

CHAPTER 4

Revenue and Finance

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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. The Board of Trustees shall, within the last quarter of each fiscal year, pass the ordinances required, known as the annual appropriation bill for the next fiscal year. (Ord. 1911 §2-1; Ord. 2-2005 §1)

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. (Ord. 2-2005 §1)

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. 2-2005 §1)

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. 2-2005 §1)

Sec. 4-2-40. Capital Reserve Fund created.

There is hereby created a special fund, to be known as the Capital Reserve Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 2-2005 §1)

Sec. 4-2-50. 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. 2-2005 §1)

Sec. 4-2-60. Enterprise funds.

The water and sewer systems of the Town shall be operated as enterprises under Section 20 of Article X of the Colorado Constitution (TABOR). By approval of the voters of the Town in the election held on November 7, 1995, the Town may receive and expend non-Federal grants for water and sewer purposes without regard to the limitations of TABOR upon the enterprise status of the water and sewer systems. (Ord. 2-2005 §1)

Sec. 4-2-70. Sewer Fund created.

There is hereby created a special fund, to be known as the Sewer Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 2-2005 §1)

Sec. 4-2-80. Special Revenue-Sharing Trust Fund created.

A Special Revenue-Sharing Trust Fund is hereby established to account for all moneys received from distributions by the federal government under authority and by direction of the State and Local Fiscal Assistance Act of 1972, including any and all earnings on said distributions. (Ord. 1-1973 §1; Ord. 2-2005 §1)

Sec. 4-2-90. Water Fund created.

There is hereby created a special fund, to be known as the Water Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 2-2005 §1)

(b) The definitions of all other words, terms and phrases used herein shall be as defined in Section 39-26-102, C.R.S. and said definitions are incorporated herein by this reference. (Ord 2-1989 §1; Ord. 2-2005 §1)

Sec. 4-3-20. Imposition of sales tax.

There is hereby levied and there shall be collected and paid a tax in the amount stated in Section 4-3-40 below on the sale of tangible personal property and services described below, at retail, upon every retailer in the Town, as follows:

(1) 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 39-26-104, C.R.S.

(2) 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. The gross receipts from such 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. If a retailer has no permanent place of business within the Town or has more than one (1) place of business, the place at which the retail sales are consummated for the purposes of 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 Colorado Department of Revenue.

ARTICLE III

Sales and Use Tax

Sec. 4-3-10. Definitions.

(a) The following words and phrases shall have the following meaning for the purposes of this ordinance, unless the context clearly indicates otherwise:

Clerk shall mean the Town Clerk and any deputy clerk duly appointed by the Board of Trustees.

Director of Revenue shall mean the Director of the Colorado Department of Revenue.

(3) The amount subject to the tax levied hereby shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

(4) In the case of retail sales involving the exchange of property, the tax shall be levied on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of exchange, excluding, however, from the consideration or the purchase price the fair market value of the property exchanged at the time and place of exchange, provided that such exchanged property is to be sold thereafter in the usual course of the retailer's business, or such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration or certification under the laws of the State, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft and aircraft.

(5) The sales tax levied hereby shall not apply to the sale of construction or 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 the Town evidencing that a local use tax has been paid or is required to be paid.

(6) The sales tax levied hereby 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 upon 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 under this Article. A credit shall be granted against the sales tax imposed hereby 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 taxing entity. The amount of the credit shall not exceed the sales tax imposed by this Article. (Ord. 2-1989 §2)

Sec. 4-3-30. Exemptions from sales tax.

The sales tax imposed by this Article shall not apply as follows:

(1) For the purpose of maintaining uniformity with the state sales tax, all transactions and items which are declared to be exempt under the provisions of Section 39-26-114, C.R.S. (except the exemption allowed by Section 39-26-114(11), C.R.S., for purchases of machinery or machine tools, the exemption of sales and purchases of those items in Section 39-26-114(1)(a)(XXI), C.R.S., and exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S.), shall be exempt from the sales tax imposed by this Article.

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

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

b. Such personal property is registered or required to be registered outside the limits of the Town under State statutes.

(3) The sales tax imposed by this Article shall not apply to the sale of food, as defined in 7 U.S.C. §2012(g) purchased with food stamps; nor shall said tax apply to the sale of food, as defined in 42 U.S.C. §1786, purchased with funds provided by the Special Supplemental Food Program for Women, Infants and Children under said federal statute. (Ord. 2-1989 §3; Ord. 2-2005 §1)

Sec. 4-3-40. Rate of tax.

The sales tax imposed by this Article shall be charged and collected at the rate of two percent (2%) of the full sales price of all tangible personal property and the furnishing of services subject to said tax as set forth above. (Ord. 2-1989 §4)

Sec. 4-3-50. Collection, administration and enforcement.

(a) The Board of Trustees, by and through the Mayor and Town Clerk, is hereby authorized to enter into a contract for the collection, administration and enforcement of the sales tax imposed by this Article with the Director of the Colorado Department of Revenue in the same manner as the collection, administration and enforcement of the state sales taxes. The provisions of Article 26 of Title 39, C.R.S., and all rules and regulations promulgated thereunder by the Director shall govern the collection, administration and enforcement of the sales tax imposed by this Article, and said statutory provisions and rules and regulations are, therefore, incorporated herein by this reference.

(b) At the time of filing the sales tax return as required by said statutory provisions and rules and regulations, every retailer shall be entitled to subtract from the tax so remitted the "vendor's fee" in the manner and amount authorized by Section 39-26-105, C.R.S.

(c) If any 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 2-1989 §5; Ord. 2-2005 §1)

Sec. 4-3-60. Use of proceeds of tax.

The Board of Trustees declares that it is its intention in the adoption of this Article to provide for a source of revenue from which to defray the expenses of municipal government. (Ord. 2-1989 §7)

Sec. 4-3-70. Amendments.

The Board of Trustees may, by a majority vote, amend, alter, change or repeal this Article, or any part hereof, without submitting such amendment, alteration, change or repeal to a vote of the qualified electors of the Town; provided, however, that the rate of sales tax imposed hereby shall not be increased except upon the approval of a majority of the qualified electors of the Town voting thereon at a regular or special election called for the purpose of adopting or rejecting said amendment. (Ord. 2-1989 §8)

Sec. 4-3-80. Violations.

It shall be unlawful for any retailer or vendor to refuse to make any returns provided or required to be made in this Article; to make any false or fraudulent return or false statement on any return; to fail or refuse to make payment to the Director of Revenue or the Town of any taxes due to the Town or in any manner evade the payment thereof; to aid or abet another in any attempt to evade the payment of the tax; or to violate any of the provisions of this Article. (Ord. 2-1989 §6)

Sec. 4-3-90. Penalties.

Any person who violates any provision of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 2-1989 §12; Ord. 2-2005 §1)