

Chapter 4 REVENUE AND FINANCE

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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.

(Prior code 6-1-1; Ord. 7 §1, 2010)

Sec. 4-1-20. Annual budget.

Not later than the first regular meeting of the Board of Trustees in September of each year, the Budget Committee, or other duly authorized persons designated by the Board of Trustees, shall submit to the Board of Trustees the itemized annual budget for the ensuing fiscal year. The budget as approved by the Board of Trustees shall be adopted and administered in accordance with the provisions of the Local Government Budget Law of Colorado.

(Prior code 6-1-2; Ord. 7 §1, 2010)

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Sec. 4-1-30. Rate of tax levy.

The Board of Trustees shall by resolution fix the rate of tax to be levied upon all the taxable property within the Town for municipal purposes and, through the Town Clerk, shall officially certify said levy to the County Commissioners prior to October 16 of each year.

(Prior code 6-1-3; Ord. 7 §1, 2010)

Sec. 4-1-40. Annual appropriation.

The Board of Trustees shall pass an ordinance within the last quarter of each fiscal year, to be termed the annual appropriation ordinance for the next fiscal year. In such ordinance the Board of Trustees shall appropriate such sums of money as are necessary to cover the items in its budget and to defray all necessary expenses and liabilities of the Town, specifying the objects and purposes for which such appropriations are made and the amount appropriated for each object or purpose. The total amount appropriated shall not exceed the probable amount of revenue that will be collected during the fiscal year.

(Prior code 6-1-4; Ord. 7 §1, 2010)

Sec. 4-1-50. Publication of financial statements.

The Board of Trustees shall, within twenty (20) days after the adjournment of each regular or special meeting, publish such of its proceedings as relate to the payment of bills, stating for what the same are allowed, the name of the person to whom allowed and to whom paid. It shall also publish a statement concerning all contracts awarded and rebates allowed.

(Prior code 6-1-5; Ord. 7 §1, 2010)

Sec. 4-1-60. Deposits; investments.

The Town Treasurer shall deposit all of the funds and monies which come into his or her possession by virtue of his or her office as Town Treasurer in one (1) or more responsible banks located in the State which have been designated by written resolution of the Board of Trustees. The Board of Trustees may also authorize the Town Treasurer, by written resolution, to invest all or any part of such funds in securities which are authorized for such investment by state law.

(Prior code 6-1-6; Ord. 7 §1, 2010)

Sec. 4-1-70. Annual audit.

The Board of Trustees shall select a qualified person as auditor and cause to be made an annual audit of the financial affairs and transactions of the Town in accordance with the requirements of state law.

(Prior code 6-1-7; Ord. 7 §1, 2010)

ARTICLE 2. GENERAL AND SPECIAL FUNDS

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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 Article, 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. 7 §1, 2010)

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.

(Ord. 7 §1, 2010)

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.

(Ord. 7 §1, 2010)

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

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

(Ord. 7 §1, 2010)

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Sec. 4-2-50. Parking Fund created.

There is established for the purpose of meeting the demand and requirements for vehicle parking, the Town Parking Fund. The Parking Fund shall receive and distribute funds for the purposes of conducting parking studies or evaluations, including evaluations of alternative transportation means; acquisition, design and construction of parking facilities or alternative transportation means in any area exempted from the off-street parking requirements; maintenance of public parking facilities; payment of bonds or other indebtedness for parking facilities; and administrative services relating to parking.

(Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 4-2-60. Wastewater Revenue Fund created.

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

(Ord. 7 §1, 2010)

Sec. 4-2-70. Lodging Tax Revenue Fund created.

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

(Ord. 7 §1, 2010)

ARTICLE 3. MUNICIPAL CONTRACTS

[Sec. 4-3-10. Public improvements by contract.](#)

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[Sec. 4-3-50. Interests in contracts.](#)

Sec. 4-3-10. Public improvements by contract.

