Title 4

REVENUE AND FINANCE

Chapters:

4.04 Investment Policy
4.08 Sales Tax
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Chapter 4.04

INVESTMENT POLICY

Sections:

4.04.010 Purpose.
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4.04.030 Investments of Officer.
4.04.040 Pooling of Assets.
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4.04.010 Purpose. A. The purpose of the Town's investment policy is to manage the Town's cash assets in a manner which will maximize return while controlling and minimizing risk.

B. The Town's investments shall comply with all State and federal laws governing investment of public entity funds. The investment policy shall serve to assure the Board as to the safety of the funds, that adequate funds are available at all times to meet the financial obligations of the Town when due and earn a market rate of return on the funds available for investment throughout the budget cycle.

(Ord. 223 §l(part), 1994).

4.04.020 Definitions. As used in this Chapter: "Public entity" means the Town;

any local government investment pool organized pursuant to Section 4.04.040; any public entity insurance pool organized pursuant to State law; and any other entity, organization or corporation formed by intergovernmental agreement or other contract between or among the State of Colorado; any institution, agency, instrumentality, authority, county, municipality, city and county, district or other political subdivision of the State, including any school district and institution of higher education; any institution, department, agency, instrumentality or authority of any of the foregoing, including any county or municipal housing authority.

"Public funds" means any funds in the custody, possession or control of the Town; any funds over which the Town has investment control; any funds over which the Town would have investment control but for the entity's delegation of that control to another person; and any funds over which another person exercises investment control on behalf of or for the benefit of the Town.

"Public funds" includes, but is not limited to, proceeds of the sale of securities of the Town and proceeds of certificates of participation or other securities evidencing rights in payments to be made by the Town under a lease, lease-purchase agreement or other similar arrangement, regardless of whether such proceeds are held by the public entity, a third-party trustee or any other person.

"Short-term" investments are those having a maturity date of one (1) year or less from the date of investment.

"Long-term" investments are those having a maturity date in excess of one (1) year from the date of investment.

"Local institutions" are those financial institutions located in Mesa County, Colorado. (Ord. 223 §1(part), 1994).

4.04.030 Investments of Officer. A. Pursuant to Title 2 of this Code, the Treasurer is responsible for the administration of the financial affairs of the Town including having custody of all public funds belonging to or under the control of the Town, and is designated the Town's investment officer.

B. In the absence of the Treasurer, the Clerk shall be designated as the investment officer. In the absence of the Treasurer and the Clerk, the Mayor shall designate an individual as the investment officer.

C. The designated investment officer shall be restricted in the investment of Town funds to certificate of deposit investments in local financial institutions and other investments as authorized by Title 24, Article 75, C.R.S., at the discretion of the investment officer, unless otherwise directed by the Board of Trustees.

(Ord. 223 §l(part), 1994).

4.04.040 Pooling of Assets. To maximize the effective investment of assets, the investment officer may pool all funds having excess available moneys into one (1) account for investment purposes. The income derived from pool investments will be distributed to the various funds based on each funds pro rata share of the total investment. (Ord. 223 §l(part), 1994).

4.04.050 Competitive Selection of Investment Instruments. A list of qualified local institutions, providing proof that they are an eligible public depository and providing, at least annually, a report of financial condition, shall be maintained for use in obtaining competitive bid quotes by the investment officer on certificates of deposit. A record of bids offered, bids accepted and the rationale used in selecting the bid shall be kept for a period of one (1) year. (Ord. 223 §1(part), 1994).

4.04.060 Reporting Requirements. At least monthly, or as otherwise directed by the Mayor, a list of all investments for all Town accounts shall be prepared for inclusion in a monthly report. Such report shall include the amount, instrument location, rate and/or yield, date of maturity, and the funds to which the investment will accrue. (Ord. 223 §l(part), 1994).

