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Chapter 3.01

Collection Methods

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3.01.010 Collection methods.

To collect on past due fines, debts or fees, dishonored bank drafts and other negotiable instruments, the Town may employ any collection method available, including assigning such accounts to private counsel or private collection agencies. In order to collect delinquent fines, debts or fees, the Town may, at its option, sue the debtor. If suit is brought, then reasonable collection costs, attorney's fees and legal expenses shall be added to the amount due. In the case of dishonored bank drafts and other negotiable instruments, in addition to the fee provided for in Section 3.01.020 below, the Town may pursue all remedies provided for in C.R.S. (Ord. 2006-22 §2, 2006)

3.01.020 Fee schedule.

Whenever any account or debt due the Town, excluding taxes or dishonored bank drafts and other negotiable instruments, is referred for collection the following collection fees shall be added to the original debt amount:

<i>AMOUNT OF DEBT</i>	<i>COLLECTION FEE</i>
\$0.01 to \$50.00	\$20.00
\$50.01 to \$100.00	\$30.00
\$100.01 to \$150.00	\$40.00
\$150.01 to \$200.00	\$60.00
\$200.01 to \$300.00	\$80.00
\$300.01 and above	30% of the debt amount

The debtor shall be liable for repayment of the total of the amount outstanding plus the collection fee. The Town may, at its option, waive the collection fee for good cause shown. These fees will apply to accounts or fines which become delinquent on or after the effective date of the ordinance codified herein. (Ord. 2006-22 §2, 2006)

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3.02.020 Applicability.

This Chapter shall apply to the purchase or lease/purchase of supplies, materials and equipment and the procurement by contract or retainer of all types of construction and services. Whenever reference is made to *purchase*, it shall also refer to a lease/purchase arrangement. (Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

3.02.030 Responsible party.

The administration of the provisions of this Chapter shall be the responsibility of the Town Manager or authorized designee. All department directors and other staff members with spending authority shall be responsible for compliance with these provisions in the expenditure of Town funds. (Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

3.02.040 Regulations.

The Town Manager may promulgate or authorize other staff members and department directors to establish procedures and regulations that are not inconsistent with this Chapter for the orderly procurement of goods and services and the management of procurement contracts. Such regulations may deal with, but are not limited to, the following:

- A. Specification/scope of services.
- B. Vendor lists.
- C. Verbal quotations.
- D. Informal written quotations.
- E. Formal bids.
- F. Requests for proposals (RFPs).
- G. Sole source/emergency.
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- M. Sale and transfer of Town property.

N. Contract requirements. (Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

3.02.050 Competitive bidding and exceptions.

Before the Town procures any goods or services, the competitive bid process of Section 3.02.060 shall be followed, except when exempted by the Town Council. In addition, the following items are exempted from competitive bidding:

- A. Purchases made cooperatively with other units of government.
- B. Professional services where a retainer agreement has been approved by the Town Council.
- C. Purchases from federal, state or other local government units.
- D. Magazines, books or periodicals.
- E. Travel and training expenditures. (Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

3.02.060 Bid requirements.

A. These bid requirements apply to the purchase of goods or procurement of services which are not exempted from competitive bidding under Section 3.02.050. These bid requirements also apply to lease purchases. Lease purchase shall be valued at the capitalized cost of the item, or if none, at the total of the lease payments.

- 1. Purchases of one thousand dollars (\$1,000.00) or less do not require bids, but Town staff is encouraged to obtain two (2) verbal bids whenever possible.
- 2. Purchases over one thousand dollars (\$1,000.00) and up to five thousand dollars (\$5,000.00) require three (3) verbal bids unless approved by the Town Manager on the basis of sole source, emergency or unresponsive bidders.
- 3. Purchases over five thousand dollars (\$5,000.00) and up to seventy-five thousand dollars (\$75,000.00) require three (3) informal written bids unless approved by the Town Manager on the basis of sole source, emergency or unresponsive bidders.
- 4. Purchases over seventy-five thousand dollars (\$75,000.00) require formal written sealed bids unless waived by the Town Council on the basis of sole source, emergency or unresponsive bidders.

B. The Town Manager may require formal written sealed bids on any purchase costing less than seventy-five thousand dollars (\$75,000.00) when such requirement is considered in the best interests of the Town. (Ord. 2001-41 §1, 2001; Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

3.02.070 Successful bids.

Awards of bid provisions are solely for the fiscal responsibility and benefit of the Town, and confer no rights, duties or entitlements to any bidder. Bids shall be awarded to the lowest, best and responsive, responsible bidder as determined by the Town. The Town will solicit Castle Rock firms

to submit bids whenever possible. Where all award factors are equal, a bid will be awarded to a Castle Rock firm. (Ord. 2001-41 §2, 2001; Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

3.02.080 Purchase approval and contract execution.

A. Procurement of goods and services, contracts and intergovernmental agreements shall require the written approval in accordance with the following schedule:

<i>Amount</i>	<i>Approval</i>
Less than \$25,000	Responsible department director or designee
\$25,000 – \$250,000	Responsible department director or designee and Town Manager or designee
\$250,000 +	Responsible department director, Town Manager and Town Council

The Town Manager may approve, through a purchase order, (without a contract) the procurement of goods that has previously been approved by the Town Council through the budget process in excess of two hundred fifty thousand dollars (\$250,000.00).

B. Unless otherwise authorized or directed by the Town Council, contracts, including intergovernmental agreements, costing up to two hundred fifty thousand dollars (\$250,000.00) which have been previously appropriated, may be executed by the Town Manager or his or her designee on behalf of the Town. Contracts, including intergovernmental agreements, costing in excess of two hundred fifty thousand dollars (\$250,000.00) shall be executed by the Mayor or his or her designee. All contracts shall be approved as to form by the Town Attorney or his or her designee, whose approval shall be indicated on the contract or the resolution approving the contract. (Ord. 2007-27 §1, 2007; Ord. 2004-18 §1, 2004; Ord. 2001-41 §3, 2001; Ord. 2001-09 §1, 2001; Ord. 92-28 §1(part), 1993)

Chapter 3.04

Sales and Use Tax

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Article I. General Provisions

3.04.010 Title.

This Chapter shall be known as the Castle Rock sales and use tax ordinance. (Ord. 9.09 §1, 1976)

3.04.020 Effective date.

Upon passage of the ordinance codified in this Chapter and subsequent referendum, the sales tax shall apply to all retail sales and to the storage, use and consumption of all personal property subject to this Chapter, unless exempted in this Chapter, from January 1, 1977. (Ord. 9.09 §15, 1976)

3.04.023 Transportation Fund and disposition of revenues.

A. There is established a special fund of the Town to be known as the "Town of Castle Rock Transportation Fund." Monies credited to such fund shall be used for the purpose of financing the costs of construction, acquisition, installation, repair and maintenance of streets, sidewalks, bicycle and pedestrian trails, bridges and drainage facilities, public transit, landscaping of public rights-of-way, easement and right-of-way acquisition necessary to develop such transportation facilities and for the operations of municipal departments charged with the responsibility for construction and maintenance of such facilities. Monies credited to such fund may be available to be pledged, expended or loaned by interfund transfer or otherwise, for any general purpose of the Town, as determined by the Town Manager.

B. Unless otherwise pledged, expended or loaned, the revenues derived from the Town's four-percent sales and use tax shall be distributed and used according to the appropriation set annually by

the Town Council. This should be in accordance with all other voter-approved initiatives for the sales and use tax distribution, which includes the Transportation Fund and the Community Center Fund.

C. Nothing herein shall prohibit the Town from issuing sales and use tax revenue bonds payable from the Town's sales and use tax for any public purpose of the Town, and the payment of such bonds and the deposits required in connection with such bonds shall occur prior to any deposits required by this Section. (Ord. 2009-42, 2009; Ord. 2002-67 §1, 2002; Ord. 2002-35 §1, 2002; Ord. 96-32 §1, 1996; Ord. 95-30 §1, 1995; Ord. 94-27 §1, 1994; Ord. 92-17 §1, 1992; Ord. 89-33 §3, 1989; Ord. 88-06 §3, 1988)

3.04.024 Termination of intergovernmental agreement.

In the event that the Town should fail to receive the four-tenths of one cent (\$.004) County sales and use tax revenue collected within the Town from Douglas County, pursuant to the intergovernmental agreement dated September 12, 1995, and the Town Council has made a good faith determination that there is no reasonable legal recourse to enforce the County's payment of such sales and use tax revenue in the Town, then the Town Council may adopt a resolution acknowledging termination of the intergovernmental agreement. Upon adoption of such resolution the Town's sales and use tax shall increase on the earlier January 1 or July 1 following such termination. (Ord. 95-30 §1, 1995)

3.04.025 Dedication of revenue.

A. Subject at all times to the limitations of Section 3.04.023 of this Chapter and the terms and conditions of any pledge or claim upon sales, use or property tax revenue to retire municipal bonds, notes or other obligations, the dedication of a portion of the incremental revenues derived from commercial activity of a qualifying economic development project, as defined in Section 2.25.020 of this Code, generated within a specific development or property, may be authorized by the Town. The Town Manager may authorize the dedication of a portion of the incremental revenues in which the estimated amount of the shared revenues does not exceed one hundred thousand dollars (\$100,000.00). Any tax-sharing agreement in which the direct financial impact to the Town exceeds one hundred thousand dollars (\$100,000.00), or which exceeds one hundred thousand dollars (\$100,000.00) in shared revenues over a multiple-year period, may be authorized by the Town Council, by duly enacted resolution. Such dedication may be implemented pursuant to contract, containing such terms and conditions as the Town Council deems appropriate. *Incremental revenues* shall mean the sales, use or property tax revenue generated exclusively by the commercial activity which is to receive the benefit of the dedication.

B. The incremental revenues may be utilized to construct, develop or finance improvements or infrastructure to service the development, or otherwise aid development of the qualifying economic development project. The dedicated revenue may be applied by the Town to amortize the principal and interest on the financing of such improvements or applied directly for the benefit of the project owner or developer. The dedication for sales tax shall be for a prescribed period of time.

C. The Town, in its sole discretion, shall determine whether it is appropriate and advisable to dedicate a portion of the incremental sales, use or property tax revenue generated from a specific qualifying economic development priority project, on such terms, conditions and limitations as it may impose. The dedication of revenue shall be subject to the terms and conditions of any contract

entered into for the purpose of implementing the dedication. In making such determination, the following criteria, as well as other facts which may be germane to a specific proposal, shall be considered:

1. The magnitude of the sales, use or property tax revenue projected to be generated by the qualifying economic development project, in relation to the Town's existing tax base;
2. Whether the proposal will introduce a new market or class of commercial activity within the Town, such as expanding the goods available for purchase and consumption within the Town;
3. The extent that the project is expected to enhance the likelihood of additional, complementary commercial activity, thereby increasing the overall sales tax base;
4. The primary employment opportunities to be created by the project;
5. The other revenues, taxes and exactions which the project will generate;
6. The cost of providing municipal services to the project or activity, such as police and fire protection;
7. The need for the type of activity proposed to receive financial incentives in order to be viable and competitive with other communities where such activity may also be justifiably located;
8. The general financial condition of the Town; and
9. The master plan or other development policies.

