1992 §1; Ord. 3-2006 § 2)

Sec. 4-37. Computation.

The tax imposed under Section 4-36 shall be computed in accordance with the following schedule:

<i>Amount of Sale</i>	<i>Town Sales Tax</i>
\$0.01—0.17	\$0.00
0.18—0.38	0.01
0.39—0.69	0.02
0.70—0.99	0.03
1.00—1.30	0.04
1.31—1.61	0.05
1.62—1.92	0.06
1.93—2.07	0.07

On sales in excess of two dollars (\$2.00), the tax shall be seven cents (\$0.07) on each full two dollars (\$2.00) of the sales price plus the tax shown on the above schedule for the remainder of the sales price. (Ord. 1-1985 §1; Ord. 3-1987. §1; Ord. 3-1992 §2; Ord. 3-2006 § 2)

Sec. 4-38. Nonapplicability.

The Town's sales tax shall not apply to the sale of construction and building materials, as that 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 the Town evidencing that a local use tax has been paid or is required to be paid. (Ord. 1-1987 § 2; Ord. 5-1987 § 2)

Sec. 4-39. Credit for sales or use taxes previously paid to another municipality.

The Town's sales tax shall not 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 municipality equal to or in excess of the Town sales tax then in effect. A credit shall be granted against the Town's sales tax 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 municipality. The amount of the credit shall not exceed the amount of the Town sales tax then in effect. (Ord. 1-1987 § 3)

Sec. 4-40. Vendor's fee.

The vendor (retailer) shall be entitled as collection agent for the Town to withhold a collection fee in the amount of three and one-third percent (3 $\frac{1}{3}$ %) from the total amount remitted by the vendor to the Town each month. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor shall not be allowed to retain any amounts to cover his or her expense in collecting and remitting said tax, and an amount equivalent to the full three and one-third percent (3 $\frac{1}{3}$ %) shall be remitted to the Executive Director by any such delinquent vendor. (Prior code 3.08.070)

Sec. 4-41. Applicability of sales tax.

(a) Any funds remaining in the Sales Tax Capital Improvements Fund as of July 1, 2007, that have not been expended to acquire raw water or needed for that purpose shall be transferred to the Waterworks Operating Fund and be used to reduce any outstanding debt in that fund.

(b) After July 1, 2007, the sales tax imposed by Subsection 4-12(g) as amended, Section 4-36 and Section 4-37 of this Article shall continue to be collected and deposited into the Sales Tax Capital Improvements Fund for municipally provided capital utility improvement projects. Upon deposit in this fund, such revenue and earnings from such revenue is available for capital utility improvements, such as water, sewer and stormwater, provided that the cost, design and scheduling of the projects shall be determined by the Town Board and shall not be used for general municipal purposes. (Prior code 3.08.080; Ord. 3-1992 §3; Ord. 3-2006 § 2)

Secs. 4-42—4-60. Reserved.

ARTICLE IV

Use Tax

Sec. 4-61. Purpose.

The purpose of this Article is to raise revenue and provide a complementary tax to the Town sales tax. The taxes imposed in this Article are a use tax on building and construction materials which are purchased outside the Town for use, storage or consumption within the Town, and a similar use tax imposed on motor vehicles purchased outside the Town by Town residents for use, storage or consumption within the Town. (Ord. 2-1987, § 1)

Sec. 4-62. Definitions.

For the purpose of this Article, the definitions of the words contained in this Article shall be as defined in Section 39-26-102, C.R.S. (Ord. 2-1987, § 1)

Sec. 4-63. General Fund revenues.

All funds received pursuant to this Article shall be deposited into the Town's General Fund. (Ord. 2-1987, § 1)

Sec. 4-64. Application and exemptions.

In no event shall the use tax imposed by the ordinance codified in this Article extend or apply to the following:

- (1) Storage of construction and building materials;
- (2) Storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the Town;
- (3) Storage, use or consumption of any tangible personal property purchased for resale in the Town, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;
- (4) Storage, use or consumption of tangible personal property brought into the Town by a nonresident thereof for his or her own storage, use or consumption while temporarily within the Town;
- (5) Storage, use or consumption of tangible personal property by the United States government, or the State or its institutions or political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;
- (6) Storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use of any article, substance or commodity, which tangible personal property 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;

(7) Storage, use or consumption of tangible personal property and household effects acquired outside of the Town and brought into it by a nonresident acquiring residency;

(8) Storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town, and he or she purchased the vehicle outside of the Town for use outside the Town and actually so used it for a substantial and primary purpose for which it was acquired and he or she registered, titled and licensed the motor vehicle outside of the Town;

(9) 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 such use tax;

(10) 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 such use tax ordinance or proposal. (Ord. 2-1987, § 1; Ord. 1-1992, § 1)

Sec. 4-65. Credit for sales or use taxes previously paid to another municipality.

The Town's use tax shall not apply to the storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule municipality equal to or in excess of two percent (2%). A credit shall be granted against the Town's use tax with respect to a person's storage, use or consumption in the Town, of tangible personal property purchased by him or her in a previous statutory or home rule municipality. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his or her purchase or use of the property. The amount of the credit shall not exceed two percent (2%). (Ord. 2-1987, § 1)

Sec. 4-66. Alternative dispute resolution procedure; deficiency notice or claim for refund.

The taxpayer may elect a state hearing on the Town Clerk's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this Section.