- (a) All work done by the Town in the construction of works of public improvements of five thousand dollars (\$5,000.00) or more shall be done by contract awarded to the lowest responsible bidder on open bids or proposals after ample advertisement.
- (b) The Town is not required to advertise, request proposals or receive bids for such technical, professional or incidental assistance it may deem wise to employ in guarding its interests.
- (c) Even if not required by this Article 3, the Board of Trustees may direct that any contract of the Town for work, services, equipment, supplies or other things be awarded to the lowest responsible bidder on open bids or proposals after ample advertisement in accordance with this Article 3.

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(Prior code 7-1-1; Ord. 7 §1, 2010; Ord. 9 §1, 2015)

Sec. 4-3-20. Negotiated contracts.

- (a) Except as otherwise required by Section 4-3-10, the Town Administrator shall have the right to enter into negotiations for and contracts of the Town for work, services, equipment, supplies or other things without submitting it for bids or proposals and without obtaining the previous approval of the Board of Trustees if the value of the contract is not greater than two thousand dollars (\$2,000.00).
- (b) Except as otherwise required by Section 4-3-10, the Town Administrator shall have the right to enter into negotiations for and contracts of the Town for work, services, equipment, supplies or other things without submitting it for bids or proposals and with the prior approval of the Board of Trustees if the value of the contract is greater than two thousand dollars (\$2,000.00).

(Prior code 7-1-2; Ord. 7 §1, 2010; Ord. 9 §2, 2015)

Sec. 4-3-30. Bidding and requests for proposal procedure.

Whenever the Town is required by this Article or the Board of Trustees deems it desirable to award any contract of the Town for work, services, equipment supplies or other things on open bids or proposals after ample advertisement, the procedure for obtaining and awarding such bids shall be as follows:

- (1) *Notice.* The Town Clerk shall cause notice of the Town's requests for bids or proposals to be published in a newspaper of general circulation within the Town for two (2) publications or posted in three (3) conspicuous places within the Town. Notice of the Town's request for bids or proposals may also be (i) published in any other publication deemed desirable by the Town Clerk or designated by the Board of Trustees or (ii) mailed to a reasonable number of person who could reasonably be expected to make a bid or submit a proposal if deemed desirable by the Town Clerk or directed by the Board of Trustees. All notices shall describe the subject of the request for bids or proposals, the place where the specifications for and proposed terms of the contract may be obtained or examined, the time and place for submission of bids or proposals and the time and place for the opening of the bids or proposals.
- (2) *Reservation.* All notices issued pursuant to Subsection (1) shall state that the Town reserves the right to reject any or all bids or proposals and, upon rejection of all bids or proposals, other bids or proposals may be advertised for or negotiations may be entered into for the contract.
- (3) *Making of bids and proposals.* All bids or proposals shall be in writing, identify the principal place of business of the person submitting the bid or proposal, state the amount of the bid or proposal, set forth any other information required by the notice, plans or specifications and be signed by the person submitting the bid or proposal. All bids and proposals shall be sealed in an envelope and submitted to the Town Clerk within the required time at the required place.
- (4) *Opening bids and proposals.* Bids and proposals submitted to the Town Clerk in compliance with Subsection (3) shall not be opened until the time for opening specified in the notice. All persons submitting a bid or proposal may be present at such time and place specified in the notice and inspect all bids and proposals.
- (5) *Award.* If any bid or proposal is accepted by the Board of Trustees, it shall award the contract to the person who submitted the successful bid or proposal upon such person's compliance with all terms and conditions specified by the Board of Trustees or set forth in the notice.

(Prior code 7-1-3; Ord. 7 §1, 2010; Ord. 9 §3, 2015)

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Sec. 4-3-40. Rejection of bids and proposals; bidder default.

- (a) If no bids or proposals are received or if, in its opinion, all bids or proposals received are too high, the lowest bidder was not reliable or responsible or the subject of the bids or proposals could be effectuated for less by negotiated contract, the Board of Trustees may:
 - (1) Reject all bids and direct that the project be put out again for bids or proposals; or
 - (2) Reject all bids and direct the Town Administrator to attempt to negotiate a contract that may be more favorable to the Town.
- (b) If the person whose bid or proposal is accepted by the Town fails to enter into a contract, the Board of Trustees may then accept the bid or proposal of the next lowest responsible bidder or reject all bids and proceed in accordance with Subsection (a).
- (c) No negotiated contract price shall exceed the lowest responsible bid or proposal previously received.

