

TITLE 5

REVENUE AND FINANCE

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CHAPTER 5.10

Sales Tax.

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5.10.050	Capital Improvement Fund.
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5.10.010 Sales Tax Imposed. In accordance with Section 29-2-105, C.R.S., as amended, there is hereby imposed a tax on the sale of tangible personal property at retail and the furnishing of services. Said Tax shall be levied and collected on the same tangible personal property and services taxable pursuant to the Colorado Sales Tax, Section 39-26-104, C.R.S., as amended, and subject to the same exemptions as those specified in Section 39-26-114, C.R.S., as amended.

(Ord. 117 §1, 1977; Amended Ord. 191 §2, 1982)

5.10.020 Collection, Administration and Enforcement. The collection, administration and enforcement of the Town Sales Tax adopted by this Chapter shall be performed by the State Department of Revenue in the same manner as the collection, administration and enforcement of the State Sales Tax. The provisions of Article 26 of Title 39, C.R.S., as amended, and any amendments thereto, heretofore or hereafter enacted, shall govern the collection, administration and enforcement of sales taxes authorized by this Chapter.

(Ord. 117 §4, 1977)

5.10.030 Amount of Tax. The amount of tax imposed by this Chapter shall be three and three quarter percent (3-3/4%) of the amount of sale, figured according to the schedule, and in accordance with the rules and regulations, of the Colorado Department of Revenue.

(Ord. 117 §5, 1977; Amended Ord. 118 §5, 1977; Amended Ord. 347 §2, 1994)

5.10.040 Use and Distribution of Revenues. The revenues derived from the first one percent (1%) of the Sales Tax shall be deposited to the Town's Capital Improvement Fund and used solely for the purposes for which the Fund may be used. The remainder of the revenues derived from said sales tax shall be deposited to the Town's general fund for use as directed by the Board of Trustees.

(Ord. 191 §4, 1982)

5.10.050 Capital Improvement Fund. There is hereby established a special fund of the Town to be known as the "Parachute Capital Improvement Fund." The revenues specified in Section 5.10.040 herein shall be credited to said Fund and used solely for the purpose of providing capital improvements for the Town of Parachute or paying debt service on bonds or other obligations of the Town issued to provide capital improvements pursuant to Section 29-2-111, C.R.S., as amended. Monies credited to such Fund shall not be available to be pledged or expended by interfund transfer or otherwise for any general purposes of the Town.

(Ord. 191 §4, 1982)

5.10.060 Penalty for Violations. It is unlawful for any retailer to fail or refuse to make any return required to be made to the State Department of Revenue, or to make any false return, or to fail or refuse to make payment to the State Director of Revenue of any taxes collected or due under the provisions of this Chapter, or in any manner to evade the collection of the payment of the tax, or any part thereof, in accordance with this Chapter, or for any purchaser or purchasers to fail or refuse to pay such tax or to evade the payment thereof or to aid or abet another in any attempt to evade the payment of tax. Any person violating any provision of this Section is guilty of a Class B municipal offense and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

(Ord. 117 §6, 1977)

CHAPTER 5.20

Fees and Charges.

Sections:

5.20.010 Convenience Fees.

5.20.010 Convenience Fees. The Board of Trustees may by Resolution, impose fees for the use of any means other than cash to pay any obligation or fee to the Town. A schedule of fees shall be promulgated by the Town Clerk, and shall be approved by Resolution of the Board of Trustees. These fees may include, but are not limited to, the cost of the preparation of any deferred payment agreement, bad check charges, and convenience fees for acceptance of alternative forms of payment such as credit or debit cards as authorized and permitted by Article 11.5, Title 29, C.R.S. as amended.

(Ord. 602 §2, 2009)

CHAPTER 5.50

Use Tax.

Sections:

5.50.010	Purpose.
5.50.020	Definitions.
5.50.030	Distribution of Revenues.
5.50.040	Use Tax Imposed.
5.50.050	Exemptions from Use Tax.
5.50.060	Building Materials and Supplies.
5.50.070	Interest and Penalties for Deficiencies.
5.50.080	Delinquency - Lien on Property.
5.50.090	Deficiency Notice - Alternative Dispute Resolution.
5.50.100	Amendments.
5.50.110	Effective Date.
5.50.120	Violations - Penalties.

5.50.010 Purpose. It is hereby declared to be the legislative intent of the Board of Trustees that for the purposes of this Ordinance every person who stores, uses, or consumes in the Town any construction and building materials, purchased at retail, is exercising a taxable privilege.