D. It is further recognized that only in extraordinary circumstances shall such dedication of sales, use or property tax revenue be utilized to assist private, commercial enterprise. No entitlement or right to benefit of this Section is created by adoption hereof, nor shall these provisions have any retroactive effect or application. (Ord. 2011-22 §3, 2011; Ord. 2005-47 §1, 2005; Ord. 2004-54 §2, 2004; Ord. 90-31 §1, 1990)

Article II. Sales Tax

3.04.030 Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services within the corporate limits of the Town in accordance with Article 2, Title 29, and Article 26, Title 39, C.R.S. (Ord. 9.09 §2, 1976)

3.04.040 Definitions.

Except as otherwise expressly provided, the definitions of words used in this Article shall be the same as those definitions found in Part 102, Article 26, Title 39, C.R.S., and the definitions are incorporated in this Article by this reference; except that the term *retail sales* as used in this Article shall mean all sales, except wholesale sales, made within the corporate limits of the Town; and except

that references to the state where such references are to the geographic extent of the taxing authority, shall mean the Town of Castle Rock. (Ord. 9.09 §3, 1976)

3.04.050 Tax imposed.

There is hereby imposed on all sales of tangible personal property at retail or the furnishing of services as provided in subpart (1)(d) of Part 105, Article 2, Title 29, C.R.S., a tax of three and six-tenths percent (3.6%) of the gross receipts between the dates of January 1, 1996, and December 31, 2010, and thereafter a tax of four percent (4.0%) of gross receipts commencing on January 1, 2011, or upon such earlier date as provided in Section 3.04.024. (Ord. 95-30 §3, 1995; Ord. 94-27 §2, 1994; Ord. 92-17 §2, 1992; Ord. 89-33 §1, 1989; Ord. 88-06 §1, 1988; Ord. 9.09 §4.1, 1976)

3.04.060 Schedules.

The imposition of the tax on individual sales shall be in accordance with the schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town. (Ord. 9.09 §4.2, 1976)

3.04.070 Taxable property and services.

The tangible personal property and services taxable by this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S. (Ord. 9.09 §5.1, 1976)

3.04.080 Exclusion of state tax.

The amount subject to tax under this Article shall not include the state sales and use tax imposed by Article 26, Title 39, C.R.S. (Ord. 9.09 §5.2, 1975)

3.04.090 Place of sale.

For the purpose of this Article, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the Town or to a common carrier for delivery to a destination outside the limits of the Town. (Ord. 9.09 §5.3, 1976)

3.04.100 Inclusion of delivery charges.

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 of Title 39, C.R.S., regardless of the place to which delivery is made. (Ord. 9.09 §5.4, 1976)

3.04.110 No permanent place of business.

In the event a retailer has no permanent place of business in the Town, or more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue of the State. (Ord. 9.09 §5.5, 1976)

3.04.120 Exemption due to specific ownership tax.

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

A. The purchaser is a nonresident of, or has its place of business outside the Town of Castle Rock; and

B. Such personal property is registered or required to be registered outside the limits of the Town under the laws of the State. (Ord. 9.09 §5.6, 1976)

3.04.130 Statute exemptions.

A. The tangible personal property and services taxable by this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S.

B. The tangible personal property and services taxable by this Article shall be subject to the same exemptions as those specified in Section 39-26-114, C.R.S., with the express inclusion of the following exemptions:

1. Purchases of machinery and machine tools as described in Section 39-26-114(11), C.R.S.;
2. Occasional sales by a charitable organization as described in Section 39-25-114(18), C.R.S.

C. The tangible personal property and services taxable by this Article shall expressly include food, as defined in Section 39-26-102(4.5), C.R.S.

D. The tangible personal property and services taxable by this Article shall expressly include purchases of electricity, natural gas and other fuels for residential use as described in Section 39-26-114(1)(a)(XXI), C.R.S. (Ord. 96-54 §1, 1997; Ord. 9.09 §5.7, 1976)

3.04.140 Collection, administration and enforcement.

The collection, administration and enforcement of this sales tax shall be performed by the Town. The Town may enter into an intergovernmental agreement with the Town of Parker for the joint collection, administration and enforcement of this sales tax. (Ord. 2003-19 §1, 2003; Ord. 9.09 §6.1, 1976)

3.04.160 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 (3⅓%) or two hundred dollars (\$200.00), whichever is less, from the total amount remitted by the vendor to the Town each month. If any vendor is delinquent in remitting the tax, other than in unusual circumstances shown to the satisfaction of the Finance Director, the vendor shall not be allowed to retain any amounts to cover his or her expense in collecting and remitting the tax, and an amount equivalent to the full three-and-one-third percent (3⅓%) shall be remitted to the Finance Director by any such delinquent vendor. (Ord. 2007-13 §3, 2007; Ord. 2006-26 §4, 2006; Ord. 2003-19 §2, 2003; Ord. 9.09 §7, 1976)

Article III. Use Tax

3.04.170 Purpose.

The purpose of this Article is to impose a use tax for the privilege of storing, using or consuming in the Town any construction and building materials and motor or other vehicles on which registration is required, purchased at retail, and in accordance with Article 2, Title 39, C.R.S. (Ord. 9.09 §8, 1976)

3.04.180 Definitions.

Except as otherwise expressly provided, the definitions or words used in this Article shall be the same as those definitions found in Sections 102 and 201, Article 26, Title 39, C.R.S., and the definitions are incorporated in this Article by this reference; except that the references to the state where such references are to the geographic extent of the taxing authority, the same shall mean the Town of Castle Rock. (Ord. 9.09 §9, 1976)

3.04.190 Persons subject to tax.

Any person who builds, constructs, reconstructs, alters, expands, modifies or improves any building, dwelling or other structure or improvement to any real property located within the Town, and who purchases the lumber, fixtures or other building material and supplies used therefor from any source outside the corporate limits of the Town or who purchases any motor vehicle or any other vehicle for which registration is required under state law, either new or used, outside the corporate limits of the Town and stores or uses such vehicles within the Town shall be liable for the payment of a tax of three and six-tenths percent (3.6%) of the gross purchase price thereof between the dates of January 1, 1996, and December 31, 2010, and thereafter a tax of four percent (4%) of the gross purchase price commencing on January 1, 2011, or upon such earlier date as provided in Section 3.04.024. Contractors are considered to be the end users of building materials in the Town. Owners, lessors, contractors and their subcontractors must not pay municipal sales tax to a vendor in another jurisdiction for building materials to be used, consumed or stored at a location in the Town, as it is the intent of this Code for all Town taxes to be paid at the time a building permit is issued. No refund of another municipality's tax will be paid if a contractor or subcontractor pays another municipality's tax. The Director may enter into a payment agreement for the tax referenced in this Section to be paid in installments that includes an interest rate of nine percent (9%) per annum. (Ord. 2003-19 §3, 2003; Ord. 95-30 §4, 1995; Ord. 94-27 §3, 1994; Ord. 92-17 §3, 1992; Ord. 89-33 §2, 1989; Ord. 88-06 §2, 1988; Ord. 9.09 §10, 1976)

3.04.200 Imposition and collection of tax.

Imposition of the tax on such personal property subject to this use tax shall be set forth in the rules and regulations of the Department of Revenue and in accordance with regulations enacted by separate ordinance of the Town. At the stage of construction permitting prescribed in the Development Services' fee schedule (as defined in Section 2.25.020), but not later than issuance of the certificate of occupancy for construction of a structure or improvement which is subject to taxation pursuant to Section 3.04.190, there shall be collected an amount equivalent to fifty percent (50%) of the construction valuation computed in accordance with the permit fee valuation set forth in the fees published by the Development Services Department, which valuation forms the basis for computation

of the permit fee imposed pursuant thereto. It shall be presumed that fifty percent (50%) of the construction valuation is attributable to materials subject to taxation under Section 3.04.190. However, the Chief Building Official may adjust such construction valuation based upon the actual value of materials incorporated into such construction, in the event the permittee adequately documents the actual valuation of materials. The Town Manager may also approve deferrals of use tax pursuant to Section 2.25.030.F. (Ord. 2004-54 §3, 2004; Ord. 2003-19 §4, 2003; Ord. 92-14 §1, 1992)

3.04.210 Same as state tax.

The tangible personal property taxable by this Article shall be the same as the tangible personal property taxable pursuant to Part 109, Article 2, Title 29, C.R.S. (Ord. 9.09 §11.1, 1976)

3.04.220 Exemptions.

For the purpose of this Article, the use tax imposed under this Article shall not apply:

A. To the storage, use or consumption of any tangible personal property the sale of which is subject to the retail sales tax imposed by the Town;

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

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

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 regular religious 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 subject to a sales or use tax of another county, city or Town equal to or in excess of that imposed by this Article. A credit shall be granted against the use tax imposed by this Article with respect to a person's storage, use or consumption in the Town of tangible personal property purchased by him or her elsewhere. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of any sales or use tax for another county, city or town on his or her purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Article;

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

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

I. To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required, if a written contract for the purchase thereof was entered into prior to the effective date of this Article;

J. 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 any time prior to January 1, 1977. (Ord. 9.09 §11.2, 1976)

3.04.230 Collection.

The Town Council is authorized to contract and enter into agreements with the Executive Director of the Department of Revenue and the Douglas County Clerk and Recorder for the collection of the use tax imposed in this Article upon motor vehicles, and pursuant to the provisions of Subpart (3) (6), Part 106, Article 2, Title 39, C.R.S. (Ord. 9.09 §12.1, 1976)

3.04.240 Statutes to govern.

The provisions of Article 26, Title 39, C.R.S., of all rules and regulations promulgated by the Executive Director of the Department of Revenue of the State, and of rules and regulations enacted by separate ordinance of the Town, shall govern the collection, administration and enforcement of the use tax imposed by this Article. (Ord. 9.09 §12.2, 1976)

Article IV. Amendments; Penalty

3.04.250 Authority of Town Council.

The Town Council may amend, alter or change this Chapter, except as hereinafter described, subsequent to adoption by a majority vote of the Town Council. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval. (Ord. 9.09 §13.2, 1976)

3.04.260 Increase in tax.

Any tax collected under authority of this Chapter may not be increased except with authority by a vote of the electors of the Town. (Ord. 9.09 §13.3, 1976)

Chapter 3.05

Tax Administration

3.05.010 Title

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3.05.010 Title.

The provisions of this Chapter shall be known and cited as the "Tax Administration Code." (Ord. 2003-19 §6, 2003)

3.05.020 Application – construction.

A. The provisions of this Chapter shall apply to the administration, enforcement and collection of sales and use taxes by the Town, including taxes levied and imposed by Chapter 3.04 of this Code and any tax provided by ordinance to be administered, enforced or collected pursuant to the provisions of this Chapter.

B. The provisions of this Chapter shall be construed to effect uniformity of administration, enforcement and collection of taxes, and to establish uniform procedures, but shall not be construed to

extend or increase the application, rate or amount of any tax levied or imposed by ordinance; provided, however, that the imposition of a penalty, interest or both penalty and interest shall be lawful and shall not be construed as an extension or increase of the application, rate or amount of tax. Notwithstanding anything to the contrary herein, changes in state law after July 1, 2003, may be added to this Chapter by subsequent amendment to this Chapter.

C. The purpose of this Chapter is to provide the power necessary to exercise effectively the right to raise revenue that is essential to home rule and self-government. Any similarities to state law herein are adopted for the purpose of promoting efficiency in the collection of revenue. Regardless of any such similarities, the provisions contained herein are matters of solely local concern. (Ord. 2003-19 §6, 2003)

3.05.030 Definitions.

For the purpose of this Chapter, the definitions of words contained in this Chapter shall be as defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein by this reference. Additionally, as used in this Chapter, unless the context clearly indicates otherwise, certain other words, terms and phrases are defined as follows:

Collection costs shall include all costs of audit, assessment, bank fees, hearings, execution, lien filings, distraints, litigation, prosecution and attorney fees.

Collection proceedings shall include the mailing of a notice of audit, an audit and all remedies exercised by the Director pursuant to this Chapter to collect any unpaid taxes, penalties and interest.

Director means the Assistant Town Manager of the Town or such other person designated by the Town in the enacting ordinance; *Director* shall also include such person's designee.

Taxpayer means any person obligated to account to the Director for taxes collected or to be collected under the terms of this Chapter. (Ord. 2006-26 §5, 2006; Ord. 2003-19 §6, 2003)

3.05.040 Duties and powers of Director.

The administration of the licensing provisions of this Chapter is hereby vested in the Director subject to the duties of the Town Clerk; and the administration of all other provisions of the Code and of the Town sales and use tax is hereby vested in and shall be exercised by the Director, who shall prescribe forms and formulate and promulgate, with the approval of the Town Manager, appropriate rules and regulations to effectuate the purpose of this Chapter, in conformity with this Code, and subject to other provisions of law relating thereto, for the making of returns, for the ascertainment, assessment and collection of the taxes imposed and for the proper administration and enforcement thereof, and to provide uniform methods of adding the tax, or the average equivalent thereof, to the purchase price. The Director shall have power and authority to add, enact, promulgate, amend and rescind rules and regulations to this Chapter that are not inconsistent with the provisions of this Code. Regulations adopted, amended or rescinded by the Director shall be effective in the manner and at the time prescribed by the Director, subject to the provisions of the code. The Director is authorized to delegate any duty or power to a subordinate unless otherwise provided herein. (Ord. 2003-19 §6, 2003)

3.05.050 Director to examine returns.

For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax due from any taxpayer, the Director shall have power to examine or cause to be examined by an employee, agent or representative designated by him or her for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return. Subject to the provisions of this Chapter, the Director is authorized to prescribe the duties and powers of such officers, accountants, experts and other persons as may be necessary in the performance of his or her duty. The Director may delegate to any employee or agent of the Town such power and authority as deemed reasonable and proper for the effective administration of this Chapter. (Ord. 2003-19 §6, 2003)

3.05.060 Retention of records for audits.

A. Taxpayer's retention of records. It shall be the duty of every person, firm or corporation liable to the Town for any tax to keep and preserve for a period of at least three (3) years such books, accounts and records as may be necessary to determine the amount of such tax liability.