(Prior code 7-1-4; Ord. 7 §1, 2010; Ord. 9 §4, 2015)

Sec. 4-3-50. Interests in contracts.

- (a) Members of the Town's Board of Trustees, Town officers and Town employees shall not be interested in any contract made by them in their official capacity.
- (b) For purposes of Subsection (a), the phrase "be interested in" does not include a minority interest in a corporation, limited liability company or other recognized entity form.
- (c) For purposes of Subsection (a), the term "contract" does not include:
 - (1) Contracts awarded to the lowest responsible bidder based on competitive bidding or proposal procedures;
 - (2) Merchandise sold to the highest bidder at auction;
 - (3) Investments in deposits in financial institutions which are in the business of loaning or receiving moneys;
 - (4) A contract with an interested party if, because of geographic restrictions, the Town could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that the Town could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than ten percent (10%) of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
 - (5) A contract with respect to which any member of the Board of Trustees, Town officer or Town employee has disclosed a personal interest to the Board of Trustees and has not voted thereon.

(Prior code 7-1-5; Ord. 7 §1, 2010; Ord. 9 §5, 2015)

ARTICLE 4. SALES TAX

[Sec. 4-4-10. Purpose.](#)

[Sec. 4-4-20. Definitions.](#)

[Sec. 4-4-30. Taxable amount.](#)

[Sec. 4-4-40. Taxable property and services.](#)

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Sec. 4-4-10. Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail, and the furnishing of certain services as provided in Section 29-2-105, C.R.S., upon every retailer in the Town.

(Ord. 1 §1, 1982; Ord. 7 §1, 2010)

Sec. 4-4-20. Definitions.

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

(Ord. 1 §2, 1982; Ord. 7 §1, 2010)

Sec. 4-4-30. Taxable amount.

The taxable amount of the sale subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

(Ord. 1 §3, 1982; Ord. 7 §1, 2010)

Sec. 4-4-40. Taxable property and services.

- (a) All retail sales subject to this sales tax are consummated at the place of business of the retailer, except where the tangible personal property sold is delivered by the retailer to a destination outside the Town.
- (b) If said retailer delivers to a common carrier for delivery outside or within the Town, and if delivery charges are subject to state sales and use taxes, the gross receipts from such sales shall include delivery charges.
- (c) Where the retailer has no permanent place of business in the Town, or has more than one (1) place of business, the place at which the sale was consummated is determined by Section 39-26-101, et seq., C.R.S., and Department of Revenue rules and regulations.

(Ord. 1 §3, 1982; Ord. 7 §1, 2010)

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Sec. 4-4-50. Taxable property and exemptions.

- (a) All tangible personal property and services taxable under this Article shall be the same tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those in Section 39-26-114, 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 the Town's sales tax, provided that both of the following conditions are fulfilled:
 - (1) The purchaser is a nonresident of, or has his or her principal place of business outside, the Town; and
 - (2) The property is registered or required to be registered outside the Town under the laws of the State.

(Ord. 1 §4, 1982; Ord. 7 §1, 2010)

Sec. 4-4-60. Licenses.

- (a) Under this Article, it shall be unlawful for any person to engage in a business of selling tangible personal property at retail or the furnishing of certain services without first obtaining a license. Licenses shall be granted by the Town Clerk, provided that the following criteria are met:
 - (1) Completing an application for a license which shall convey the name of the proprietor, name of the business and nature of the business.
 - (2) A fee established by a fee schedule approved by resolution of the Board or Trustees, or prorated amount for partial year, to accompany the application.
 - (3) Any other pertinent information that the Town Clerk may require for clarification of said business.
- (b) Renewal of licenses shall be accomplished annually on or before January 1 of each year.
 - (1) Applications for renewal shall be completed before the renewal of licenses is issued.
 - (2) Nonrenewal shall be only in cases where the prior revocation was as provided in Section 39-26-103, C.R.S., which provision is incorporated herein by this reference.
 - (3) Nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except as stated in Paragraph (b)(2) above.
 - (4) Each license issued shall be consecutively numbered and shall show the name of the business, nature of the business and address of the business. Each license shall be nontransferable and posted in a conspicuous place upon the premises for which it is issued.

