

## CHAPTER XVI

### Taxes

#### Section I

##### Sales Tax

- Sec. 16-1-1 Purpose
- Sec. 16-1-2 Definitions
- Sec. 16-1-3 General provisions
- Sec. 16-1-4 Collection
- Sec. 16-1-5 Schedule of sales tax
- Sec. 16-1-6 Election
- Sec. 16-1-7 Amendments
- Sec. 16-1-8 Penalties (Repealed)
- Sec. 16-1-9 Vendor's fees

#### Section II

##### Telephone Utility Occupation Tax

- Sec. 16-2-1 Levy of tax
- Sec. 16-2-2 Payment of tax
- Sec. 16-2-3 Inspection of records
- Sec. 16-2-4 Local purpose
- Sec. 16-2-5 Failure to pay
- Sec. 16-2-6 Certain offenses and liabilities to continue
- Sec. 16-2-7 Tax in lieu of other occupation taxes

#### Section III

##### Emergency Telephone Service

- Sec. 16-3-1 Emergency telephone charges
- Sec. 16-3-2 Collection of charges

#### Section IV

##### Use Tax

- Sec. 16-4-1 Definitions
- Sec. 16-4-2 Use tax imposed
- Sec. 16-4-3 Limitations
- Sec. 16-4-4 Construction and building materials use tax collection

## SECTION I

### Sales Tax

#### **Sec. 16-1-1. Purpose.**

The purpose of this Chapter is to impose a sales tax on the privilege of selling tangible personal property at retail or the furnishing of services upon every retailer in the Town as set forth in Section 39-26-104, C.R.S. (Ord. 325 §2, 1976)

#### **Sec. 16-1-2. Definitions.**

For the purpose of this Chapter, the definitions of words herein contained shall be as defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein by this reference. (Ord. 325 §3, 1976)

#### **Sec. 16-1-3. General provisions.**

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

(b) 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 places to which delivery is made.

(c) 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.

(d) The amount subject to tax under this Chapter shall not include the state sales and use tax imposed by Article 26, Chapter 39, C.R.S.

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

(f) 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 the following conditions:

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

(2) Such personal property is registered or required to be registered outside the limits of the Town, under the laws of the State.

(g) For transactions consummated on or after January 1, 1986, the Town's sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a

building permit or other documentation acceptable to the Town evidencing that a local use tax has been paid or is required to be paid.

(h) For transactions consummated on or after January 1, 1986, the Town's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of two percent (2%). A credit shall be granted against the Town's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed two percent (2%). (Ord. 325 §5, 1976)

**Sec. 16-1-4. Collection.**

The collection, administration and enforcement of the Town sales tax shall be performed by the Executive Director of the Department of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. Unless otherwise provided in this Article, the provisions of Article 26, Title 39, C.R.S., shall govern the collection, administration and enforcement of sales tax authorized under this Chapter. (Ord. 325 §6, 1976)

**Sec. 16-1-5. Schedule of sales tax.**

There is hereby imposed on all sales of tangible personal property a tax equal to three percent (3%) of the gross receipts. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town. (Ord. 410 §1, 1989)

**Sec. 16-1-6. Election.**

Before this sales tax Chapter shall become effective, it shall receive the approval of a majority of those voting of the qualified electors of the Town at the regular election to elect Town officers to be held on April 6, 1976. (Ord. 325 §9, 1976)

**Sec. 16-1-7. Amendments.**

The Board of Trustees may amend, alter or change this Chapter, except as to the two percent (2%) rate of tax herein imposed, subsequent to adoption by a majority vote of the Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval. (Ord. 325 §10, 1976)

**Sec. 16-1-8. Penalties. (Repealed by Ord. 420 §1, 1991. See Section 1-3-1 for applicable penalty.)**

**Sec. 16-1-9. 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%) from the total amount remitted by the vendor to the Town each month. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor 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 three and one-third percent (3⅓%) shall be remitted to the Executive Director by any such delinquent vendor. (Ord. 327, 1976)

## SECTION II

### Telephone Utility Occupation Tax

#### **Sec. 16-2-1. Levy of tax.**

There is hereby levied against every telephone utility which is engaged in the business of furnishing local exchange telephone service within the Town a tax on the privilege of engaging in such business. The amount of such tax shall be \$3,283.93 for the portion of 1976 remaining after the effective date of this ordinance, and \$5,000.00 annually for each subsequent year. (Ord. 330 §1, 1976)

#### **Sec. 16-2-2. Payment of tax.**

The tax levied by this Chapter shall be due on the first day of January of each year except the year 1976. The tax shall be payable for years subsequent to 1976 in twelve (12) equal monthly installments, each installment to be paid on the last business day of each calendar month. The tax for the remaining portion of 1976 shall be due on December 10, 1976. (Ord. 330 §2, 1976)

#### **Sec. 16-2-3. Inspection of records.**

The Town, its officers, agents or representatives shall have the right at any reasonable time to examine the books and records of any telephone utility which is subject to the tax imposed by this Chapter, and to make copies of the entries or contents thereof. (Ord. 330 §3, 1976)