Chapter 4.08

SALES TAX

Sections:

4.08.010 Purpose.
4.08.020 Definitions.
4.08.030 License-Required When-Application-Renewal.
4.08.040 License-Fee.
4.08.050 General Provisions and Exemptions.
4.08.060 Schedule of Sales Tax.
4.08.070 Vendor's Fee.
4.08.080 Amendments.
4.08.090 Violation-Penalty.

4.08.010 Purpose. The purpose of this Chapter is to impose a sales tax on the privilege of selling tangible personal property at retail or the furnishing of services upon every provider in the Town. (Ord. 99 §1, 1976).

4.08.020 Definitions. For the purposes of this Chapter, the definitions of words herein contained shall be as defined in Article 26, Title 39, C.R.S. 1973, and said definitions are incorporated herein by this reference. (Ord. 99 §2, 1976).

4.08.030 License-Required When-Application-Renewal. 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. Such license shall be granted and issued by the Town Clerk and shall be in force and effect until the thirty-first (31st) day of December of the year in which it is issued, 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 and 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 1st of each year during which this Chapter remains in effect to obtain a renewal thereof if the licensee remains in the retail business of liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of 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 or furnishing of services in the Town, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Chapter.

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 Chapter.

(Ord. 99 §3, 1976).

4.08.040 License--Fee. For each sales tax license issued under this Chapter, a fee in an amount set forth by resolution of the Board of Trustees shall be paid, which shall accompany the application. A further fee, in an amount set forth by resolution of the Board of Trustees, shall be paid for each year or fraction thereof, for which said license is renewed; provided that only one-half (½) of said fee shall be charged on licenses issued after July 1st of any year. No license shall be transferrable. (Ord. 103 §1, 1976; Amended Ord. 309 §1 (part), 2006).

4.08.050 General Provisions and Exemptions. A. For the purpose of collection, administration and enforcement of this Chapter by the director of revenue, the provisions of Article 26 of Title 39, C.R.S. 1973, shall be deemed applicable and incorporated into this Chapter.

B. The amount subject to tax under this Chapter shall not include the State Sales and Use Tax imposed by Article 26, Title 39, C.R.S. 1973.

C. For the purpose of this Chapter, 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 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.

D. 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. 1973, regardless of the places to which delivery is made.

E. In the event a retailer has no permanent place of business in the Town, or more than one 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.

1973, and the rules and regulations promulgated by the Department of Revenue.

F. The tangible personal property and services taxable pursuant to this Chapter shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104 C.R.S. 1973, and subject to the same exemptions as those specified in Section 39-26-114 C.R.S. 1973.

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

1. The purchaser is a nonresident of or has his principal place of business outside of the local taxing entity; and

2. Such personal property is registered or required to be registered outside the limits of the local taxing entity under the laws of this State.

H. The sales of food, as defined in C.R.S. 1973, 39-26-102 (4.5), shall be exempted from the sales tax imposed by this Chapter.

I. All sales and purchases of electricity, coal, wood, gas, fuel oil or coke sold, but not for resale, to occupants of residences, whether owned, leased or rented by said occupants, for the purpose of operating residential fixtures and appliances which provide light, heat and power for such residences shall be exempted from the sales tax imposed by this Chapter. For the purpose of this subsection, "gas" includes natural, manufactured and liquefied petroleum gas. The items enumerated in this subsection shall only be exempted from said sales tax so long as said items are exempt from the Colorado State Sales Tax pursuant to C.R.S. 1973, 39-26-114.

J. All sales and purchases of machinery or machine tools, as defined and exempted in Section 39-26-114 (11) C.R.S. 1973, as amended, shall be exempt from the sales tax imposed by this Chapter.

(Ord. 99 §4, 1976; Ord. 128 §1, 1982; Ord. 130 §1, 1982).

4.08.060 Schedule of Sales Tax. A. There is imposed on all sales of tangible personal property at retail, and the furnishing of services, a tax equal to two percent (2%) of the gross receipts. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town.