(Ord. 1 §5, 1982; Ord. 7 §1, 2010)

Sec. 4-4-70. Sales tax imposed.

- (a) There is hereby imposed a sales tax of three percent (3%) on all sales at retail on tangible personal property and certain services as specified in Section 4-4-40 and as provided by Section 39-26-104, C.R.S.
- (b) The imposition of this sales tax shall be in accordance with schedules set forth in the rules and regulations of the State Department of Revenue and in accordance with any regulations which may be enacted by the Board of Trustees.

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- (c) Any person engaging in the business of selling tangible personal property at retail or furnishing services as specified, which are provided for in this Article, without a sales tax license shall be guilty of a violation of this Article and punished pursuant to Article 26, Title 39, C.R.S., and Section 29-2-106(1), C.R.S.

(Ord. 1 §6, 1982; Ord. 7 §1, 2010)

Sec. 4-4-80. Collection, administration and enforcement.

- (a) The vendor (retailer) shall, by this Article, be entitled to subtract, at the rate of three and one-third percent (3 $\frac{1}{3}$ %), a collection fee prior to remitting said taxes to the Department of Revenue.
- (b) The collection, administration and enforcement of the sale tax imposed by this Article shall be performed by the Director of Revenue of the State in the same manner as the collection, administration and enforcement of the state sales tax as provided in Article 26, Title 39, C.R.S., and are hereby incorporated by this reference.

(Ord. 1 §7, 1982; Ord. 7 §1, 2010)

Sec. 4-4-90. Amendments.

The Board of Trustees may by majority vote amend, alter or change this Article, except as to the rate of tax imposed in Section 4-4-70 above. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval.

(Ord. 7 §1, 2010)

ARTICLE 5. LODGING OCCUPATION TAX

[Sec. 4-5-10. Declaration of purpose.](#)

[Sec. 4-5-20. Definitions.](#)

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[Sec. 4-5-50. Collection of tax.](#)

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[Sec. 4-5-160. Statute of limitations.](#)

Sec. 4-5-10. Declaration of purpose.

The Board of Trustees hereby finds, determines and declares:

- (1) For the purposes of this Article, every person who furnishes lodging for consideration in the Town is exercising a taxable privilege. The purpose of this Article is to impose a tax which will be paid by every vendor providing such lodging in the Town, which tax will provide revenues to be collected, retained and spent for any lawful municipal purpose.
- (2) Pursuant to authority found in the laws of the State, the following lodging occupancy tax is adopted for the purpose of promoting the health, safety, morals and general welfare of the Town.
- (3) The provision of lodging to the traveling public results in the increased use upon municipal services and utilities in the Town and has substantial effect upon the health, safety and welfare of the citizens of the Town and upon expenditures budgeted by the Town for recreation, infrastructure and public improvements which is a matter of local concern.
- (4) The imposition of this lodging tax of three percent (3%), and the expenditure of receipts of such tax for the promotion of recreation, enhanced public facilities and infrastructure will serve a public purpose and will promote the health, safety, prosperity, security and general welfare of the inhabitants and visitors of the Town.
- (5) The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform, nondiscriminatory and necessary.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-20. Definitions.

For purposes of this Article, the following words shall have following meanings:

Lodging means hotel rooms, motel rooms, lodging rooms, motor hotel rooms, bed and breakfast rooms, guesthouse rooms, guest ranch rooms, mobile homes, cabins or other similar accommodations that are rented to persons for a period of thirty (30) consecutive nights or less, but shall not include prearranged rentals for occupancy of accommodations for a period of more than thirty (30) consecutive nights.

Payment period means the following three-calendar-month periods: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

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

Sale means the furnishing for consideration by any person of lodging within the Town.

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

Taxpayer means the vendor obligated to pay the tax under the terms of this Article.

Vendor means a person furnishing lodging for consideration within the Town.

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(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-30. Imposition of tax.