B. Records to be made available for audit. All such books, accounts and records, together with all bills, receipts, invoices, cash register tapes or other documents of original entry supporting the entries in the books, shall be maintained by the ordinarily prudent business person and shall be open for examination at any reasonable time by the Director. The records should show:

1. Gross receipts from sales or rental payments from leases of tangible personal property (including any services that are part of the sale or lease) made in the Town, irrespective of whether the seller or lessor regards the receipts to be taxable or nontaxable.
2. All deductions allowed by law and claimed in filing returns.
3. Total purchase price of all tangible personal property purchased for sale, consumption or lease in the Town.

C. Travel required to perform audit. In the case of a person, firm or corporation which does not keep the necessary books, accounts and records within the Town, it shall be sufficient if such person, firm or corporation produces within this Town such books, accounts and records or such information as shall be reasonably required by the Director for examination by the Director or an agent duly authorized by him or her, or in lieu thereof, said person, firm or corporation shall pay in advance, or as approved by the Director, such travel, lodging, meal and related expenses as shall reasonably be incurred by the Director in examination of said books, accounts and records at such place where said books, accounts and records are kept.

D. Coordinated audit.

1. Any taxpayer licensed in this Town and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection may request a coordinated audit as provided herein.

2. Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Director of this Town, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage of based limitation upon this Town's right to recover tax owed by the vendor for the audit period.

3. Except as provided in paragraph 7. below, any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of limitation, if required, may be audited by this Town during the twelve (12) months after the request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

4. If this Town desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to paragraph 3. above, the Director shall so notify the Finance Manager of the municipality whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the taxpayer's request for a coordinated audit. The Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

5. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this Town, this Town's Director shall facilitate arrangements between this Town and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Director shall cooperate with other participating municipalities, whenever practicable, to minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

6. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the Town, the Town's Director, once arrangements for the coordinated audit between the Town and other participating municipalities are completed, shall provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Director shall also propose a schedule for the coordinated audit.

7. The Town may conduct an audit in conjunction with another municipality.

8. The coordinated audit procedure set forth in this Section shall not apply:

- a. When the proposed audit is a jeopardy audit;
- b. To audits for which a notice of audit was given prior to the effective date of this Section;
- c. When a taxpayer refuses to promptly sign a waiver of limitation; or

d. When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in paragraph 2. (Ord. 2003-19 §6, 2003)

3.05.070 Tax reports and returns.

A. Town preservation of records. All reports and returns of taxes received by the Town covered by this Chapter shall be preserved until the Town Clerk orders them destroyed.

B. Confidential nature of returns. Except in accordance with judicial order, consent of the taxpayer or as otherwise provided by law, the Director and his or her agents or employees, the Town Manager and his or her authorized representatives, and the Town Attorney and his or her authorized representatives, shall not divulge or make known in any way information disclosed in any document, report or return filed in connection with any of the taxes covered by this Chapter. The officials charged with the custody of such documents, reports and returns shall not be required to produce them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Director in an action or proceeding under the provisions of any such taxing or open record statutes when the report of facts shown thereby are directly involved in such action or proceeding, in either of which events the Court may require the production of, and may admit into evidence, so much of said reports, or of the facts shown thereby, as are pertinent to the action or proceeding, and no more.

C. Taxpayer request for records. Nothing contained in this Section shall be construed to prohibit the delivery to a person or his or her duly authorized representative of a copy of any return or report filed in connection with his or her tax, and such copies may be certified by the Director and when so certified shall be evidence equally with and in like manner as the originals and may be received by the courts of this State as evidence of the contents.

D. Publication of statistics. Nothing in this Section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof.

E. Records available to authorized jurisdictions. Notwithstanding the provisions of this Section, the Director in his or her discretion may furnish to the Douglas County Finance Manager and his or her authorized personnel, to the State of Colorado Department of Revenue Executive Director and his or her authorized personnel, to the taxing officials of the State of Colorado political subdivisions, to the taxing officials of any other state and its political subdivisions, and to the United States, any information contained in tax returns and related schedules and documents filed pursuant to this Chapter, or in the report of an audit or investigation made with respect thereto, provided that such information is to be used only for tax purposes. (Ord. 2006-26 §6, 2006; Ord. 2003-19 §6, 2003)

3.05.080 Assessment; penalties and interest.

A. Assessment. Subsection B shall apply if the Director determines that any person, taxpayer or vendor has failed, neglected or refused to:

1. Collect all taxes due;
2. Make a return and pay all taxes due;

3. Remit the proper amount of tax due;
4. Pay in full all taxes due because of negligence, fraud or on a regular basis; or
5. Remit taxes due pursuant to an audit, special assessment or special audit assessment.

B. Assessment notice and due date. Penalties and interest shall be assessed for the occurrence of any of the situations set forth in Subsection A, and the Director shall give to the delinquent person, taxpayer or vendor a written Notice of Final Determination - Assessment and Demand for Payment, which notice shall state the full amount of taxes, penalties and interest due and shall be served personally, by mail or email, which assessment of deficiency amount will be due and payable within fifteen (15) days of the date that such notice is sent by the Director. The Director may modify or abate part or in full the tax and the interest and penalty related to such tax for good cause shown.

C. Estimated assessment. If the Director is unable to audit the records of a taxpayer, either due to the taxpayer's refusal or lack of cooperation, due to time constraints or due to other reasons which the Director may reasonably determine, the Director shall make an estimate based upon such information as may be available and shall issue an assessment as provided herein. If a person, taxpayer or vendor neglects or refuses to make a return, the Director shall make an estimate, based upon such information as may be available, of the taxes due for the period for which such person is delinquent.

D. Failure to file penalty. If a person, taxpayer or vendor neglects or refuses to make a return as required in this Chapter, a minimum penalty equal to the sum of ten dollars (\$10.00) shall be paid for every return not filed. If the penalty mentioned in Subsection E is more than this ten-dollar amount, only the Subsection E penalty will apply. This penalty does not apply to returns filed prior to the issuance of a Notice of Final Determination - Assessment and Demand for Payment. Interest does not accrue on this minimum penalty.

E. Mathematical error on tax return. In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the Director shall notify the taxpayer by written Notice of Final Determination - Assessment and Demand for Payment of the amount of tax in excess of that shown in the return which is due and has been assessed. The taxpayer shall have no right of protest or appeal as in the matter of other assessments but shall pay the tax due and assessed or file an amended return to show the true amount of tax due within fifteen (15) days of the date that such assessment is sent by the Director.

F. Penalty and interest. Unless the taxpayer shows that its failure to comply fully with this Chapter is due to reasonable cause, which the taxpayer may prove in a hearing requested pursuant to this Chapter, there shall be added to all assessments a penalty of fifteen percent (15%) of the deficiency. Interest in such case shall accrue and be collected at a rate of one and one-half percent (1½%) per month on the amount of such deficiency from the time the return was due.

G. Penalty for fraud. If any deficiency in taxes paid is due to fraud with the intent to evade the tax, there shall be added, instead of the penalty prescribed in Subsection D above, a penalty of one hundred percent (100%) of the total amount of the deficiency to the assessment required by Subsections A and B above. Interest on such deficiency shall accrue and be collected at a rate of one and one-half percent (1½%) per month on the amount of such deficiency from the time the return was due.

H. Special penalty for repeated enforcement. In any assessment issued to a person, vendor or taxpayer against whom enforcement proceedings have been commenced in the past, a special penalty, in addition to all others provided in this Chapter, shall also be assessed. This special penalty shall be equal to the greater of two hundred fifty dollars (\$250.00) or twenty-five percent (25%) of the tax deficiency. For purposes of this subsection, *enforcement proceedings* shall mean:

1. Issuance of a distraint warrant;
2. Filing of a lawsuit in the district or county court; or
3. Three (3) occurrences of the revocation of the person's, vendor's or taxpayer's license by the Town Clerk, issuance of a summons to municipal court for the nonpayment of taxes or a combination of revocations and summonses.

I. Director may waive penalty. The Director is hereby authorized to waive, for good cause shown, any penalty assessed as provided in Chapter. Interest imposed in excess of nine percent (9%) per annum shall be deemed a penalty. If the Director finds that a taxpayer has, in good faith, paid tax to a vendor then the Director is hereby authorized to abate the interest and penalty in its entirety.

J. Interest and penalty assessment. Interest and penalties prescribed under this Chapter 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. If any portion of a tax is satisfied by credit of an overpayment, then no interest or penalty shall be imposed under this Section on the portion of the tax so satisfied. (Ord. 2003-19 §6, 2003)

3.05.090 Jeopardy assessment.

A. Jeopardy enforcement. If the Director finds that collection of the tax will be jeopardized by delay, in his or her discretion, he or she may declare the taxable period immediately terminated, determine the tax and issue notice and demand for payment thereof; and, having done so, the tax shall be due and payable forthwith, and the Director may proceed immediately to collect such tax as provided in Section 3.05.170.

B. Immediate enforcement action. In any other case wherein it appears that the revenue is in jeopardy, the Director may immediately issue demand for payment; and, regardless of the provisions of Sections 3.05.110 and 3.05.120 of this Chapter, the tax shall be due and payable forthwith and, in his or her discretion, the Director may proceed immediately to collect said tax as provided in Section 3.05.170.

C. Security for payment. Collection under either Subsection A or B of this Section may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Director. (Ord. 2003-19 §6, 2003)

3.05.100 Notice by mail.

Where notice is required in this Chapter, the Director shall give taxpayer notice by either mail, email or fax. The taxpayer shall at all times have the burden of ensuring that his or her correct mailing address, email address and fax number are on file with the Director. In the event that a notice

is sent to the taxpayer pursuant to this Chapter and said notice is not received by the taxpayer through no fault of the Town, or the notice is returned by the post office as undeliverable or rejected by the taxpayer, such notice shall be deemed given on the date mailed, emailed or faxed, and the Town shall have no further obligation to complete service of the notice. (Ord. 2003-19 §6, 2003)

3.05.110 Hearings.

A. Request for hearing. Any taxpayer may request a formal or informal hearing on any proposed tax by reason of Notice of Final Determination - Assessment and Demand for Payment or by reason of denial of his or her claim for refund by application to the Director within fifteen (15) days of the date that a notice of deficiency, assessment or denial of refund is sent by the Director. The request for hearing shall set forth the taxpayer's reasons for and the amount of the requested changes in the deficiency, assessment or denial of refund.

B. Hearing time and place. The Director shall notify the taxpayer in writing of the time and place for such hearing thirty (30) days prior thereto, unless the taxpayer requests shorter notice or an extension of time. In no event shall the hearing be held more than sixty (60) days after the Director's receipt of request for a hearing. In all cases, the hearing shall be held either at the office of the Director or at the office of the Sales Tax Administrator on behalf of the Town.

C. Informal hearing. If the taxpayer elects to participate in an informal hearing, which hearing must be held within thirty (30) days of the Director's receipt of the taxpayer's request for a hearing, additional informal hearings shall not be permitted except at the discretion of the Director. Informal hearings shall be conducted in any manner acceptable to the taxpayer and the Director with the purpose of settling the outstanding issues between the parties. If no settlement is reached, the taxpayer must request, in writing, a formal hearing on the record within fifteen (15) days after the informal hearing and the Director shall give notice of the formal hearing pursuant to Subsection B above. If the taxpayer fails to request a formal hearing within fifteen (15) days after the informal hearing, all further rights to a hearing and appeal are waived and the taxpayer shall be bound by the Notice of Final Determination - Assessment and Demand for Payment or Final Denial of Refund.