B. The collection, administration and enforcement of this sales tax 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. The provisions of Article 26,

Title 39, C.R.S. 1973, and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of the sales tax imposed by this Chapter.

(Ord. 99 §5, 1976).

4.08.070 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 1/3%) from the total amount due by vendor to the Town each month. (Ord. 103 §3, 1976).

4.08.080 Amendments. The Board of Trustees may amend, alter or change this Chapter, except as to the two percentum (2%) rate of tax herein imposed, subsequent to adoption by a majority of the Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval. (Ord. 99 §6(b), 1976).

4.08.090 Violation-Penalty. Any person convicted of violating any of the provisions of this Chapter commits a Class B municipal offense. (Ord. 103 §4, 1976; Amended Ord. 258 §3(part), 2001).

Chapter 4.10

USE TAX

Sections:

4.10.010 Purpose.
4.10.020 Definitions.
4.10.030 Use Tax Imposed.
4.10.040 Exemptions.
4.10.050 Collection and Administration of Use Tax on Construction and Building Materials.
4.10.060 Interest and Penalties for Deficiencies.
4.10.070 Delinquency -- Lien on Property.
4.10.080 Deficiency Notice -- Alternative Dispute Resolution Procedures.
4.10.090 Amendments.
4.10.110 Effective Date.
4.10.120 Violation -- Penalty.

(Amended Ord. 430 § 4, 2012)

4.10.010 Purpose. The purpose of this Chapter is to raise revenue for municipal purposes and provide a complimentary tax to the Town of De Beque's Sales Tax. The tax imposed in this Chapter is on the privilege of using or consuming in the Town any construction and building materials, not otherwise subject to municipal sales taxes.

4.10.020 Definitions. For the purposes of this Chapter, 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.

4.10.030 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 De Beque construction and building materials of every kind and form purchased outside the Town of De Beque at retail and on or after May 1, 2012, for the purpose of storage, use or consumption within the Town, in the amount of two percent (2%) of the retail purchase price of said construction and building materials. (Amended Ord. 430 § 5, 2012)

4.10.040 Exemptions. 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 De Beque;

B. To the storage, use, or consumption of any tangible personal property

purchased for resale in the Town of De Beque, 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 De Beque by a non-resident thereof for his own storage, use, or consumption while temporarily within the Town of De Beque; 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 De Beque of tangible personal property purchased by him in another 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 other 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 De Beque 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.

4.10.050 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 is necessary 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 such person 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 De Beque 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.

F. Construction equipment which is located within the boundaries of the Town of De Beque for a period of thirty (30) consecutive days or less shall be subject to the Use Tax of the Town of De Beque in an amount which does not exceed the amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the enumerator of which is one and the denominator of which is twelve, and the result shall be multiplied by the Use Tax rate set out in this Chapter. Where the provisions of this subsection (F) are utilized, the credit provisions of subsection (F) of Section 4.10.040 shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to the other statutory and home-rule cities, towns and cities and counties on any such equipment equal the full Use Tax of the Town of De Beque.

In order to avail himself of the provisions of this subsection (F), the taxpayer shall comply with the following procedure:

1. Prior to or on the date the equipment is located within the boundaries of the Town of De Beque, the taxpayer shall file with the Town Treasurer an equipment declaration on a form provided by the Town Treasurer. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the Town of De Beque, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment, and shall include such other information as reasonably deemed necessary by the Town Treasurer.

2. The taxpayers shall file with the Town Treasurer and amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety (90) days after the equipment is brought into the boundaries of the Town of De Beque or, for equipment which is brought into the boundaries of the Town of De Beque for a project of less than ninety (90) days duration, no later than ten (10) days after substantial completion of the project.