(1) As used in this Section, *state hearing* means a hearing before the Executive Director of the Department of Revenue or delegate thereof as provided in Section 29-2-106.1(3), C.R.S.

(2) When the Town asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the Town shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to Section 29-2-106.1(3), C.R.S. The taxpayer shall also have the right to elect a state hearing on the Town's denial of such taxpayer's claim for a refund of use tax paid.

(3) The taxpayer shall request the state hearing within thirty (30) days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he or she has not

exhausted local remedies or if he or she fails to request such hearing within the time period provided for in this Subsection (3). For purposes of this Subsection (3), exhaustion of local remedies means:

a. The taxpayer has timely requested in writing a hearing before the Town, and such Town has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the Town may submit a brief. The Town shall hold such hearing and issue the final decision thereon within ninety (90) days after the Town's receipt of the taxpayer's written request therefor, except the Town may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the Town shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or

b. The taxpayer has timely requested in writing a hearing before the Town, and the Town has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in paragraph (a) above.

(4) If a taxpayer has exhausted his or her local remedies as provided in Subsection (3) above, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in Section 29-2-106.1(3) and (7), C.R.S.

(5) If the deficiency notice or claim for refund involves only the Town, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the District Court of the County, as provided in Section 29-2-106.1(8), C.R.S., provided that the taxpayer complies with the procedures set forth in Subsection (3) above.

(6) Nothing in this Section shall prohibit the taxpayer from pursuing judicial review of a final decision of the Town as otherwise provided by the ordinances of the Town.

(7) If the Town reasonably finds that the collection of use tax will be jeopardized by delay, the Town may utilize the procedures set forth in Section 39-21-111, C.R.S. (Ord. 2-1987, § 1)

Sec. 4-67. Imposed on materials; amount.

There is imposed on the privilege of using or consuming any construction and building materials of every kind and form purchased outside the Town, for use or consumption within the Town, a use tax of two percent (2%) of the retail purchase price of the construction or building materials. (Ord. 6-1987, § 1)

Sec. 4-68. Payment requirements; exemption certificate issued when.

The use tax imposed by Section 4-67 shall be paid by estimate through payment to the Town Clerk of an amount equal to fifty percent (50%) of the total cost of the project as indicated on the application for the Town building permit and shall be evidenced by the issuance of a building permit by the Town building inspector; provided, however, that the Town shall, when necessary, issue a

certificate of exemption from payment of any further sales or use tax for the materials to be used, stored or consumed pursuant to such building permit. (Ord. 2-1987, § 2)

Sec. 4-69. Collection and administration of use tax on building and construction materials.

The collection and administration of the use tax imposed by Section 4-67 shall be performed by the Town Clerk in substantially the same manner as the collection, administration and enforcement of the state sales and use tax as provided in Article 26, Title 39, C.R.S. The Board of Trustees is authorized to promulgate such additional rules and regulations as may be necessary for the proper administration or enforcement of Sections 4-61 through 4-67. (Ord. 2-1987, § 2)

Sec. 4-70. Imposed on motor vehicles; amount.

There is imposed on the privilege of using, storing or consuming every motor vehicle purchased outside the Town by any resident of the Town for the purpose of use, storage or consumption within the Town a use tax in the amount of two percent (2%) of the retail purchase price of the motor vehicle. (Ord. 2-1987, § 3)

Sec. 4-71. Applicability to motor vehicles.

The use tax imposed by Section 4-70 shall be applicable to every motor vehicle for which registration is required by the laws of the State. (Ord. 2-1987, § 3)

Sec. 4-72. Payment prerequisite to registration and issuance of title.

No registration shall be made of any motor 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 Article has been paid. (Ord. 2-1987, § 3)

Sec. 4-73. Collection of motor vehicle use tax.

The use tax imposed by Section 4-70 shall be collected by the authorized agent of the Department of Revenue in the county in which the purchaser resides. (Ord. 2-1987, § 3)

Sec. 4-74. Proceeds from motor vehicle use tax; payment by County to Town; agreement.

The proceeds of the use tax imposed by Section 4-70 shall be paid to the Town periodically in accordance with an agreement entered by and between the Town and the authorized county agent of the Department of Revenue. (Ord. 2-1987, § 3)

Sec. 4-75. Administration and enforcement agreements authorized for motor vehicle use taxes.

The Mayor is empowered to enter into and execute on behalf of the Town any agreements necessary for the administration and enforcement of this Section and Sections 4-70 through 4-74, in accordance with the provisions of Section 29-2-106(3)(b), C.R.S. (Ord. 2-1987, § 3)

Secs. 4-76—4-80. Reserved.

ARTICLE V

Town Revenues

Sec. 4-91. Revenue changes.

Pursuant to Article X, Section 20 of the Colorado Constitution, the qualified electors of the Town authorize the Town and the Town thereby shall collect, retain and expend the full proceeds of the Town's sales tax, use tax, property tax, all available nonfederal grants, fees and other revenues, not withstanding any state restriction on fiscal year spending, including without limitation the restrictions of Article X, Section 20 of the Colorado Constitution from the date of January 1, 1995 and thereafter. Nothing in this Section shall be interpreted to authorize any increase in the rate of taxation of the sales and use tax without a vote of the people if and when required pursuant to Article X, Section 20 of the Colorado Constitution. (Ord. 4-1996, § 1)

Secs. 4-92—4-10. Reserved.