#### **Sec. 16-2-4. Local purpose.**

The tax provided herein is upon the affected occupations and businesses in their performance of local functions and is not a tax upon those functions relating to interstate commerce. (Ord. 330 §4, 1976)

#### **Sec. 16-2-5. Failure to pay.**

If any telephone utility subject to this Chapter fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such utility to the Town. (Ord. 330 §5, 1976)

#### **Sec. 16-2-6. Certain offenses and liabilities to continue.**

All offenses committed and all liabilities incurred prior to the effective date of this ordinance shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offenses and liabilities. All taxes, the liability for which has been accrued under the terms and provisions of Ordinance #301, adopted July 12, 1971, on or before the effective date of this ordinance, shall be and remain unconditionally due and payable, and shall constitute a debt to the Town, payable in conformity with the terms and provisions of said Ordinance #301, adopted July 12, 1971, prior to the adoption of this ordinance; and all of said terms and provisions of Ordinance #301, adopted July 12, 1971, shall be and remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this ordinance. (Ord. 330 §6, 1976)

**Sec. 16-2-7. Tax in lieu of other occupation taxes.**

The tax herein provided shall be in lieu of all other occupation taxes, or taxes on the privilege of doing business with the Town, on any telephone utility subject to the provisions of this Chapter. (Ord. 330 §7, 1976)

**SECTION III**

**Emergency Telephone Service**

**Sec. 16-3-1. Emergency telephone charges.**

There is hereby imposed, pursuant to Section 29-11-101 et seq., C.R.S., upon all telephone exchange access facilities within the Town an emergency telephone charge in an amount not to exceed two percent (2%) of the tariff rates as approved by the Public Utilities Commission or fifty cents (\$.50), whichever is less. Upon recommendation of the Weld Emergency Telephone Service Authority, the Board of Trustees may, by resolution, raise or lower the emergency telephone charge, but in no event shall such charge exceed the amount of two percent (2%) of the tariff as approved by the Public Utilities Commission. (Ord. 399 §2, 1988)

**Sec. 16-3-2. Collection of charges.**

Telephone service suppliers providing telephone service in the Town are hereby authorized to collect the emergency telephone charge imposed by this Chapter in accordance with Section 29-11-101 et seq., C.R.S., and to provide those funds to the Weld Emergency Telephone Service Authority as provided in the Intergovernmental Agreement that establishes such Authority. (Ord. 399 §2, 1988)

**SECTION IV**

**Use Tax**

**Sec. 16-4-1. Definitions.**

For the purpose of this Section, the definitions of words herein contained shall be defined in Sections 39-26-201 and 39-26-101, C.R.S. as they currently exist or may hereafter be amended, and those definitions are incorporated in this Section by specific reference. (Ord. 411 §1, 1989; Ord. 497 §1, 2002)

**Sec. 16-4-2. Use tax imposed.**

There is imposed and there shall be paid a use tax of three percent (3%) thereof for the privilege of using or consuming in the Town any construction and building materials purchased at retail. (Ord. 411 §1, 1989; Ord. 497 §1, 2002)

**Sec. 16-4-3. Limitations.**

In no event shall the use tax imposed by this Section extend or apply:

- (1) To the storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the Town.

(2) 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.

(3) To the storage, use or consumption of tangible personal property brought into the Town by a nonresident thereof for his or her own storage, use or consumption while temporarily within the Town; however, this exemption does not apply to the storage, use or consumption of tangible personal property brought into this State by a nonresident to be used in the conduct of a business in this State.

(4) To the storage, use or consumption of tangible personal property by the United States government or the State, or its institutions or political subdivisions, in their governmental capacities only, or by religious or charitable organizations in the conduct of their regular religious or charitable functions.

(5) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof.

(6) To the storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city or city and county equal to or in excess of that imposed by this Article. A credit shall be granted against the use tax imposed by this Section with respect to a person's storage, use or consumption in the town or city of tangible personal property purchased by him or her in a previous statutory or home rule town, city or city and county. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city or city and county on his or her purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Section.

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

(8) To the storage, use or consumption of any construction and building materials if a written contract for the purchase thereof was entered into prior to the effective date of such use tax.

(9) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of this use tax. (Ord. 411 §1, 1989; Ord. 497 §1, 2002)

**Sec. 16-4-4. Construction and building materials use tax collection.**

(a) The collection of the use tax for construction and building materials shall be administered by the Town Board.

(b) The collection and administration of the use tax imposed by this Section shall be performed by the Town Board in substantially the same manner as the collection, administration and enforcement of the state sales and use tax. The use tax shall be collected in advance at the time of the issuance of building permits based upon the estimation of the value of the construction of building materials to be used and may be subsequently adjusted by the Town at its sole option if, by later determination, the value of the building and construction materials exceeds the amount estimated.

(c) The use tax collected for construction and building materials shall be separately accounted for and used only for parks, trails, recreation, open space and community improvements. (Ord. 411 §1, 1989; Ord. 497 §1, 2002)