D. Director to conduct formal hearing. The hearing shall be held before the Director, or a hearing officer designated by the Director. At the hearing, the taxpayer may assert any facts, make any arguments and file any briefs and affidavits he or she believes pertinent to his or her case. The taxpayer shall be notified of the name of the hearing officer fifteen (15) days before the hearing date, and any objection by the taxpayer to the hearing officer shall be filed in writing at least forty-eight (48) hours prior to the hearing. All reasonable costs to the Town for a hearing officer must be paid by the taxpayer requesting the formal hearing when the hearing officer determines no change in the tax due.

E. Hearings based on written brief. The taxpayer may also file a written brief and such other written materials or documents as he or she shall deem appropriate and request that the Director reconsider the deficiency without a hearing. The Director shall proceed to reconsider the deficiency in the same manner as if the written material submitted had been presented at a hearing pursuant to this Section. The submission of written material shall be considered for all purposes the same as a request for and submission of the material at a hearing. The Town staff or agents shall be permitted to respond in writing to the submittals of the taxpayer. Rebuttal submissions may be permitted at the discretion of the Director.

F. Time limitation on a request for hearing. After the expiration of fifteen (15) days from the date that the Notice of Final Determination - Assessment and Demand for Payment or Denial of Refund is sent, if the tax has not been paid, or if no request for hearing has been requested or no written brief has been filed by the taxpayer, then the Notice of Final Determination - Assessment and Demand for Payment previously mailed, faxed or emailed shall constitute a final assessment of the amount of the tax specified, together with interest and penalty, or shall constitute a final Denial of Refund, as the case may be. The Director promptly may take necessary steps to collect all amounts owed. The taxpayer shall have no further right to a hearing, trial or appeal on the facts of its case.

G. Director may adjust tax under question. Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions, the Director may modify or abate partly or in full the tax and the interest and penalty related to such tax questioned at the hearing or may approve a refund.

H. Formal hearing determination notices. After a formal hearing, upon rejection in whole or in part of the claim for refund or upon the finding by the Director that, on hearing the evidence, an assessment in whole or in part has been made against the taxpayer validly, the Director shall send a Hearing Determination Notice to the taxpayer setting forth the amount of claim for refund denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection in whole or in part.

I. Tax due date after hearing. Unless an appeal be taken as provided in Section 3.05.120, the tax and fee, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after the Hearing Determination Notice is sent by the Director to the taxpayer. (Ord. 2003-19 §6, 2003)

3.05.120 Appeals.

The taxpayer may appeal the Hearing Determination Notice of the Director issued pursuant to Section 3.05.110 above within thirty (30) days of the date that such determination is sent by the Director. Such appeal shall be conducted in accordance with the provisions of Section 29-2-106.1, C.R.S., and shall be conducted *de novo*. (Ord. 2009-03 §1, 2009; Ord. 2003-19 §6, 2003)

3.05.130 Refunds.

A. Disputed sales tax. Should a dispute arise between the purchaser and seller as to whether or not any sale, service or commodity is exempt from taxation under this Chapter, nevertheless the seller shall collect and the purchaser shall pay the tax and the seller shall issue to the purchaser a receipt or certificate, on forms prescribed by the Director, showing the names of the seller and the purchaser, the items purchased, the date, price, amount of tax paid and a brief statement of the claim of exemption.

B. Refund allowed if exempt. A refund shall be made, or a credit allowed, for the sales tax so paid under dispute by any purchaser who has an exemption under this Chapter, provided that such refund shall be made by the Director after compliance with the following conditions precedent: applications for refund must be made within sixty (60) days after the purchase of the goods whereon an exemption is claimed and must be supported by the affidavit of the purchaser, accompanied by the original paid invoice or sales receipt and certificate issued by the seller; and be made upon such forms as shall be prescribed and furnished by the Director, which forms shall contain such information as the Director shall prescribe.

C. Refund disallowed. Upon receipt of such application, the Director shall examine same with all due speed and shall give notice to the applicant by order in writing of his or her decision thereon. Aggrieved applicants, within fifteen (15) days after such decision is sent, may petition the Director for a hearing on the claim in the manner provided in Section 3.05.110.

D. Refund of excess use taxes. Whenever the Director discovers from the examination of a return or pursuant to an audit of a taxpayer's records that the taxpayer has overpaid use taxes due the Town, the Director shall issue his or her warrant for payment of the excess taxes to the taxpayer, unless the overpayment is applied to offset other tax due. The Director shall keep a duplicate of said warrant and also a statement which sets forth the reason why such refund was ordered. If the refund totals less than fifteen dollars (\$15.00), the refund amount shall be credited to the taxpayer's use tax account, unless the taxpayer requests payment of the refund.

E. Taxpayer's discovery of overpayment of use tax. A taxpayer may apply for a refund of payment of excess use taxes within sixty (60) days after discovery of the overpayment. The Director may deny such refund if he or she finds the taxpayer did or reasonably should have discovered the overpayment more than sixty (60) days prior to the date of the application for a refund. The taxpayer may petition the Director for a hearing on the claim in the manner provided in Section 3.05.110 within fifteen (15) days after the Director's Denial of Refund is sent to the taxpayer.

F. Statute of limitations. With the exception of a written document that tolls the running of the statute of limitations, no refund shall be allowed or paid under any circumstances more than three (3) years after the Town's receipt of sales or use taxes in question.

G. Refund to offset previous tax due. Whenever it is established that any taxpayer has, for any period, overpaid a tax imposed by this Chapter, and that there is an unpaid balance of tax and interest accrued according to the records of the Director, owing by such taxpayer for any other period, so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance, shall be credited thereto and any excess of the overpayment shall be refunded.

H. Refund of overpayment of taxes paid by the estimated payment basis. Application for refund by contractors prepaying on an estimated percentage payment basis, or actual tax basis, shall be made within three (3) years after the date of the issuance of the Certificate of Occupancy or date of purchase, whichever is sooner. The Director may require supporting data to accompany the application and may require an audit to be done before refund is paid.

I. Refunds not assignable. The right of any person to a refund under this Chapter shall not be assignable, and such application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale thereof, except as provided in Subsection K below. The Director may, upon receiving a properly executed release of claim from the taxpayer and evidence to substantiate that the tax was remitted in error to another municipality, issue a joint refund check in the name of the taxpayer and the municipality, provided that the municipality has entered into an agreement to grant similar privileges to the Town.

J. Burden of proof of exemption. The burden of proving that sales, services and commodities, on which tax refunds are claimed, are exempt from taxation or were not at retail, shall be on the one making such claim under such reasonable requirements of proof as the Director may prescribe.

K. Claims for recovery. The intent of this Section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect and remit sales and use taxes to the Town.

1. As used herein, *claim for recovery* means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

2. When it is determined by the Director that sales and use tax owed to the Town has been reported and paid to another municipality, the Town shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

3. The Town may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the Town, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the Town. Any claim for recovery shall include a properly executed release of claim from the taxpayer or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim and a request that the municipality approve or deny in whole or in part the claim within ninety (90) days of its receipt. The municipality to which the Town submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the Town shall not be unreasonably withheld.

4. Within ninety (90) days after receipt of a claim for recovery, the Town shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the Town shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim of recovery may only be made for good cause.

5. The Town may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

6. The period subject to a claim of recovery shall be limited to the thirty-six-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. This period may be extended only if a written document was approved by the Director and taxpayer to toll the running of this thirty-six-month period. (Ord. 2003-19 §6, 2003)

3.05.140 Interest on overpayments and refunds.

A. Interest allowance basis. No interest shall be paid upon any overpayment of sales or use tax unless:

1. Such overpayment was made under protest; and

2. The taxpayer has requested a refund in writing within sixty (60) days after the tax was paid.

B. Payment of interest.

1. Interest owed by the taxpayer on an audit may be applied against calculated interest that would be credited if allowed.

2. Interest paid on an eligible overpayment of taxes pursuant to Subsection A herein shall be allowed at the rate of nine percent (9%) per annum.

3. Interest shall accrue only from the date of the taxpayer's application for a refund. If the refund is to be applied against other taxes owed by the taxpayer, interest shall not be paid on the refund for the period after the due date of the amount against which the credit is taken.

C. Refund erroneously made to bear interest. Any portion of a sales or use tax, or any interest, assessable penalty, additional amount or additional tax, which has been erroneously refunded, shall bear interest at the rate of nine percent (9%) per annum from the date of the payment of the refund. (Ord. 2003-19 §6, 2003)

3.05.150 False or fraudulent refund claim.

A. Violation of code. Any applicant for refund under the provisions of this Chapter or any other person who shall make any false statement in connection with an application for a refund of any taxes shall be deemed guilty of a violation of this Chapter.

B. Action to recover fraudulent claim. If any person be convicted of violating Subsection A above, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Director is hereby empowered and directed to bring appropriate collection proceedings for recovery of such refunds. (Ord. 2003-19 §6, 2003)

3.05.160 Director's remedies in case of nonpayment.

A. So long as a final assessment remains unpaid, the Director may take any of the following enforcement procedures against the defaulting taxpayer:

1. Request the Town Clerk to revoke the taxpayer's business/tax license.

2. Issue a summons to the person, vendor or taxpayer to appear in the Municipal Court on charges of violating this Chapter.

3. Issue a distraint warrant pursuant to this Chapter.

4. File a complaint in County or District Court to collect all amounts owed.

B. Regardless of the collection or enforcement procedures invoked by the Director, all unpaid taxes, penalties and interest shall be secured by a lien arising by operation of law as provided by this Chapter. (Ord. 2003-19 §6, 2003)

3.05.170 Enforcing collection by distraint.

A. Warrant. The Director may issue a warrant under his or her own hand directed to any representative of the Town, including the sheriff of any county of the State, commanding him or her to distraint, seize and sell the personal property of the taxpayer, except such personal property as is exempt from execution and sale by any provision of this Chapter, for the payment of the tax due together with penalties and interest accrued thereon and collection costs:

1. When any deficiency in tax is not paid within fifteen (15) days from the date of Notice of Final Determination - Assessment and Demand for Payment therefor and no hearing has been requested and no appeal from such deficiency assessment has been docketed with any district court of the State within said period;

2. When any other amount of tax, penalty or interest is not paid within fifteen (15) days from the date of the assessment and demand for payment thereof; or

3. Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in Section 3.05.090 of this Chapter.

B. Distraint seizure.

1. The agent charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the agent making such distraint, shall be left with the owner or possessor, or at his or her usual place of abode with some member of his or her family over the age of eighteen (18) years, or at his or her usual place of business with his or her stenographer, bookkeeper or chief clerk, or if the taxpayer is a corporation, shall be left with any officer, manager, general agent or agent for process, with a note of the sum demanded and the time and place of sale. If said notice cannot be served on the taxpayer within thirty (30) miles of the Town, it shall be mailed to the taxpayer's last known address, return receipt requested.

2. The agent shall forthwith cause to be published a notice of the time and place of sale, together with a description of the property to be sold, in some newspaper within the county wherein distraint is made, or, in lieu thereof and in the discretion of the Director, the agent or sheriff shall cause such notice to be publicly posted at the courthouse of the county wherein such distraint is made, and copies thereof to be posted in at least two (2) other public places within said county.

3. The time fixed for the sale shall not be less than ten (10) days nor more than sixty (60) days from the date of such notification to the owner or possessor of the property and the publication or posting of such notices. Said sale may be adjourned from time to time by said agent or sheriff if he or she deems it advisable, but not for a time to exceed in all ninety (90) days from the date first fixed for the sale. When any personal property is advertised for sale under distraint as aforesaid, the agent or sheriff making the seizure shall proceed to sell such property at public auction, offering the same at not less than a fair minimum price, including the expenses of making the seizure and of advertising the sale, and if the amount bid for the property at the sale is not equal to the fair minimum price so fixed, the agent or sheriff conducting the sale may declare the same to be purchased by him or her for the Town. The property so purchased may be sold by the agent or sheriff under such regulations as may be prescribed by the Director.