Effective January 1, 2009, there is hereby levied by the Town an occupation tax on the business of lodging, payable by every vendor in the amount of three percent (3%) on the purchase paid or charged to persons by the vendor for the rental or leasing of lodging. For purposes of clarification, the purchase price paid or charged by the vendor for the rental or leasing of lodging shall not include:

- (1) Any taxes or charges levied or required by any governmental authority; or
- (2) Any ancillary revenues paid to the vendor for providing services other than lodging, such as but not limited to food, beverages, pay-per-view television and telephone services.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-40. Exemptions.

Notwithstanding the terms of Section 4-5-30 above, the following transactions shall be exempt from the tax imposed by this Article:

- (1) Lodging provided by the United States, the State, its departments and institutions and the political subdivisions of the State;
- (2) Lodging provided by those charitable, religious and other organizations that have received and hold 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 or religious functions and activities; and
- (3) Lodging provided to a person for a period of not less than thirty (30) consecutive nights.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-50. Collection of tax.

- (a) Every vendor providing lodging taxable under this Article shall remit such tax on or before the thirtieth day following the last calendar day of each of the following four (4) months: March, June, September and December. The amount of the tax remitted shall reflect the purchase price paid or charged by the vendor for the rental or leasing of lodging in the immediately preceding payment period. Said payment shall be accompanied by a return which shall contain such information and be in such form as the County or the Town Clerk may prescribe.
- (b) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
- (c) It shall be the duty of every vendor to maintain, keep and preserve for a period of three (3) years 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 Article.
- (d) The records referred to in Subsection (c) immediately above shall be open during regular business hours for examination and audit by the Town Clerk upon prior written notice. If any vendor refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk or an authorized agent may issue a subpoena to require that the vendor or its representative attend a hearing or produce any such books, accounts and records for examination.

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(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-60. Tax overpayments and deficiencies.

An application for refund of tax monies paid in error or by mistake shall be made within three (3) years 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 lodging occupation tax due under this Article, the Town Clerk shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines that the amount paid is less than the amount due under this Article, the difference, together with interest at the rate of one and one-half percent (1½%), assessed from the date such amount was first due, 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.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-70. Tax information confidential.

- (a) All specific information gained under the provisions of this Article 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 representative as confidential. Except as directed by judicial order or as provided in this Article, 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 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 Article or by law, shall be guilty of a violation hereof, punishable by a fine but not imprisonment.
- (b) The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that such 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 the taxpayer or his or her duly authorized representative a copy of such confidential information relating to such taxpayer.
- (d) So long as there are more than three (3) taxpayers, nothing contained in this Section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular taxpayers, the publication of the aggregate revenues generated by the tax or the inspection of such confidential information by an officer, employee or legal representative of the Town.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-80. 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 Article, to provide for:

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

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(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-90. Enforcement and penalties.

- (a) It shall be unlawful for any person to intentionally, knowingly or recklessly fail to pay the tax imposed by this Article or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Article. Any person convicted of a violation of this Article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. Each day, or portion thereof; that any violation of this Article 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 day of the month as required by this Article, or such other date as prescribed in writing by the Town Clerk, and one and one-half percent (1½%) 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 fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency. The penalty under this Subsection shall be in addition to the penalty under Subsection (b) above, and, in all cases, the whole amount of the unpaid tax, together with all penalties and interest, shall become due and payable ten (10) days after written explanation and demand by the Town Clerk or the County.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-100. Tax lien.

- (a) The tax imposed by this Article, 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 police officer, the county sheriff of the county wherein the property may be located 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. The remedies of garnishment shall apply.
- (b) The tax imposed by this Article shall be and remain a first and prior lien, except as otherwise provided by law, superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-110. 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.

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- (b) In case of failure to pay the taxes, 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 attorneys' 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 tax 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 town or the county sheriff of the county wherein the property may be located, 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 a bond therefor.
- (e) It shall be the duty of the Town Attorney, when requested by the Board of Trustees, to commence action for the recovery of taxes due under this Article. This remedy shall be in addition to all other existing remedies or remedies provided in this Article.
- (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.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-120. Status of unpaid tax in bankruptcy and receivership.

Whenever the business or property of a taxpayer subject to this Article is 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 Article and for which the taxpayer is in any way liable under the terms of this Article 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 Article under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Article. If there are 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.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-130. Hearings, subpoenas and witness fees.