The purpose of this Ordinance is to raise revenue and to provide a complementary tax to the Town sales tax. The taxes imposed in this Ordinance are a use tax on building and construction materials which are purchased outside the Town for use, storage or consumption within the Town.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.020 Definitions. For the purposes of this Chapter, the terms set out herein shall be as defined in Article 2, Title 29, C.R.S.

(Ord. 190, 1982; Amended Ord. 356 §1, 1994; Amended Ord. 530 §1, 2005)

5.50.030 Distribution of Revenues.

A. All revenues derived from the municipal use tax created herein shall be deposited in the Town's Capital Improvement Fund and used solely for the purpose for which the Fund may be used.

B. There is hereby established a special fund of the Town of Parachute to be known as the "Parachute Capital Improvement Fund". The revenues specified in subsection (A) of this Section shall be credited to said Fund and used solely for the purpose of providing capital improvements or paying debt service on bonds or other obligations of the Town issued to provide capital improvements pursuant to Section 29-2-111, C.R.S. as amended. Monies credited to such Fund shall

not be available to be pledged or expended, by interfund transfer or otherwise, for any general purposes of the Town.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.040 Use Tax Imposed. There is hereby imposed, which shall be paid and collected, a use tax on the privilege of using or consuming within the Town of Parachute construction and building materials of every kind and form purchased outside the Town of Parachute at retail for the purpose of use or consumption within the Town, in the amount of three and three-quarters percent (3 3/4%) of the retail purchase price of said construction and building materials.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.050 Exemptions from Use Tax. In no event shall the use tax apply:

A. 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 Parachute;

B. To the storage, use, or consumption of any tangible personal property purchased for resale in the Town of Parachute, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of business;

C. To the storage, use, or consumption of tangible personal property brought into the Town of Parachute by a non-resident thereof for his own storage, use, or consumption while temporarily within the Town of Parachute; 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;

D. 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 or charitable functions;

E. 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;

F. 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 with respect to a person's storage, use or consumption in the Town of Parachute 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 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;

G. To the storage, use or consumption of tangible personal property and household effects acquired outside of the Town of Parachute and brought into it by a nonresident acquiring residency;

H. 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;

I. 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; and

J. To the storage of construction and building materials.

(Ord. 190, 1982; Amended Ord. 356 §3, 1994; Amended Ord. 530 §1, 2005)

5.50.060 Building Materials and Supplies.

A. Any person required to pay use tax upon building materials or supplies shall keep and preserve all invoices and statements showing all purchases, made both inside and outside the Town, for necessary lumber, materials, fixtures or other supplies. It shall be the duty of any such person and his or her contractors and subcontractors to furnish the Town Treasurer with such information as he or she may require to assess such purchases. The Town Treasurer may request the Building Official to assist him or her in determining the amount of the use tax due.

B. The full amount of the use tax due shall be, until paid, a lien upon the real property benefitted by such improvement, and the Town Treasurer is authorized to file, when appropriate, a notice of such lien with the County Clerk and Recorder.

C. No final inspection shall be performed for any building erected or altered until evidence of payment of all use taxes due and owing is supplied to the Building Official.

D. Upon issuance of a building permit, a certificate shall be issued to the building permit applicant by the Building Official. The certificate shall state in part that no statutory or home rule city, town or city and county shall apply any sales tax to the sale of construction and building materials designed for the use, construction or alteration of property located in the Town.

E. The estimated valuation figure on which the use tax is determined shall be established by a formula in accordance with the annually updated "Building Valuation Data" established by the International Code Council ("ICC") and published in *Building Safety*; provided, however, that the Building Official may modify the valuation data based upon a review of local conditions, which modification is subject to the prior approval of the Town Administrator; and further provided that the Building Official's discretion to modify the ICC's valuation shall be reasonable and shall be limited

to plus or minus ten percent (10%) of the ICC's annually published regional modifier.