4. In any case of distraint for the payment of taxes, the real property, goods, chattels or effects so distrained shall be restored to the owner or possessor, if, prior to the sale, the amount due is paid, together with the fees and other charges or may be redeemed by any person holding a chattel mortgage or other evidence of right of possession.

C. Certificate of sale and evidence of purchase. In all cases of sale, the agent or sheriff making the sale shall issue a certificate of sale to each purchaser, and such certificate shall be prima facie evidence of the right of the agent or sheriff to make such sale, and the conclusive evidence of the regularity of his or her proceedings in making the sale; and shall transfer to the purchaser all right, title and interest of such delinquent in and to the property sold; and where such property consists of certificates of stock in the possession of the agent or sheriff, the certificate of sale shall be notice, when received, to any corporation, company or association of said transfer, and said certificate of such sale shall be authority for such corporation, company or association to record the transfer on its books and records; and where the subject of sale is securities or other evidences of debt, in the possession of the agent or sheriff, the certificate of sale shall be good and valid evidence of title in the person holding the same, as against any other person. Any surplus remaining above the taxes, penalties, interest, costs and all expenses of making the seizure and of advertising the sale, shall be returned to the owner, or such other person having a legal right thereto, and, on demand, the Director shall render an account in writing of the sale. Expenses of a seizure include all reasonable costs and expenses incurred by the Town in enforcing collection by distraint, including, but not limited to, all personnel costs of the Town. (Ord. 2006-26 §7, 2006; Ord. 2003-19 §6, 2003)

3.05.180 Recovery of unpaid tax by action at law.

A. Action at law. The Director may also treat any such taxes, penalties or interest due and unpaid as a debt due the Town from the taxpayer personally. In case of failure to pay the tax, any portion thereof or any penalty or interest thereon when due, the Director may receive at law the amount of such taxes, penalties, interest and collection costs in such county or district court of the county wherein venue may be proper under the applicable rule of civil procedure. The return of the taxpayer or the assessment made by the Director as herein provided shall be prima facie proof of the amount due.

B. Writs of attachment. Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff. In any such proceedings, no bond shall be required of the Director nor shall any sheriff require of the Director an indemnifying bond for executing the writ of attachment, or writ of execution upon any judgment entered in such proceedings; and the Director may prosecute appeals or writs of error, in such cases without the necessity of providing bond therefore. The Town Attorney, when requested by the Director, may 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.

C. Civil action to enforce lien against real property. In any case where there has been a refusal or neglect to pay any tax due the Town, the Director may cause a civil action to be filed in the district court of the county in which is situated any real property which is subject to said tax, to enforce the lien of the Town for such tax upon the real property situated in that county or in any other county in the State which may be subject to such lien or to subject any real property or any right, title or interest in real property to the payment of such tax. The court shall decree a sale of such real property and distribute the proceeds of such sale, according to the findings of such court in respect to the interest of

the parties and of the Town; the proceedings in such action and the manner of sale, the period for and manner of redemption from such sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

D. Exhaustion of administrative remedies. No lawsuit may be filed by the Town until the time for the taxpayer to exercise his or her administrative remedies or to file an appeal has expired. This remedy shall be in addition to all other existing remedies available to the Town. No de novo trial of the facts shall be permitted if the taxpayer has had a hearing before the Director or has had the opportunity for such a hearing, but failed to exhaust his or her administrative remedies. (Ord. 2003-19 §6, 2003)

3.05.190 Sales and use tax constitutes lien.

A. Any sales or use tax imposed by this Chapter, together with the interest and penalties herein provided and the cost of collection, shall be a first and prior lien upon:

1. The goods, stock-in-trade and business fixtures of or used by any taxpayer under lease, title-retaining contract or other contractual arrangement; and

2. The real and personal property owned or leased by any such taxpayer, including personal property affixed to real property, and shall take precedence on all such property over other claims and mortgages.

B. This lien shall arise upon the day the tax becomes due and payable and shall be extinguished by operation of law when the tax is paid in full, including any interest, penalty and collection costs.

C. Whenever the business or property of any taxpayer subject to this Chapter shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for property or other taxes, all taxes, penalties and interest imposed by this Chapter and for which said person is in any way liable under the terms of this Chapter, shall be a prior and preferred lien against all the property of said taxpayer, 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 Director the amount of any taxes due and payable under this Chapter. If there be any such taxes due, owing or unpaid, it shall be the duty of such officer to first pay the amount of said taxes out of the proceeds of said sale before making payment of any moneys to judgment creditors or other claims of whatsoever nature.

D. At any time a tax has accrued but is unpaid, the Director may issue a notice of tax lien, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof and that the Town claims a first and prior lien therefor on the real and tangible personal property of the taxpayer. Said notice may be filed in the office of the Clerk and Recorder of any county in the State in which the taxpayer owns real or tangible personal property. Issuance of such notice and filing thereof shall be at the discretion of the Director and shall not affect the priority or validity of the lien provided by this Chapter, which arises by operation of law when the tax accrues and is payable.

E. Any representative of the Director to whom a distraint warrant has been issued may file a Notice of Lien in such forms as the Director may prescribe with the person in possession of any personal property or rights to property belonging to the taxpayer if not previously recorded with the County Clerk and Recorder. The Director may release said lien as to any part or all of the property or rights to property covered by such lien upon such terms as he or she may deem proper.

F. Any lien for taxes as shown on the records of the county clerks and recorders as herein provided, upon payment of all taxes, penalties and interest covered thereby, shall be released by the Director in the same manner as mortgages and judgments are released. (Ord. 2003-19 §6, 2003)

3.05.200 Compromise.

A. Compromise limitation. After an assessment has become final because the taxpayer has waived its right to a hearing or because the hearing officer has issued his or her final decision, the Director may compromise to the extent of one thousand dollars (\$1,000.00) any collection proceeding arising under this Chapter.

B. Compromise record. Whenever a compromise, in value or valuation, of one thousand dollars (\$1,000.00) or less is made by the Director, there shall be placed on file in the office of the Director the opinion of the Director with his or her reasons therefor, which may include financial inability of the taxpayer to pay a greater amount, with a statement of:

1. The amount of tax assessed;
2. The amount of interest, additional amount, additional to the tax or assessable penalty, imposed by law on the person, vendor or taxpayer against whom the tax is assessed; and
3. The amount paid in accordance with the terms of the compromise. (Ord. 2003-19 §6, 2003)

3.05.210 Sale or purchase of business or property.

A. New license required. Any sale, transfer or purchase of an interest in a business enterprise by any person, where the respective interest of the person purchasing or selling as a result of the transaction has changed in any degree, requires, in the case of a retailer or other person required to be licensed under this Chapter, the issuance of a new license.

B. Must file final return. Any person, vendor or taxpayer who shall sell out his or her business or stock of goods or all the assets of a business to another person or any person or taxpayer who quits business shall make out the return as required by this Chapter and remit all taxes due within fifteen (15) days after the business or stock of goods is sold, or the taxpayer quits business.

C. Tax due on business property. The Town tax shall be remitted on the purchase price paid for tangible personal property that is acquired with the purchase, transfer of title or transfer of possession of a business, with the exception of items to be resold in the ordinary course of business operations of the new business. The tax shall be based on the price paid for such chattels as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great as or greater than the fair market value of such merchandise or chattels. Where the transfer of ownership is a package deal made by a lump-sum transaction, the tax

shall be paid on the book value if no determination has been made. When a business is taken over in return for the assumption of outstanding indebtedness owed by former owners, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser. The *sale* or *sale and purchase* of a business does not include the items under Section 39-26-102(10), C.R.S. A bona fide gift of tangible personal property is not a *sale*.

D. All prior taxes are due. Taxes due upon the sale of a business or stock of goods include all sales taxes which were collected or should have been collected prior to the sale and all use taxes accruing or payable prior to the sale.

E. Purchaser to withhold payment until tax paid. The purchaser or successor to the business, stock of goods or assets shall withhold sufficient of the purchase money to cover all of said taxes until such time as the former owner produces a receipt from the Director showing that all taxes have been paid in full.

F. Purchaser liable for prior owner's unpaid tax. Purchasers of a business are liable for any unpaid tax of a predecessor. Vendors or consumers having outstanding accounts on which sales or use tax has not been remitted must compute and pay the tax at the time of sale.

G. Seller and seller's agent liable for tax. The seller or his or her agent will be held liable for tax remittance on the sale of business in the event the purchaser fails to remit the tax due on the purchase.

H. Seller and purchaser both liable. Until all taxes due under this Chapter are paid in full, both the former owner and the purchaser shall remain personally liable thereon and subject to all collection proceedings available under this Chapter. Action by the Town against the former owner shall not prevent the exercise by the Town of all remedies provided herein against the successor owner.

I. Delinquent taxes are a lien on the property. Any person who takes or purchases personal or real property under lease, title-retaining contract or other contract arrangement, by purchase, foreclosure sale or otherwise, takes the same subject to the lien for any delinquent taxes owed by the original owner and shall be liable for the payment of all delinquent taxes, interest, penalty and collection costs of such prior owner, not however, exceeding the value of the property so taken or acquired. Any person who takes title to or possession of any real property upon which a tax is owed takes said property subject to the lien for said delinquent tax and shall be liable for the payment thereof to the extent of the tax, interest, penalties and collection costs. (Ord. 2003-19 §6, 2003)

3.05.220 No final inspection unless tax paid.

No final inspection shall be made by the Town Building Inspector, and no Certificate of Occupancy, temporary or otherwise, shall be issued unless all taxes due as provided in this Chapter have been paid or arrangements therefor made with the Director. (Ord. 2003-19 §6, 2003)

3.05.230 Certificate of discharge.

A. Certificate of discharge subject to lien. If any property, real or personal, under the law, shall be subject to a lien for the payment of any tax due the Town, the Director may issue a certificate of discharge of any part of the property subject to the lien if he or she finds that the fair market value of

that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect to such tax and the amount of all prior liens upon such property.

B. Certificate of discharge to part of property. If any property, real or personal, under the law, shall be subject to a lien for the payment of any tax due the Town, the Director may issue a certificate of discharge of any part of the property subject to the lien if there be paid over to the Director in part satisfaction of the liability in respect to such tax an amount determined by the Director, which shall not be less than the value, as determined by him, of the interest of the Town in the part to be so discharged.

C. How values determined. In determining such values, the Director shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the Town.

D. Certificate of release conclusive. A certificate of release or of partial discharge issued under Subsection A above shall be held conclusive that the lien of the Town upon the property released therein is extinguished, but shall not extinguish, nor release, any portion of the lien nor property not specified in the release. (Ord. 2003-19 §6, 2003)

3.05.240 Closing agreements.

A. Satisfaction of liability. For the purpose of facilitating the settlement and distribution of estates, trusts, receiverships, other fiduciary relationships and corporations in the process of dissolution or which have been dissolved, the Director may agree with the fiduciary or surviving directors upon the amount of taxes due from the decedent or from the decedent's estate, the trust, receivership or other fiduciary relationship or corporation, for any of his, her or its taxable periods, under the provisions of the taxes covered by this Chapter and except upon a showing of fraud, malfeasance or misrepresentation of a material fact, payment in accordance with such agreement shall be full satisfaction of the taxes for the taxable periods to which the agreement related.

B. Personal liability. Except as provided in Subsection D below, any personal representative of a decedent or of the estate of a decedent, or any trustee, receiver or other person acting in a fiduciary capacity, or any director of a corporation in the process of dissolution or which has been dissolved, who distributes the estate or fund in his or her control without having first paid any taxes covered by this Chapter due from such decedent, decedent's estate, trust estate, receivership or corporation, covered by this Chapter and which may be assessed within the time limited by this Chapter, shall be personally liable to the extent of the property so distributed, for any unpaid taxes of the decedent, decedent's estate, trust estate, receivership or corporation, covered by this Chapter and which may be assessed within the time limited by this Chapter.

C. Notification of liability. The distributee of a decedent's estate, or a trust estate or fund or the stockholder of any dissolved corporation who receives any of the property of such decedent's estate, trust estate, fund or corporation, shall be liable to the extent of the decedent, trust estate, fund or corporation, covered by this Chapter and which may be assessed within the time limited by this Chapter. Notice to such distributee or stockholder shall be given in the same manner and within the time limit which would have been applicable had there been no distribution.