- (a) Hearings shall be held pursuant to this Article and rules and regulations promulgated by the Town Clerk or the County. Any subpoena issued pursuant to this Article may be enforced 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 by the Town, such fees shall be paid by the Town. When the 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; and, in such case, the Town Clerk 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.

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- (b) Upon application, 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 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.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-140. Lodging Tax Revenue Fund.

- (a) In accordance with the provisions of Section 4-2-70 of this Chapter, there is created a special revenue fund to be known as the Lodging Tax Revenue Fund. The fund shall be accounted for as a restricted fund distinct from any other funds or accounts used or maintained by the Town for any purpose other than for recreation and public improvements.
- (b) For convenience purposes only, but not for accounting or actual expenditure, the monies in the fund may be held in the same account with the General Fund.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-150. Depositions.

The Town Clerk or any party in an investigation or hearing may cause the deposition of witnesses residing within or outside 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.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

Sec. 4-5-160. Statute of limitations.

- (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 Article shall not be assessed, nor shall a notice of lien be filed, distraint warrant be issued, 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-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.

(Ord. 15 §1, 2008; Ord. 7 §1, 2010)

ARTICLE 6. MARIJUANA SALES AND EXCISE TAXES

[Sec. 4-6-10. Purpose.](#)

[Sec. 4-6-20. Definitions.](#)

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[Sec. 4-6-30. Taxes imposed.](#)

[Sec. 4-6-40. Collections, administration and enforcement.](#)

Sec. 4-6-10. Purpose.

The purpose of this Article is to impose a separate and additional sales tax on the lawful retail sale of marijuana, marijuana products and marijuana accessories within the Town and impose an excise tax on the lawful wholesale sale of marijuana within the Town.

(Ord. 6 §1, 2013)

Sec. 4-6-20. Definitions.

For purposes of this Article, the following words shall have the following meanings:

Consumer shall have the meaning attributed to it in Article VIII, Section 16(2)(b) of the Colorado Constitution.

Lawful retail sale of marijuana, marijuana products and marijuana accessories shall mean the sale of marijuana, marijuana products and marijuana accessories by a licensed retail marijuana store to a consumer in compliance with Article VIII, Section 16 of the Colorado Constitution and Section 12-43.4-101 et seq., C.R.S.

Lawful wholesale sale of marijuana shall mean the sale of marijuana by a licensed marijuana cultivation facility to another licensed marijuana establishment.

Marijuana shall have the meaning attributed to it in Article VIII, Section 16(2)(f) of the Colorado Constitution.

Marijuana accessories shall have the meaning attributed to it in Article VIII, Section 16(2)(g) of the Colorado Constitution.

Marijuana cultivation facility shall have the meaning attributed to it in Article VIII, Section 16(2)(h) of the Colorado Constitution.

Marijuana establishment shall have the meaning attributed to it in Article VIII, Section 16(2)(i) of the Colorado Constitution.

Marijuana products shall have the meaning attributed to it in Article VIII, Section 16(2)(k) of the Colorado Constitution.

Retail marijuana store shall have the meaning attributed to it in Article VIII, Section 16(2)(n) of the Colorado Constitution.

(Ord. 6 §1, 2013)

Sec. 4-6-30. Taxes imposed.

- (a) A tax is levied and shall be collected upon the lawful retail sale of marijuana, marijuana products and marijuana accessories within the Town at a rate of up to five percent (5%) of the price paid by the consumer thereof rounded off to the nearest penny.

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- (b) A tax is levied and shall be collected upon the lawful wholesale of marijuana within the Town at a rate of up to fifteen percent (15%) of the price paid by the purchaser thereof rounded off the nearest penny.
- (c) The Board shall establish the rate of taxation authorized by this Section applicable to the following calendar year by resolution no later than December 15 of the preceding year. If the Board fails to establish the rate of taxation in accordance with this Subsection (c), the rates in effect for the preceding year shall continue to be in effect.
- (d) The sale and excise taxes imposed by this Section shall be in addition to and not in lieu of the sales tax imposed on the retail sale of tangible personal property pursuant to Article 4 of this Chapter.