3. The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under $2,500.00. If such equipment declaration is given, then as to any item of construction equipment for which the customary purchase price is under $2,500.00 which was brought into the boundaries of the Town of De Beque temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales tax or use tax as high as described in this Chapter and that such sales or use tax was previously paid. In such case the burden of proof in any proceeding before the Town of De Beque, the executive director of the Department of Revenue, or the Mesa County District Court, shall be on the Town of De Beque to prove such local sales or use tax was not paid.

4. If the taxpayer fails to comply with the provisions of this subsection (F), the taxpayer may not avail himself of the provisions of this subsection. However, substantial compliance with the provisions of this subsection (F) shall allow the taxpayer to avail himself of the provisions of this subsection (F).

4.10.060 Interest and Penalties for 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 39-12-110.5, 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 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 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.

4.10.070 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.

4.10.080 Deficiency Notice - Alternative Dispute Resolution Procedures. Any taxpayer subject to the Use Tax pursuant to this Chapter may elect to have a state hearing on

the Town of De Beque'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 De Beque 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, C.R.S.

E. If the deficiency notice or claim for refund involves only the Town of De Beque, in lieu of requesting State hearing, the taxpayer may appeal such deficiency notice or denial

of a claim for refund to the Mesa 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.

4.10.090 Amendments. Except as to the Use Tax rate provided for in this Chapter 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 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.

4.10.110 Effective Date. This Chapter shall be effective as of 12:01 A.M., on May 1, 2012 upon approval thereof by the registered electors of the Town of De Beque.

4.10.120 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.

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

(Ord. 424 §1, 2012)

Chapter 4.12

TELEPHONE UTILITY TAX

Sections:

4.12.010 Tax Levied.
4.12.020 Time Payment of Tax.
4.12.030 Filing Statement.
4.12.040 Failure to Pay.
4.12.050 Inspection of Records.
4.12.060 Local Purpose.
4.12.070 Tax in Lieu of Other Business and Occupations Taxes.
4.12.080 Violation-Penalty.

4.12.010 Tax Levied. There is levied on and against each telephone utility company operating within the Town, a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the Town and of supplying local exchange telephone service to the inhabitants of the Town. The amount of the tax levied shall be:

A. For the portion of 1981 remaining after the date upon which the tax begins to accrue as provided in Section 4.12.020, seventy-five cents ($0.75) per telephone account for which the local exchange telephone service is provided within the corporate limits of the Town on said date; and

B. For each subsequent calendar year, three dollars ($3.00) per telephone account for which the local exchange service is provided, within the corporate limits of the Town, on the anniversary of the date on which the tax begins to accrue as provided in Section 4.12.020.

(Ord. 115 §1, 1981).

4.12.020 Time Payment of Tax. The tax levied by this Chapter shall begin to accrue on the first day of October, 1981, and shall be due and payable on the last day December, 1981, and in four (4) equal quarterly installments for years subsequent to 1981, to be paid on the last business days of the months of March, June, September and December. (Ord. 115 §2, 1981).

4.12.030 Filing Statement. Within thirty (30) days after the date on which the tax begins to accrue as provided in Section 4.12.020, each telephone utility company subject to this Chapter shall file with the Town Clerk, in such forms as the Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the Town on said date. Such statement shall be filed within thirty

(30) days after each anniversary of the date on which the tax begins to accrue, showing such accounts on the anniversary date. (Ord. 115 §3(part), 1981).

4.12.040 Failure to Pay. If any telephone utility company subject to the provisions of this Chapter shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, is declared to be a debt due and owing from such company to the Town. The Town Attorney, upon direction of the Board of Trustees, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the debt. (Ord. 115 §4(part), 1981).

4.12.050 Inspection of Records. The Town, its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the telephone utility companies which are subject to the provisions of this Chapter and to make copies of the entries or contents thereof. (Ord. 115 §6(part), 1981).

4.12.060 Local Purpose. The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Chapter be construed to mean that any telephone utility company is issued a franchise by the Town. (Ord. 115 §7(part), 1981).