D. Limitation of liability.

1. In case tax covered by this Chapter is due from a decedent or of his or her estate, or by a corporation, in order for personal liability under Subsection B of this Section to remain in effect, determination of the tax due shall be made and notice and demand therefor shall issue within three (3) years after written request for such determination, filed after the filing of the decedent's final return or filed after the filing of the return of the decedent's estate with respect to which such request is applicable, by any personal representative of such decedent, or by the corporation, filed after the filing of its return; but a request under this provision shall not extend the period of limitation otherwise applicable.

2. This Subsection D will not apply in the case of a corporation unless:

a. Such request notifies the Director that the corporation contemplates dissolution at or before the expiration of such three-year period.

b. The dissolution is begun in good faith before the expiration of such three-year period; and

c. The dissolution is completed.

3. Upon the expiration of said three-year period, without determination being made and notice and demand being issued, the personal representative or representative of the decedent and the directors of the corporation no longer will be liable under the provisions of Subsection B above. (Ord. 2003-19 §6, 2003)

3.05.250 Limitations.

A. General limitations.

1. Statute of limitations. Except as provided in this Section, the taxes for any period, together with the interest thereon and penalties with respect thereto, imposed by this Chapter shall not be assessed nor credit taken, nor shall any notice of lien be filed, distraint warrant issued, suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, notice of lien with respect to which has been filed prior to the expiration of such period. In the case of a failure to make a return or in the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. The commencement of collection proceedings, including the mailing of a notice of audit, shall toll the running of the statute of limitations. For purposes of the application of the statute of limitation to use tax paid on a building permit, tax shall not be assessed nor credit taken, nor shall any notice of lien be filed, distraint warrant be issued, suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date of the Certificate of Occupancy.

2. Date fixed. For purposes of this Section a tax return filed before the last day prescribed by law or by regulation promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

3. Payment arrangement. Where, before the expiration of the time prescribed in this Section for the assessment of tax both the Director and the taxpayer have consented in writing to any assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon or by commencement of collection proceedings made before the expiration of the period previously agreed upon. Additional interest must be paid on payments at a rate of nine percent (9%) per annum.

4. Revision qualification. Nothing in this Section shall be construed to limit any right accrued or to revive any liability barred by any statute at the date this Chapter becomes effective.

B. Taxes held in trust. All sums of money paid by the purchaser to the retailer as taxes imposed by this Chapter shall be and remain public money, the property of the Town, in the hands of such retailer and he or she shall hold the same in trust for the sole use and benefit of the Town, until paid to the Director, and for failure to so pay to the Director, such retailer shall be punished as provided by law. Thus, the statute of limitation provided herein does not apply to collections of public money in the possession of the retailer and such moneys are collectable at any time after their due date upon demand of the Director. Bankruptcy will not excuse the unremitted taxes collected in trust. (Ord. 2003-19 §6, 2003)

3.05.260 Notice of sales and use tax ordinance amendment.

A. In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Director shall file with the Colorado Municipal League, prior to the effective date of this Chapter, a copy of the Town sales and use tax ordinance reflecting all provisions in effect on the effective date of this Section.

B. In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Director shall file with the Colorado Municipal League prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the Town.

C. Failure of the Town to file such ordinance or ordinance amendment pursuant to this Section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto. (Ord. 2003-19 §6, 2003)

3.05.270 Participation in simplification meetings.

The Director shall cooperate with and participate on an as-needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League which is composed of state and municipal sales and use tax and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise. (Ord. 2003-19 §6, 2003)

3.05.280 Taxpayer (vendor and consumer) liability.

A. Burden of proof of exemption. The burden of proving that any vendor, retailer, consumer or purchaser is exempt from collecting or paying the tax upon any goods sold or purchased shall be on

the vendor, retailer, consumer or purchaser under such reasonable requirements of proof as the Director may prescribe.

B. Director may require reports and records. The Director may require any person, by regulation or notice served on such person, to make such return, render such statement, or keep and furnish such records, or make such information reports as the Director may deem sufficient to show whether or not such person is liable under this Chapter for payment or collection of the tax imposed herein.

C. Vendor responsibility for collection of tax. Every retailer or vendor engaged in business and selling at retail shall be liable and responsible for the payment of an amount equivalent to the amount of the tax imposed by this Chapter computed on the total of all sales made by them of commodities or services as specified in Sections 3.04.070 and 3.04.130 of this Chapter.

D. Vendor responsibility for remittance of tax. The retailer shall add the tax as a separate and distinct item, and such tax shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debt.

E. Due date of returns. Every retailer or vendor engaged in business and selling at retail shall file a return as prescribed herein with the Director on or before the twentieth (20th) day of the month for the preceding month or months under report and remit the amount of tax imposed by this Chapter computed on the total of such sales and also the amount of any excess tax collections, less three and one-third percent (3 $\frac{1}{3}$ %) or two hundred dollars (\$200.00), whichever is less, from the amount of taxes to be paid by him or her under this Chapter to cover the retailer's expense of collection and remittance of the tax; but if any vendor is delinquent in remitting said tax other than in unusual circumstances shown to the satisfaction of the Director, the vendors shall not be allowed to retain any amounts to cover his or her expense in collecting and remitting said tax, and an amount equivalent to the full tax shall be remitted to the Director by any such delinquent vendor. Vendors not selling at retail may be required by the Director to file a return as prescribed herein.

F. Timely payment evidence; computation of dates.

1. Timely payment may be evidenced by the postmark date if mailed; otherwise timely payment may be evidenced by the finance department validation date.

2. Any due date, payment date or deadline for paying tax due, paying the license renewal fee, providing information or taking other action, which falls on a Saturday, Sunday or legal holiday, recognized by either the federal government or the State, shall be extended to the first business day following such weekend or holiday. (Ord. 2003-19 §6, 2003)

3.05.290 Automotive vehicle purchases.

A. Purchasers of automotive vehicles. Any person residing in the Town, as specified by Section 42-6-137, C.R.S., who shall purchase any automotive vehicle as defined in this Chapter, whether new or used, from sources within or without this Town, for use within the Town and who has not paid the tax imposed thereon by this Chapter to a vendor required or authorized to collect such tax, immediately and prior to registering the vehicle pursuant to Section 42-6-137, C.R.S., and obtaining the license therefor, shall make a return showing such transaction to the Director and thereupon pay to

him or her the tax applicable thereto as provided in this Chapter. Failure to do so shall constitute a violation of this Chapter.

B. Incorrect registration of automotive vehicles.

1. As used in this Section:

a. *Penalty assessment* means a written notice of the Director's determination that a violation of Section 42-6-137(2), C.R.S., has occurred and assessment and demand for the payment of the civil penalty provided for in subparagraph 3 below.

b. *Notice of deficiency* means the notice issued by the Director of failure, neglect or refusal to pay any sales or use tax due or any penalties or interest thereon.

2. It is unlawful to register a motor vehicle in violation of the provisions of Section 42-6-137(2), C.R.S.

3. Any person who causes a motor vehicle to be registered in violation of the provisions of Section 42-6-137(2), C.R.S., shall be assessed a five-hundred-dollar civil penalty pursuant to the authority granted in Section 42-6-137(4), C.R.S. The procedure for the assessment of such civil penalty shall be as follows:

a. When the Director determines on such information as is available that a person has caused a motor vehicle to be registered in violation of the provisions of Section 42-6-137(2), C.R.S., the Director shall provide to such person a penalty assessment. If the Director also has determined that sales or use taxes are due to the Town on the purchase of such motor vehicle, such penalty assessment may be included in a notice of deficiency.

b. Such person shall pay such penalty assessment within the same time period provided pursuant to Section 3.05.080 for payment of any amount due pursuant to a notice of deficiency, unless such person requests a hearing in the manner provided in paragraph c. of this subsection.

c. If such person desires to protest such penalty assessment, such person shall request in writing a hearing from the Director for requesting a hearing on a notice of deficiency. The request for hearing shall also set forth the facts which show that a violation of Section 42-6-137(2), C.R.S., did not occur. The Director shall issue a written decision affirming or withdrawing such penalty assessment within the same time period and in the same manner as provided pursuant to Section 3.05.110H after a hearing on a notice of deficiency. If the decision affirms the penalty assessment, such person shall pay such civil penalty within the same time period as provided pursuant to Section 3.05.110I for payment of any amount due pursuant to a notice of deficiency.

d. Such person may seek judicial review of the Director's decision pursuant to C.R.C.P. 106(a)(4). No such judicial review shall be available if a request for hearing was not timely made in the manner provided for in paragraph c. of this subsection.

e. The Director may enforce collection of such penalty assessment in the same manner as provided pursuant to Sections 3.05.160 through 3.05.180 for the collection of unpaid sales or use taxes, penalties, or interest.

f. Nothing in this Section shall preclude the collection of any tax or fee provided by law, the collection of any penalties or interest thereon provided by law or the imposition of any other civil or criminal penalty provided by law. (Ord. 2003-19 §6, 2003)

3.05.300 Tax on credit sales.

Whenever tangible personal property is sold, including that sold in conjunction with the sale of a business, which is taxable hereunder, under a conditional sales contract or rental purchase contract whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a chattel mortgage on such tangible personal property to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. The tax shall be charged or collected and remitted by the vendor. No refund or credit shall be allowed to either party to the transaction in case of repossession. (Ord. 2003-19 §6, 2003)

3.05.310 Excess collections.

If any vendor shall, during any reporting period, collect as a tax an amount in excess of the tax imposed in this Chapter of his or her total taxable sales, he or she shall remit to the Director the full net amount of the tax herein imposed and also such excess. If record of Town and State tax collections are kept separately, the vendor will remit excess of Town tax collected over and above Town net taxable sales and service. If there is no separate record kept of Town and State tax collections and it is not possible to determine the excess to be remitted to each, the vendor shall remit the Town's proportionate share of such excess to the Town. The retention by the vendor of any excess collections or the intentional failure to remit punctually to the Director the full amount required to be remitted by the provisions of this Chapter is hereby declared to be a violation of this Chapter. (Ord. 2003-19 §6, 2003)

3.05.320 Unlawful to advertise absorption of tax.

It is unlawful for any taxpayer or vendor to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Chapter will be assumed or absorbed by the vendor or taxpayer or that it will not be added to the selling price of the property sold, or, if added, that it or any part thereof will be refunded. Any person violating this provision of this Chapter shall be subject to the penalties herein provided. (Ord. 2003-19 §6, 2003)

3.05.330 Tax returns - content, consolidation and reporting periods.

A. Tax return - content, form, etc. The returns to be filed by the taxpayer or the taxpayer's trustee, manager, officer or director shall contain such information and be completed in such manner and upon such forms as the Director may prescribe. When a return filed by a taxpayer does not include a signature, a correct Town account number or any other information required by the Director, the Director has the right to send back to the taxpayer the return and payment. The Director may consider an improperly filed return to be not filed with the Town. A valid digital signature or the equivalent thereof on a filed return transmitted electronically over the Internet or transmitted by other

similar means is accepted and held as a written signature. Signing a return over the Internet can be done by any means acceptable to the Director. A signature on a return sent via facsimile is accepted and held as a written signature.

B. Consolidation of returns. A vendor doing business in two (2) or more places or locations, whether in or without the Town, and collecting taxes hereunder, may file one (1) return covering all such places or locations when accompanied by a supplemental report showing the gross sales and service and net taxable sales and service and taxes collected thereon for each such place or location.