(Ord. 6 §1, 2013)

Sec. 4-6-40. Collections, administration and enforcement.

The collection, administration and enforcement of the sales tax and excise taxes imposed by this Article shall be performed by the Director of Revenue of the State of Colorado in the same manner as the collection, administration and enforcement of the state sales tax as provided in Article 26 of Title 39, C.R.S., and in the same manner as the collection, administration and enforcement of the sales tax imposed by Article 4 of Chapter 4 of this Code.

(Ord. 6 §1, 2013)

ARTICLE 7. USE TAX

[Sec. 4-7-10. Purpose.](#)

[Sec. 4-7-20. Definitions.](#)

[Sec. 4-7-30. Use Tax Imposed.](#)

[Sec. 4-7-40. Exemptions.](#)

[Sec. 4-7-50. Collection and administration of use tax on construction and building materials.](#)

[Sec. 4-7-60. Interest on deficiencies.](#)

[Sec. 4-7-70. Deficiency notice—Alternative dispute resolution procedures.](#)

[Sec. 4-7-80. Amendments.](#)

[Sec. 4-7-90. Violations—Penalty.](#)

Sec. 4-7-10. Purpose.

The purpose of this Article is to raise revenue for municipal purposes and provide a complimentary tax to the Town of Red Cliff's sales tax. The taxes imposed in this Article are on the privilege of using or consuming within the Town any construction and building materials purchased at retail outside of the Town for projects requiring a building permit.

(Ord. 4 §2, 2017)

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Sec. 4-7-20. Definitions.

For the purposes of this Article, words not otherwise defined herein shall have the meanings set forth in Section 39-26-201, C.R.S., as it currently exists or may hereafter be amended, and said definitions are incorporated herein by specific reference.

(Ord. 4 §2, 2017)

Sec. 4-7-30. Use Tax Imposed.

Effective January 1, 2018, there is hereby imposed, which shall be paid and collected, a use tax on the privilege of using or consuming within the Town of Red Cliff construction and building materials of every kind and form purchased at retail outside of the Town of Red Cliff, for projects requiring a building permit, in the amount of three percent (3%) of the retail purchase price of said construction and building materials.

(Ord. 4 §2, 2017)

Sec. 4-7-40. Exemptions.

In no event shall the use tax apply:

- (1) To the storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the Town of Red Cliff;
- (2) To the storage, use, or consumption of any tangible personal property purchased for resale in the Town of Red Cliff, 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 tangible personal property brought into the Town of Red Cliff by a non-resident thereof for his own storage, use, or consumption while temporarily within the Town of Red Cliff; however, this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this State by a non-resident to be used in the conduct of business in this State;
- (4) To the storage, use, or consumption of tangible personal property by the United States government, or the State of Colorado, or 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 tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use 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;
- (6) 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 town, city, or city and county equal to or in excess of the use tax imposed herein. A credit shall be granted against the use tax imposed herein with respect to a person's storage, use, or consumption in the Town of Red Cliff of tangible personal property purchased by him in a previous statutory or home rule town, city, 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

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statutory or home rule town, city, or city and county on his purchase or use of the property. The amount of the credit shall not exceed the amount of the use tax imposed herein;

- (7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the Town of Red Cliff and brought into it by a nonresident acquiring residency;
- (8) To the storage, use, or consumption of any construction and building materials if a written contract for the purchase thereof was entered into prior to the effective date of the use tax imposed herein;
- (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 the use tax imposed herein; or
- (10) To the storage of construction and building materials within the Town.

(Ord. 4 §2, 2017)

Sec. 4-7-50. Collection and administration of use tax on construction and building materials.