4.12.070 Tax in Lieu of Other Business and Occupations Taxes. The tax herein provided shall be in lieu of all other occupations taxes or taxes on the privilege of doing business in the Town on any telephone utility company subject to the provisions of this Chapter and in addition, shall be in lieu of any free service furnished the Town by any said telephone company. (Ord. 115 §8(part), 1981).

4.12.080 Violation-Penalty. If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Chapter shall fail, neglect, refuse to make or file the annual statement of accounts provided in Section 4.12.030, such person commits a Class B municipal offense. Each day after said statement shall become delinquent during which the said officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense. (Ord. 115 §5(part), 1981; Amended Ord. 258 §4(part), 2001).

Chapter 4.14

LODGING OCCUPATION TAX

Sections:

4.14.010 Purpose.
4.14.020 Definitions.
4.14.030 Levy of Tax.
4.14.040 Exemptions.
4.14.050 Collection of Tax.
4.14.060 Audit of Records.
4.14.070 Tax Overpayments and Deficiencies.
4.14.080 Tax Information Confidential.
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4.14.100 Enforcement and Penalties.
4.14.110 Tax Lien.
4.14.120 Recovery of Unpaid Taxes.
4.14.130 Status of Unpaid Tax in Bankruptcy and Receivership.
4.14.140 Hearings, Subpoenas and Witness Fees.
4.14.150 Depositions.
4.14.160 Statute of Limitations.
4.14.170 Exemption from Revenue Limitation.

4.14.010 Purpose. The Board of Trustees hereby finds, determines and declares:

A. For the purposes of this Chapter, every person that furnishes a lodging room or accommodation for consideration in the Town of De Beque is exercising a taxable privilege. The purpose of this Chapter is to impose a tax which will be paid by every vendor providing such lodging room or accommodation in the Town of De Beque, which tax will provide revenues for the Town of De Beque;

B. The provision of lodging rooms and other accommodations to the traveling public results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial effect upon the health, safety and welfare of the citizens of the Town of De Beque and upon the expenditures budgeted by the Town which is a matter of local concern; and

C. The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.

4.14.020 Definitions. When not clearly otherwise indicated by the context, the following words and phrases as used in this Chapter shall have the following meanings:

A. "Lodging" shall mean hotel rooms, motel rooms, lodging rooms, motor hotel rooms, recreational vehicles park or resort spaces, campground spaces, or other similar accommodations that are rented to persons for a period of less than one (1) month or thirty-one (31) consecutive days, whichever is less, but shall not include rentals under a written agreement for occupancy for a period of at least one (1) month or thirty-one (31) days.

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

C. "Sale" or "rental" means the furnishing for consideration by any person of lodging within the Town.

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

E. "Taxpayer" means the vendor obligated to pay the tax under the terms of this Chapter.

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

4.14.030 Levy of Tax. Effective July 15, 2009, there is hereby levied by the Town of De Beque an occupation tax on the provision of lodging upon every person or business that furnishes any hotel room, motel room, lodging room, motor hotel room, recreational vehicle park or resort space, campground space or other similar accommodation for consideration for less than one (1) month or thirty-one (31) consecutive days, whichever is less, within the Town of De Beque in the amount of two dollars ($2.00) per day, per occupied lodging room or accommodation.

4.14.040 Exemptions. The following transactions shall be exempt from the tax imposed by this Chapter:

A. Accommodations provided by the United States, the State of Colorado, its departments and institutions, and the political subdivisions of the State in their governmental capacities only;

B. Accommodations provided by those charitable, religious and eleemosynary organizations that have received 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, religious or eleemosynary functions and activities; and

C. Accommodations provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, recreational vehicle park or resort, campground, or other similar business pursuant to a written agreement for a period of at least one (1) month or thirty-one (31) consecutive days.