C. Reporting periods. Vendors must report and remit the tax on a monthly basis if the tax due per month, on average, is three hundred dollars (\$300.00) or greater. The Director may permit a vendor or licensed consumer whose monthly tax collected is less than three hundred dollars (\$300.00) to make returns and remit taxes at three-month intervals (i.e., on a quarterly basis). Nonretail businesses and home-based businesses that are required to file a return may be permitted by the Director to file yearly (on an annual basis). If any taxpayer who has been granted permission to file returns and pay tax on other than a monthly basis becomes delinquent, authorization for such alternate method of reporting may be revoked by the Director. Thereafter following notice of such revocation, the taxpayer shall file returns and pay tax on a monthly basis. If the accounting methods regularly employed by the vendor or licensed consumer in the transaction of his or her business, or other conditions, are such that the returns aforesaid made on a calendar month basis, will impose unnecessary hardship, the Director may upon request of the vendor, or licensed consumer, accept returns at such intervals as will, in his or her opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax. (Ord. 2003-19 §6, 2003)

3.05.340 Evasion or avoidance of tax.

A. Violation. It shall be a violation of this Chapter for any retailer, vendor, consumer, purchaser or any other person subject to the tax levied by the Town Sales and Use Tax Code to refuse to make any return provided to be made by this Chapter, to make any false or fraudulent return, to make any false statements in any return, to fail or refuse to make payment to the Director of any taxes collected or due the Town, or in any manner to evade the collection and payment of the tax, or any part thereof, imposed by this Chapter; any person or purchaser who fails or refuses to pay such tax or evades the payment thereof, or who aids or abets another in any attempt to evade the payment of the tax imposed by making a false return or a return containing a false statement violates this Chapter and shall be subject to prosecution and the imposition of penalties as provided by law. Any person in violation of any Section shall be subject to these same penalties.

B. Separate violations. Each and every twenty-four-hour continuation of any violation shall constitute a distinct and separate offense.

C. Personal liability. Any taxpayer or person who executes any form or report required by this Chapter to be submitted to the Town shall be personally responsible for the payment of any taxes required under this Chapter. Additionally, any officer, director, partner, managing partner or manager of a taxpayer shall be personally liable for any violations under this Chapter.

D. Summons to court for violations of Code. The Town Manager or his or her duly authorized agent has the authority of peace officers, as that term is defined under the Colorado Municipal Court

Rules, to summons into the Municipal Court any person who may be in violation of this Chapter as set forth under subsection A. above. (Ord. 2006-26 §8, 2006; Ord. 2003-19 §6, 2003)

3.05.350 Violations.

It is unlawful for any person to violate any of the provisions of this Chapter. Any violation of this Chapter shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. (Ord. 2003-19 §6, 2003)

3.05.360 Severability - savings clause.

A. As used in this Section, the term *provision* means and includes any part, division, subdivision, Section, Subsection, sentence, clause or phrase; the term *application* means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town; and the term *this ordinance* means and includes the ordinance enacting this Section, together with any and all exhibits and schedules therein incorporated, and each Title, Chapter and Section of the Municipal Code in which such ordinance is codified.

B. If any provision of this Chapter, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. The Town Council hereby declares that it would have passed such ordinance and each provision thereof, even though any one (1) of the provisions might be declared unconstitutional or invalid.

C. The amendment, repeal or supersession of any ordinance or provision of any ordinance by this Chapter shall not release, extinguish, alter, modify or change in whole or in part any penalty, liability or right which may have been incurred or obtained under such ordinance or provision thereof; and such ordinance or provision thereof so amended, repealed or superseded shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability or right and for the enforcement of such penalty, liability or right and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits or proceedings, or prosecutions imposing, inflicting or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings and appeals pending before any court or administrative tribunal. (Ord. 2003-19 §6, 2003)

3.05.370 Effective date.

This Chapter shall take effect July 1, 2003, and shall apply to transactions consummated after that date. (Ord. 2003-19 §6, 2003)

Chapter 3.06

TABOR

3.06.010 TABOR revenue limit calculation policy

3.06.020 Application

3.06.030 Biennial municipal election

3.06.010 TABOR revenue limit calculation policy.

The Town's revenue limit calculation defined under Article X, Section 20 of the Colorado Constitution (TABOR), will include all provisions of fiscal year spending, inflation and local growth that are clearly identified and defined in TABOR. For areas that are not clearly defined in TABOR, the Town will apply the following policy statements:

A. Regarding the local growth calculation:

1. The Town's local growth calculation is based on information provided by the County Assessor's office.

2. The Town's new growth percentage is based on calculations for fiscal years beginning July 1.

3. The new growth for the fiscal year will be applied to the TABOR calculation for that calendar year (i.e., new growth for 7/1/2000 – 6/30/2001 is applied to the 2001 revenue limit calculation).

4. The formula used for the new growth percentage calculation is the "Fiscal Year New Growth" divided by the "Beginning Fiscal Year Actual Value."

5. To obtain the "Beginning Fiscal Year Actual Value," the "New Growth" for the first six (6) months of the calendar year is added to the "Beginning Calendar Year Actual Value" (i.e., New Growth for 1/1/2000 – 6/30/2000 is added to the Actual Value at 1/1/2000 to arrive at the 7/1/2000 "Beginning Fiscal Year Actual Value").

6. The change in land values as a result of new construction is incorporated into the growth amount. The change in land value information is obtained from the County Assessor's office on a calendar year basis and is added to that year's new growth amount.

7. "Fiscal Year New Growth" is the Construction of Taxable Real Property Improvements + the Current Year Six Months' New Growth + Taxable Real Property Omitted from the Previous Year + the Change in Land Values as a result of New Construction – the Previous Year's Six Months' New Growth – Destruction of Taxable Real Property Improvements – Disconnections/Exclusions – Previously Taxable Property.

B. Regarding revenue limit calculation: TABOR allows certain revenues to be exempted from the revenue limit calculation. Interest earned on those revenues is also considered to be exempt. (Ord. 2001-15 §1, 2001)

3.06.020 Application.

The provisions of Section 3.06.010 supersede and replace accounting or financial assumptions utilized in previous years for determining TABOR revenue limitations and required refunds. Accordingly, prior year's TABOR revenue calculations and models shall be restated to the extent data is available to allow such restatement. (Ord. 2001-15 §1, 2001)

3.06.030. Biennial municipal election.

The regular municipal elections in even-numbered years shall constitute the biennial municipal election dates under Article X, Section 20 of the Colorado Constitution (TABOR). Accordingly, no election measures requiring voter approval under TABOR may be referred to the April 2011 transition election. (Ord. 2010-27 §1, 2010; Ord. 2002-36 §1, 2002)

Chapter 3.08

Conservation Trust Fund

3.08.010 Created

3.08.010 Created.

A conservation trust fund is hereby created pursuant to Article 21, Title 29, C.R.S., for the Town, and moneys received from the State pursuant to the statutes shall be deposited in the fund and expended only for the purposes set forth in said law. (Ord. 1.28 §1, 1982)

Chapter 3.16

Development Impact Fee

- 3.16.010 Deposit and expenditure of moneys**
- 3.16.020 Use**
- 3.16.030 Assessment and collection**
- 3.16.040 Fee credit**
- 3.16.050 Attainable housing fee reduction**
- 3.16.060 Economic development priority project fee reduction**
- 3.16.070 Council reduction, waiver or deferral of payment of fees**

3.16.010 Deposit and expenditure of moneys.

The fees collected under this Chapter and all payment or expenditures from the fees collected hereunder shall be accounted for in a separate fund or account. All monies collected hereunder shall be expended solely as specified herein. (Ord. 2002-12 §2, 2002; Ord. 9.11 §1, 1982)

3.16.020 Use.

Moneys collected pursuant to this Chapter shall be utilized to pay for growth-related improvements, facilities and equipment in the general functional area of parks, fire, police, municipal facilities, recreation, transportation, stormwater management and general government or administration. Operation, maintenance or replacement costs are specifically excluded from eligibility for these funds. (Ord. 2011-21 §2, 2011; Ord. 2002-12 §2, 2002; Ord. 84-47 §1, 1984; Ord. 9.11 §2, 1982)

3.16.030 Assessment and collection.

Fees shall be assessed and collected according to the following provisions except as modified by the Town pursuant to Sections 3.16.040, 3.16.050 and 3.16.060:

A. Residential uses. No building permit shall be issued for any dwelling unit prior to the payment of the following applicable fees:

Development Impact Fees for Residential Uses

<i>Parks and Recreation</i>		
<i>Unit Type</i>	<i>Square Footage</i>	<i>Impact Fee</i>
Single-Family	< 2, 099	\$2,009
	2,100 – 2,199	\$2,245
	2,200 – 2,299	\$2,364
	2,300 – 2,399	\$2,600
	2,400 – 2,499	\$2,718
	2,500 – 2,599	\$2,836
	2,600 – 2,699	\$3,073
	2,700 – 2,799	\$3,191
	2,800 – 2,899	\$3,309
	2,900 – 2,999	\$3,427
	3,000 – 3,099	\$3,546
	3,100 – 3,199	\$3,664
	3,200 – 3,299	\$3,782
	3,300 – 3,399	\$3,900
	3,400 – 3,499	\$4,018
	3,500 – 3,599	\$4,137
	3,600 – 3,699	\$4,255
	> 3,700	\$4,373
Multi-Family	All sizes	\$2,245

Municipal Facilities		
Unit Type	Square Footage	Impact Fee
Single-Family	< 2, 099	\$379
	2,100 – 2,199	\$424
	2,200 – 2,299	\$446
	2,300 – 2,399	\$491
	2,400 – 2,499	\$513
	2,500 – 2,599	\$536
	2,600 – 2,699	\$580
	2,700 – 2,799	\$603
	2,800 – 2,899	\$625
	2,900 – 2,999	\$647
	3,000 – 3,099	\$670
	3,100 – 3,199	\$692
	3,200 – 3,299	\$714
	3,300 – 3,399	\$737
	3,400 – 3,499	\$759
	3,500 – 3,599	\$781
	3,600 – 3,699	\$804
	> 3,700	\$826
Multi-Family	All sizes	\$424

Fire		
Unit Type	Square Footage	Impact Fee
Single-Family	< 2, 099	\$414
	2,100 – 2,199	\$463
	2,200 – 2,299	\$487
	2,300 – 2,399	\$536
	2,400 – 2,499	\$560
	2,500 – 2,599	\$585
	2,600 – 2,699	\$633
	2,700 – 2,799	\$658
	2,800 – 2,899	\$682
	2,900 – 2,999	\$707
	3,000 – 3,099	\$731
	3,100 – 3,199	\$755

	3,200 – 3,299	\$780
	3,300 – 3,399	\$804
	3,400 – 3,499	\$829
	3,500 – 3,599	\$853
	3,600 – 3,699	\$877
	> 3,700	\$902
Multi-Family	All sizes	\$463

Police		
Unit Type	Square Footage	Impact Fee
Single-Family	< 2, 099	\$216
	2,100 – 2,199	\$241
	2,200 – 2,299	\$254
	2,300 – 2,399	\$279
	2,400 – 2,499	\$292
	2,500 – 2,599	\$305
	2,600 – 2,699	\$330
	2,700 – 2,799	\$343
	2,800 – 2,899	\$355
	2,900 – 2,999	\$368
	3,000 – 3,099	\$381
	3,100 – 3,199	\$393
	3,200 – 3,299	\$406
	3,300 – 3,399	\$419
	3,400 – 3,499	\$432
	3,500 – 3,599	\$444
	3,600 – 3,699	\$457
	> 3,700	\$470
Multi-Family	All sizes	\$241

Transportation		
Unit Type	Square Footage	Impact Fee
Single-Family	< 2, 099	\$2,173
	2,100 – 2,199	\$2,296
	2,200 – 2,299	\$2,388
	2,300 – 2,399	\$2,510

	2,400 – 2,499	\$2,602
	2,500 – 2,599	\$2,725
	2,600 – 2,699	\$2,816
	2,700 – 2,799	\$2,908
	2,800 – 2,899	\$3,000
	2,900 – 2,999	\$3,092
	3,000 – 3,099	\$3,153
	3,100 – 3,199	\$3,245
	3,200 – 3,299	\$3,337
	3,300 – 3,399	\$3,398
	3,400 – 3,499	\$3,490
	3,500 – 3,599	\$3,551
	3,600 – 3,699	\$3,613
	> 3,700	\$3,674
Multi-Family	All sizes	\$1,990

Stormwater – Cherry Creek Basin (per dwelling unit)					
Unit Type	2011	2012	2013	2014	2015
Single-Family Detached	\$451	\$466	\$482	\$498	\$514
Single-Family Attached	\$301	\$311	\$322	\$332	\$343
Multi-Family	\$273	\$282	\$292	\$301	\$311

Stormwater – Plum Creek Basin (per dwelling unit)					
Unit Type	2011	2012	2013	2014	2015
Single-Family Detached	\$692	\$715	\$739	\$763	\$789
Single-Family Attached	\$463	\$479	\$495	\$511	\$528
Multi-Family	\$419	\$433	\$448	\$462	\$478

For purposes of this Subsection, any remodeling activity which results in the creation of an additional dwelling unit shall be subject to the payment of the fee as specified in this Subsection. For purposes of this Subsection, *single-family detached* shall include duplexes and mobile homes.