F. The assessed use tax is imposed and assessed at the time of the building permit issuance, and a deposit in the estimated amount of the use tax shall be paid prior to the issuance of the building permit. This use tax is the first tax imposed on construction and building materials designed for use in the Town, and no other public entity may subsequently impose any sales or use tax on the subject construction and building materials. The estimated amount of construction and building materials shall be forty-two percent (42%) of the building valuation established in subsection (E) above. The estimated amount of use tax assessed shall be calculated multiplying the forty-two percent (42%) figure by the current use tax percentage rate

G. Any person or entity paying the use tax who disagrees with the amount of the estimated tax as calculated herein shall have the right, upon completion of the project, to dispute the use tax assessment through presenting a final itemized cost breakdown, with invoices of purchases of construction and building materials, to the Town Treasurer, and must prove that the assessed tax and amount deposited with the Town Treasurer at building permit issuance is inconsistent with the amount of use tax deposited with the Town. The decision of the Town Treasurer shall be final and appealable to a court of competent jurisdiction. Any request for the Town Treasurer to review the amount of the tax must include a final itemized cost breakdown and supporting invoices and documentation, and must be made within thirty (30) days of final inspection, or the amount assessed and deposited upon the issuance of the building permit shall be conclusively determined to be the use tax due, and the deposit shall be retained by the Town; provided, however, that nothing contained herein shall prohibit the Town from performing an audit pursuant to this Chapter to determine if the amount of use tax deposited with the Town upon the issuance of the building permit is consistent with the amount of actual use tax due the Town.

H. Fraudulent misuse of the use tax certificate shall be a Class A Municipal Offence crime punishable in accordance with Section 11.01.030 of the Parachute Municipal Code.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.070 Interest and Penalties for Deficiencies. 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 39-12-110.5, 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 case of 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 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 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 any part of a deficiency is due to negligence, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency from the time the addition becomes due and payable and following ten (10) days after written notice and demand is issued by the Town Treasurer.

D. If any part of a deficiency is due to the intent by the taxpayer to evade the tax, or fraud, then there shall be added fifty percent (50%) of the total amount of the deficiency, and in such case the whole amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand is issued by the Town Treasurer, and an additional one percent (1%) per month on said amount shall be added from the date the tax was due until paid.

E. 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 plus the penalties prescribed under this Section.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.080 Delinquency - Lien on Property. If any tax imposed by this Chapter is not paid within ten (10) days after it is due, the Town Treasurer shall issue a notice setting forth the name of the taxpayer, the amount of the tax, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on real and personal property of the taxpayer, except as to pre-existing liens of a bonafide mortgagee, pledgee, judgment creditor, or purchaser whose right has attached prior to the filing of the notice as hereafter provided. This notice shall be on forms prepared by the Town Treasurer, and, when filed in the office of the Clerk and Recorder of any county in this State in which the taxpayer owns real or personal property, such notice shall create a lien as aforesaid on such property in that county and constitutes notice thereof.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.090 Deficiency Notice - Alternative Dispute Resolution. Any taxpayer subject to the use tax pursuant to this Chapter may elect to have a State hearing on the Town of Parachute's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this Section.

A. 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.

B. When the Town of Parachute 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, that the taxpayer has the right to elect a State hearing on the deficiency pursuant to Section 29-1-106.1, C.R.S. The 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 tax previously paid.

C. 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 has not exhausted local remedies or if he fails to request such hearing within the time period provided for in this subsection. "Exhaustion of local remedies" means:

1. The taxpayer has timely requested in writing a hearing before the Town Administrator and the Town Administrator 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 Administrator 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 hearing or issuing the decision thereon was occasioned by the taxpayer, but, in such event, the Town Administrator shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or

2. The taxpayer has timely requested in writing a hearing before the Town Administrator and the Town Administrator has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in this subsection.

D. If a taxpayer has exhausted his local remedies as provided in subsection (C) 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, (3) - (7), C.R.S.

E. If the deficiency notice or claim for refund involves only the Town of Parachute, in lieu of requesting State hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the Garfield County District Court, as provided in Section 29-2-106.1(8), C.R.S.; provided, the taxpayer complies with the procedures set forth in subsection (C) of this Section.

F. 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.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.100 Amendments. Except as to the use tax rate provided for in this Chapter, the items taxed and exempted from the use tax hereunder, and the application of use tax revenues provided for herein, the Board of Trustees may amend, alter, delete or change the provisions of this Chapter 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. 190, 1982; Amended Ord. 530 §1, 2005)

5.50.110 Effective Date. This Chapter shall become effective at 12:01 a.m. on January 1, 2006.

(Ord. 190, 1982; Amended Ord. 195 §1, 1982; Amended Ord. 530 §1, 2005)

5.50.120 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 Chapter, 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 Chapter or who knowingly fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense punishable according to Section 11.01.030 of the Parachute Municipal Code.

C. Each and every twenty-four (24) hour continuation of any violation shall constitute a distinct and separate offense.

(Ord. 190, 1982; Amended Ord. 530 §1, 2005)