4.14.050 Collection of Tax. A. Every vendor providing lodging taxable under this Chapter shall remit such tax on or before the tenth (10th) day of each month on account of lodging provided in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

B. The burden of proving that any transaction is exempt from the tax shall be upon the vendor.

C. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than sixty dollars ($60.00) to make returns and pay taxes at intervals not greater than three (3) months.

D. It shall be the duty of every vendor to maintain, keep and preserve suitable records of all rentals 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 Chapter. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk or designee.

E. The tax to be paid by a vendor shall not be stated and charged separately from the rental price of lodging on any record thereof at the time when the rental is made or at the time when evidence of the rental is issued, provided, vendor may indicate the rental price "includes $2.00 Town of De Beque Lodging Occupation Tax."

4.14.060 Audit of Records. A. For the purpose of ascertaining the correct amount of the occupation tax on the provision of lodging due from any person engaged in such business in the Town under this Chapter, the Town Clerk or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.

B. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing

information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination.

C. Any exempt organization claiming an exemption under the provisions of this Chapter is subject to audit in the same manner as any other person engaged in the lodging business in the Town.

4.14.070 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 occupation tax on the provision of lodging, she shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Chapter, the difference together with the interest 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.

4.14.080 Tax Information Confidential.

A. All specific information gained under the provisions of this Chapter 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 representatives as confidential. Except as directed by judicial order or as provided in this Chapter, 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 confidential 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 Chapter or by law, shall be guilty of a violation hereof.

B. The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said 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 a taxpayer or their duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

4.14.090 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 Chapter, to provide for:

A. A form of report on the provision of lodging to be supplied to all vendors;

B. The records which vendors providing lodging are to keep concerning the tax imposed by this Chapter.

4.14.100 Enforcement and Penalties.

A. It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Chapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Chapter. Any person convicted of a violation of this Chapter shall be deemed guilty of a Class B municipal offense. Each day, or portion thereof, that any violation of this Chapter 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 (10th) day of the month as required by this Chapter, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) 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 negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the 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 together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.

D. If any vendor fails to make a return and pay the tax imposed by this Chapter, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at his address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.

E. Such petition shall be in writing and the facts and figures submitted shall be

submitted either in writing or orally, and shall be given by the taxpayer under penalty or perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Chapter. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a Court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.

4.14.110 Tax Lien.

A. The tax imposed by this Chapter, 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 Town peace officer, the Mesa County Sheriff 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, and the remedies of garnishment shall apply.

B. The tax imposed by this Chapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

4.14.120 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.

B. In case of failure to pay the taxes, or 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 attorney's 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 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 De Beque Marshal or Mesa County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace 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 Town Clerk, to commence action for the recovery of taxes due under this Chapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this Chapter.

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 Clerk for collection in the same manner as delinquent ad valorem taxes.

4.14.130 Status of Unpaid Tax in Bankruptcy and Receivership. Whenever the business or property of a taxpayer subject to this Chapter shall be 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 Chapter and for which the taxpayer is in any way liable under the terms of this Chapter 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 Chapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Chapter, and if there be 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.

4.14.140 Hearings, Subpoenas and Witness Fees.

A. Hearings before the Town Clerk pursuant to provisions in this Chapter shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this Chapter may be enforced by the De Beque Municipal Judge 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 at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Chapter, and when a 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. In such case, the Town Clerk, at her discretion, 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.

B. The De Beque Municipal Judge, upon the application of 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 any 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.

4.14.150 Depositions. The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without 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.

4.14.160 Statute of Limitation.

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 Chapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or 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 (3) year period when the 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.

4.14.170 Exemption From Revenue Limitation. The occupation tax on the provision of lodging imposed by this Chapter and the use of revenues derived from said tax for tourism promotion was approved by the electors of the Town of De Beque on April 1, 2008. As a part of said approval, the revenues are to be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.