B. Nonresidential uses. No building permit shall be issued for the occupancy of any structure to be used primarily for nonresidential use prior to the payment of the following applicable fees (per one thousand [1,000] square feet of gross floor areas):

Development Impact Fees for Nonresidential Uses

Municipal Facilities		
Unit Type	Square Footage	Impact Fee (per 1,000 sq. ft.)
Commercial/Shopping Center	50,000 or less	\$41
	50,001 – 100,000	\$34
	100,001 – 200,000	\$31
	Over 200,000	\$28
Office	25,000 or less	\$60
	25,001 – 50,000	\$57
	50,001 – 100,000	\$54
	Over 100,00	\$50
Industrial		\$33
Warehousing		\$20
Hotel (per room)		\$16

Fire		
Unit Type	Square Footage	Impact Fee (per 1,000 sq. ft.)
Commercial/Shopping Center	50,000 or less	\$146
	50,001 – 100,000	\$126
	100,001 – 200,000	\$110
	Over 200,000	\$98
Office	25,000 or less	\$146
	25,001 – 50,000	\$138
	50,001 – 100,000	\$130
	Over 100,00	\$120
Industrial		\$146
Warehousing		\$82
Hotel (per room)		\$57

Police		
Unit Type	Square Footage	Impact Fee (per 1,000 sq. ft.)
Commercial/Shopping Center	50,000 or less	\$87

	50,001 – 100,000	\$73
	100,001 – 200,000	\$62
	Over 200,000	\$53
Office	25,000 or less	\$30
	25,001 – 50,000	\$25
	50,001 – 100,000	\$22
	Over 100,00	\$18
Industrial		\$11
Warehousing		\$8
Hotel (per room)		\$9

Transportation		
Unit Type	Square Footage	Impact Fee (per 1,000 sq. ft.)
Commercial/Shopping Center	50,000 or less	\$763
	50,001 – 100,000	\$671
	100,001 – 200,000	\$587
	Over 200,000	\$507
Office	25,000 or less	\$763
	25,001 – 50,000	\$482
	50,001 – 100,000	\$340
	Over 100,00	\$269
Industrial		\$763
Warehousing		\$529
Hotel (per room)		\$437

Stormwater – Cherry Creek Basin (per 1,000 sq. ft.)					
Unit Type	2011	2012	2013	2014	2015
Commercial/Industrial	\$203	\$210	\$217	\$224	\$232

Stormwater – Plum Creek Basin (per 1,000 sq. ft.)					
Unit Type	2011	2012	2013	2014	2015
Commercial/Industrial	\$312	\$323	\$333	\$344	\$356

Any structure located in a business zone shall be assessed at the applicable nonresidential use rate, whether or not such structure is intended for nonresidential use. Any structure located in a planned

unit development where commercial/ shopping center, office, industrial, warehouse or hotel uses are permitted shall be assessed based upon initial proposed use, subject to the provisions of Subsection C below. *Industrial use* means those uses devoted to the compounding, assembling, processing, treatment or manufacturing of products, including distribution centers and food and beverage processing. *Warehousing use* means uses devoted to the storage of materials.

C. Change in use. When any warehouse or industrial use is changed to a commercial/shopping center or office use, the difference between the two (2) fees shall be payable prior to the issuance of a building permit for the area of the changed use. For example, if a portion of a warehouse is remodeled to include offices or retail space, that portion shall be assessed a fee equal to the difference between the warehouse use fee and the applicable office or commercial/ shopping center fee.

D. Dwelling unit. As used in this Chapter, *dwelling unit* means a single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating and sanitation.

E. Applicability. These fees shall apply only to construction for which a complete building permit application has been submitted. Except as indicated otherwise herein, these fees shall be assessed in accordance with the rates in effect at the time of submittal of a complete application for a building permit.

F. On an annual basis, the Town Manager shall be responsible for reporting to the Town Council information on construction cost indexes for the year. The Town Council, at its discretion, may amend the fee schedules upon consideration of the construction cost index information.

G. The Town Manager may authorize a system in which a portion of the fees imposed under this Section are to be paid at the time of building permit issuance and the remaining balance paid as a condition of issuance of a temporary or final certificate of occupancy (Ord. 2011-21 §3, 2011; Ord. 2009-20 §1, 2009; Ord. 2006-48 §1, 2006; Ord. 2006-27 §1, 2006; Ord. 2005-42 §1, 2005; Ord. 2004-54 §4, 2004; Ord. 2004-33 § 1, 2004; Ord. 2004-04 §1, 2004; Ord. 2002-12 §2, 2002; Ord. 96-23 §1; Ord. 85-55 §2, 1985; Ord. 9.11 §3, 1982)

3.16.040 Fee credit.

A fee credit may be approved by the Town Manager or designee. A fee credit may be considered in the event the applicant commits, pursuant to a development agreement, subdivision improvement agreement or other legally binding instrument approved by the Town, to provide public capital facilities for which an applicable development impact fee would otherwise be utilized. The eligibility and amount of the fee credit shall be determined by the Town Manager or designee taking into consideration the intent and purpose of the applicable development impact fee and the monetary value of the public capital facilities to be provided by the applicant which otherwise would be paid for from development impact fee proceeds. No fee credit shall be granted for public capital improvements otherwise required by any applicable Town Code or ordinance. An application for a fee credit shall be submitted to the Town Manager utilizing a form and information as may be required by the Town Manager or designee. The Town Manager's decision on the fee credit application may be appealed to the Town Council. (Ord. 2002-12 §2, 2002; Ord. 9.11 §4, 1982)

3.16.050 Attainable housing fee reduction.

A qualifying attainable housing project shall be eligible to receive up to a one-hundred-percent reduction, per qualifying attainable housing unit, in the amount of the otherwise applicable development impact fees. *A qualifying attainable housing project and unit* shall be defined as a housing project or unit participating in an attainable or affordable housing program through the Douglas County Housing Partnership, Colorado Housing Finance Authority or other certified local, state or federal attainable housing program. An application for this attainable housing fee reduction must be approved by the Town Council. (Ord. 2009-02 §1, 2009; Ord. 2002-12 §2, 2002; Ord. 9.11 §5, 1982)

3.16.060 Economic development priority project fee reduction.

The Town Manager may approve reductions or waivers in otherwise applicable development impact fees up to a maximum of one hundred thousand dollars (\$100,000.00) for qualifying economic development priority projects, subject to the project incentive cap as defined in Section 2.25.020 of this Code. Qualifying economic development priority projects shall be determined pursuant to the guidelines and policies adopted by the Town Council. An application for this economic development priority project fee reduction must be approved by the Town Manager or his or her designee, utilizing a form and information as may be required by the Town Manager or his or her designee. Economic development priority project requests in an amount greater than one hundred thousand dollars (\$100,000.00) shall require approval of the Town Council. The Town Manager may also approve deferrals of development impact fees pursuant to Subsection 2.25.030.E. (Ord. 2011-22 §4, 2011; Ord. 2004-54 §5, 2004; Ord. 2002-12 §2, 2002; Ord. 9.11 §6, 1982)

3.16.070 Council reduction, waiver or deferral of payment of fees.

The Town Council is authorized to waive, reduce or defer payment of any fee or charge imposed by this Chapter if it determines, in its sole and exclusive discretion, that there are unique and compelling circumstances that render the imposition of such fees in strict accordance with this Chapter inequitable with respect to a particular application, site or building. (Ord. 2009-43 §1, 2009)

Chapter 3.20

Nonprofit Appropriations

- 3.20.010 Purpose**
- 3.20.020 Funding**
- 3.20.030 Eligibility**
- 3.20.040 Application**
- 3.20.050 Hearing**
- 3.20.060 Supersession**

3.20.010 Purpose.

The purpose of this Chapter is to provide for the manner in which nonprofit organizations may apply to the Town to receive a charitable appropriation from the Town. The appropriation of money to nonprofit organizations is within the sole discretion of the Town Council, and shall not be deemed

an entitlement by any organization regardless of eligibility, need, public purpose or availability of funds. (Ord. 97-19 §1(part), 1997; Ord. 95-47 §1(part), 1995)

3.20.020 Funding.

A. Nonprofit appropriations shall be funded by monies from the PS Miller Trust Fund. The amount available for the Town's nonprofit appropriations shall be determined annually by the Town Council. Funding for services provided to the Town by any eligible nonprofit organization pursuant to written contract shall be excluded from the provisions of this Chapter.

B. Town Council-approved appropriations will be distributed upon receipt of invoice as follows:

<i>Appropriation Amount</i>	<i>Distribution</i>
\$0 – \$10,000	Full payment in January
\$10,001 – \$20,000	Equal semi-annual payments (Jan./Jul.)
More than \$20,000	Equal quarterly payments (Jan./Apr./Jul./Oct.)

The above schedule may be revised at the discretion of the Town Council. (Ord. 2009-33 §1, 2009; Ord. 2006-39 §1, 2006; Ord. 97-19 §1(part), 1997; Ord. 95-47 §1(part), 1995)

3.20.030 Eligibility.

The Town Council may consider appropriating money to nonprofit organizations that provide a significant benefit to Town residents and that meet the following criteria:

A. Organizations currently approved and operating, for a minimum of one (1) year, pursuant to Section 501(c)(3) or Section 501(c)(19) of the Internal Revenue Code of 1986, as amended, including relevant regulations, temporary regulations and proposed regulations or a collaboration of agencies and/or businesses where the lead organization is currently approved and operating, for a minimum of one (1) year, pursuant to Section 501(c)(3) or Section 501(c)(19) of the Internal Revenue Code of 1986, as amended, including relevant regulations, temporary regulations and proposed regulations;

B. Organizations which support or benefit a broad spectrum of the Town's residents, excluding support to narrow-range or limited-purpose programs, such as school or club activities, political activity groups, etc. Preference may be shown to nonprofit organizations which serve low-income residents of the Town and those which show a collaborative effort; and

C. Organizations whose use of requested funds will primarily serve Town residents. (Ord. 2008-36 §1, 2008; Ord. 2007-21 §1, 2007; Ord. 97-19 §1(part), 1997; Ord. 95-47 §1(part), 1995)

3.20.040 Application.

An eligible organization shall provide to the Assistant Town Manager or designee, on or before August 1 of each year, an original application, plus ten (10) copies, which shall include the following information:

A. Name of the organization.

B. Purpose of the organization.

C. Proof of nonprofit status.

D. Detailed summary stating the purpose of the program to be funded by the requested funds, its goals and objectives of the upcoming program year and how the requested funds would be utilized to accomplish such goals and objectives.

E. Amount of appropriation requested. If funds are to be used for an area larger than Castle Rock, the applicant shall break down the total number of people within Castle Rock to be served.

F. Current year financial statements, including budget and year-to-date actuals.

G. Next year's budget, including revenues and expenditures. The applicant shall indicate whether the budget is preliminary or final, and board-approved. The applicant shall provide a breakdown of revenues and funding by source and a summary of expenditures detailing the percentage relation between anticipated administrative costs and program expenses.

H. Latest fiscal year's audited financial statements and management letter.

I. All continuing programs must submit a detailed summary of use of prior appropriation and its relation to attainment of previously stated goals and objectives.

J. The applicant's statement supporting Town appropriation of funds for requested purpose. (Ord. 2006-26 §9, 2006; Ord. 97-19 §1(part), 1997; Ord. 95-47 §1(part), 1995)

3.20.050 Hearing.

The Town Council shall establish policies and procedures for applications and consideration of nonprofit agency funding requests. (Ord. 2006-26 §10, 2006; Ord. 97-19 §1(part), 1997; Ord. 95-47 §1(part), 1995)

3.20.060 Supersession.

This Chapter shall supersede any conflicting state statutory provisions. (Ord. 97-19 §1(part), 1997; Ord. 95-47 §1(part), 1995)