- (a) The collection, administration, and enforcement of the use tax imposed on construction and building materials shall be performed by the Town Treasurer. The Board of Trustees is authorized to adopt all rules and regulations which may be necessary or appropriate for the collection, administration, or enforcement of the use tax.
- (b) The use tax shall be initially paid by estimate through the payment of the tax at or prior to the time any permit for building or construction within the Town is issued. No permit shall be issued by the Town Building Official to any person requesting a permit for construction within the Town until such estimated use tax has been paid.
- (c) Before a final building inspection is allowed and a certificate of occupancy or temporary certificate of occupancy is issued, all use tax due to the Town must be paid. If the taxpayer is entitled to a refund, such refund shall be paid at the time the certificate of occupancy is issued.
- (d) Upon completion of construction, the taxpayer may apply to the Town Treasurer for a refund for any overpayment of the taxes, the use tax having been computed upon an estimation of value, when such application is supported by the documentation required by the regulations adopted hereunder, for construction and building materials actually used or consumed in the project for which the building permit was issued and upon which the use tax was paid.
- (e) No use tax shall be imposed with respect to the use or consumption of taxable tangible personal property within the Town of Red Cliff that occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used within the State of Colorado for the principal purpose for which it was purchased.

(Ord. 4 §2, 2017)

Sec. 4-7-60. Interest on deficiencies.

- (a) If any amount of the use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate of interest established by the State Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S., shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment granted and shall be determined without regard to any notice and demand for payment issued. In the

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case of a use tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises, and in no event shall be later than the date notice and demand for the taxes was made by the Town Treasurer. Interest shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.

- (b) If any portion of the use tax is satisfied by credit of an overpayment, then no interest shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.
- (c) If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the Town Treasurer shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto interest on such delinquent taxes at the rate prescribed under this Section.

(Ord. 4 §2, 2017)

Sec. 4-7-70. Deficiency notice—Alternative dispute resolution procedures.

Any taxpayer subject to the use tax imposed pursuant to this Article may elect to have a State hearing on the Town of Red Cliff's final decision on a deficiency notice or claim for refund pursuant to the procedures 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, C.R.S.
- (2) When the Town of Red Cliff asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the Town Treasurer 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, of the time limit to file a protest to the notice and that the taxpayer has the right to elect a State hearing on the deficiency pursuant to Section 29-1-106.1, C.R.S. Any protest to the deficiency notice shall be filed with the Town of Red Cliff within thirty (30) days after the date of the notice.
- (3) A taxpayer shall also have the right to elect a State hearing upon the Town's denial of such taxpayer's claim for a refund of use taxes paid.
- (4) A 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 has not exhausted local remedies. "Exhaustion of local remedies" means:
 - a. The taxpayer has timely requested in writing a hearing before the Town Board of Trustees, and the Board of Trustees has held such hearing and issued a final decision thereon. The 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, and in such case the Town may submit a brief. The Town Board of Trustees 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 a hearing or issuing the decision thereon was occasioned by the taxpayer, but, in such event, the Town Board of Trustees 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 Board of Trustees and the Board of Trustees has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in this Subsection.

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- (5) If a taxpayer has exhausted his local remedies as provided in Subsection (4) of this Section, 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, C.R.S.
- (6) If the deficiency notice or claim for refund involves only the Town of Red Cliff, in lieu of requesting a State hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the Eagle County District Court, as provided in Section 29-2-106.1(8), C.R.S.; provided that the taxpayer first exhausts local remedies in compliance with the procedures set forth in Subsection (4) of this Section.
- (7) If the Town reasonably finds that the collection of the use tax will be jeopardized by delay, the Town may utilize the procedures set forth in Section 39-21-111, C.R.S.; however, doing so shall not preclude the taxpayer from requesting a State hearing pursuant to Section 29-1-106.1, C.R.S.

(Ord. 4 §2, 2017)

Sec. 4-7-80. Amendments.

Except as to the use tax rate provided for in this Article and the items taxed and exempted from the use tax hereunder, the Board of Trustees may amend, alter, delete or change the provisions of this Article by the adoption of an amending ordinance in accordance with law, and such amendment, alteration, deletion or change need not be submitted to the electors of the Town for their approval.

(Ord. 4 §2, 2017)

Sec. 4-7-90. Violations—Penalty.

- (a) It shall be unlawful for any person to make any false or fraudulent return or false statement on any return, or for any person to fail or refuse to pay the use tax as set forth in this Article, or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of such tax.
- (b) Any person who knowingly violates any provision of this Article or who knowingly fails to perform an act required by any provision of this Article shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year or by both such fine and imprisonment.

(Ord. 4 §2, 2017)