(Ord. 390 §1, 2009)

Chapter 4.15

MEDICAL MARIJUANA CENTER OCCUPATION TAX

Sections:

4.15.010 Purpose.
4.15.020 Definitions.
4.15.030 Levy of Tax.
4.15.040 Exemptions.
4.15.050 Collection of Tax.
4.15.060 Audit of Records.
4.15.070 Tax Overpayments and Deficiencies.
4.15.080 Tax Information Confidential.
4.15.090 Forms and Regulations.
4.15.100 Enforcement and Penalties.
4.15.110 Tax Lien.
4.15.120 Recovery of Unpaid Taxes.
4.15.130 Status of Unpaid Tax in Bankruptcy and Receivership.
4.15.140 Hearings, Subpoenas and Witness Fees.
4.15.150 Depositions.
4.15.160 Statute of Limitations.
4.15.170 Exemption from Revenue Limitation.

4.15.010 Purpose. The Board of Trustees hereby finds, determines and declares:

A. For the purposes of this Chapter, every person that furnishes medical marijuana to a patient for consideration in the Town of De Beque is exercising a taxable privilege. The purpose of this Chapter is to impose a tax which will be paid by every vendor providing such medical marijuana in the Town of De Beque, which tax will provide revenues for the Town of De Beque;

B. The provision of medical marijuana to patients results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial affect upon the health, safety and welfare of the citizens of the Town of De Beque and upon the expenditures budgeted by the Town which is a matter of local concern; and

C. The classification of medical marijuana centers as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.

4.15.020 Definitions**.** When not clearly otherwise indicated by the context, the following words and phrases as used in this Chapter shall have the following meanings:

A. "Medical Marijuana" means marijuana that is grown and sold for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

B. "Medical Marijuana Business" means the use of a property or portion thereof, for the production, cultivation, manufacture, storage, distribution, acquisition or sale of marijuana, including the use of property for Medical Marijuana Centers, Medical Marijuana-Infused Products Manufacturers and Optional Premises Cultivation Operations, whether any such use is for profit or not for profit.

C. "Medical Marijuana Center" means a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells Medical Marijuana and medical marijuana-infused products at retail to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

D. "Medical Marijuana-Infused Products Manufacturer" means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business manufacturing medical marijuana-infused products.

E. "Optional Premises Cultivation Operation" means a person licensed pursuant to the Colorado Medical Marijuana Code to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

F. "Patient" has the meaning set forth in Article XVIII, Section 14(1)(c) of the Colorado Constitution.

G. "Primary Caregiver" has the meaning set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution.

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

I. "Sale" means the furnishing for consideration by any person of medical marijuana within the Town.

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

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

Chapter.

L. "Vendor" means a person furnishing Medical Marijuana to a Patient for consideration within the Town.

4.15.030 Levy of Tax. Effective April 1, 2011, there is hereby levied by the Town of De Beque an occupation tax on the provision of Medical Marijuana by Medical Marijuana Centers to Patients, or Medical Marijuana-Infused Products Manufacturers, or to other Medical Marijuana Centers, within the Town of De Beque in the amount of five dollars ($5.00) per sales transaction.

4.15.040 Exemptions**.** This Chapter shall not be applicable to transactions between a Patient and a Primary Caregiver when acting in accordance with all applicable provisions of Article XVIII, Section 14(1)(c) of the Colorado Constitution, Section 12-43.3-101, *et. seq.*, C.R.S., Section 25-1.5-106, C.R.S., and the regulations promulgated by the Colorado Department of Public Health and Environment, Colorado Department of Revenue or any other agency with regulatory authority concerning medical marijuana.

4.15.050 Collection of Tax**.** A. Every Vendor providing medical marijuana taxable under this Chapter shall remit such tax on or before the tenth (10th) day of each month on account of Medical Marijuana transactions in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

B. The burden of proving that any transaction is exempt from the tax shall be upon the Vendor.

C. If the accounting methods regularly employed by the Vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the Vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the Vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a Vendor whose monthly tax obligation is less than one hundred dollars ($100.00) to make returns and pay taxes at intervals not greater than three (3) months.

D. It shall be the duty of every Vendor to maintain, keep and preserve 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 Chapter. It shall be the duty of every such Vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk or designee.

E. The tax to be paid by a Vendor shall not be stated and charged separately from the

sale price of Medical Marijuana on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued, provided, a Vendor may indicate the sale price "includes $5.00 Town of De Beque Medical Marijuana Center Occupation Tax."

4.15.060 Audit of Records**.** A. For the purpose of ascertaining the correct amount of the occupation tax on Medical Marijuana transactions due from any person engaged in such Medical Marijuana Center business in the Town under this Chapter, the Town Clerk or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.

B. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination.

C. Any exempt person claiming an exemption under the provisions of this Chapter is subject to audit in the same manner as any other person engaged in the sale of Medical Marijuana in the Town.

4.15.070 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 occupation tax on the provision of Medical Marijuana, she shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Chapter, the difference together with the interest shall be paid by the Medical Marijuana Business within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

4.15.080 Tax Information Confidential. A. All specific information gained under the provisions of this Chapter 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 representatives as confidential. Except as directed by judicial order or as provided in this Chapter, 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 confidential 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 Chapter or by law, shall be guilty of a violation hereof.

B. The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said 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 a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

4.15.090 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 Medical Marijuana and in particular and without limiting the general language of this Chapter, to provide for:

A. A form of report on the provision of Medical Marijuana to be supplied to all Vendors;

B. The records which Medical Marijuana Businesses providing Medical Marijuana are to keep concerning the tax imposed by this Chapter.

4.15.100 Enforcement and Penalties. A. It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Chapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Chapter. Any person convicted of a violation of this Chapter shall be deemed guilty of a Class B municipal offense. Each day, or portion thereof, that any violation of this Chapter 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 Medical Marijuana Business and become due in the event the tax is not remitted by the tenth (10th) day of the month as required by this Chapter, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) 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 negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the Medical Marijuana Business required to file a return. If any part of the 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 together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.

D. If any Medical Marijuana Business fails to make a return and pay the tax imposed by this Chapter, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the Medical Marijuana Business at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.

E. Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Chapter. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a Court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.

4.15.110 Tax Lien. A. The tax imposed by this Chapter, 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 of 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 Town peace officer, the Mesa County Sheriff 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, and the remedies of garnishment shall apply.

B. The tax imposed by this Chapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

4.15.120 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.

B. In case of failure to pay the taxes, or 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 salaried attorney's time, including legal assistant's time, or the reasonable attorney's fees, including legal assistant's 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 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 De Beque Marshal or Mesa County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace 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 Town Clerk, to commence action for the recovery of taxes due under this Chapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this Chapter.

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 pursuant to Section 31-20-105, C.R.S.

4.15.130 Status of Unpaid Tax in Bankruptcy and Receivership. Whenever the business or property of a taxpayer subject to this Chapter shall be 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 Chapter and for which the taxpayer is in any way liable under the terms of this Chapter 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 Chapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Chapter, and if there be 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.

4.15.140 Hearings, Subpoenas and Witness Fees.

A. Hearings before the Town Clerk pursuant to provisions in this Chapter shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this Chapter may be enforced by the De Beque Municipal Judge 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 at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Chapter, and when a 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. In such case, the Town Clerk, at her discretion, 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.

B. The De Beque Municipal Judge, upon the application of 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 any 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.

4.15.150 Depositions**.** The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without 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.

4.15.160 Statute of Limitation**.**

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 Chapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or 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 (3) year period when the 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.

4.15.170 Exemption From Revenue Limitation**.** The occupation tax imposed by this Chapter and the use of revenues derived from said tax was approved by the electors of the Town of De Beque on November 2, 2010. As a part of said approval, the revenues are to be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.

(Ord. 413 §1, 2011)