

CHAPTER 4

Revenue and Finance

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ARTICLE 1

General and Special Funds

Sec. 4-1-10. Custody and management of funds.

Moneys in the funds created in this Chapter shall be in the custody of and managed by the Town Treasurer. The Town Treasurer shall maintain accounting records and account for all of said moneys as provided by law. Moneys in the funds of the Town shall be invested or deposited by the Town Treasurer in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the Town Council may transfer out of any fund any amount at any time to be used for such purpose as the Town Council may direct. (Ord. 15-2008 §1)

Sec. 4-1-20. General Reserve Fund.

(a) There is established for the Town, consistent with the provisions of Amendment 1 to the Colorado Constitution as approved by the voters of the State in November 1992, a General Reserve Fund, to which moneys may be designated from time to time by legislative action of the Town Council.

(b) Moneys designated to the General Reserve Fund will generally be from unallocated fund balances, and such designation will constitute "reserve increase" as that term is employed in Amendment 1. (Prior code 4-21; Ord. 15-2008 §1)

Sec. 4-1-30. Capital Improvement Fund created.

There is hereby created a special fund, to be known as the Capital Improvement Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 15-2008 §1)

Sec. 4-1-40. Conservation Trust Fund created.

There is hereby created a special fund, to be known as the Conservation Trust Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 15-2008 §1)

ARTICLE 2

Sales Tax

Sec. 4-2-10. Purpose of provisions.

The purpose of this Article is to impose a tax on the sale of tangible personal property at retail or the furnishing of services in the Town. (Prior code 4-41; Ord. 15-2008 §1)

Sec. 4-2-20. Definitions.

(a) For the purpose of this Article, the definitions of words shall be as defined in Section 39-26-102, C.R.S. Said definitions are incorporated in this Article by reference.

(b) The tangible personal property and services taxable pursuant to this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S. (Prior code 4-42)

Sec. 4-2-30. Tax imposed; rate.

There is imposed on all sales of tangible personal property or the furnishing of services a tax equal to four percent (4%) 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 Colorado Department of Revenue or by separate ordinance of the Town. (Prior code 4-43)

Sec. 4-2-40. Incorporation of statutes.

For the purpose of collection, administration and enforcement of this Article by the Director of Revenue, the provisions of Section 39-26-114, C.R.S., shall be deemed applicable and incorporated into this Article. (Prior code 4-44)

Sec. 4-2-50. State tax excluded.

The amount subject to tax under this Article shall not include the state sales use tax imposed by Article 26, Chapter 39, C.R.S. (Prior code 4-45)

Sec. 4-2-60. Place of consummation.

For the purpose of this Article, all retail sales shall be considered consummated at the place of business of the retailer or his agent 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. (Prior code 4-46)

Sec. 4-2-70. Determination of gross receipts.

The gross receipts for sales shall include delivery charges, when charges are subject to the state sales and use tax imposed by Article 26, Chapter 39, C.R.S., regardless of the place to which delivery is made. (Prior code 4-47)

Sec. 4-2-80. Determination of place of business.

In the event the 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 sales tax shall be determined by the provisions of Article 26, Chapter 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue. (Prior code 4-48)

Sec. 4-2-90. Exemption; ownership tax.

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

- (1) The purchaser is a nonresident of, or has its principal place of business outside of the local taxing entity; and
- (2) Such personal property is registered or required to be registered outside of the limits of the local taxing entity under the laws of the State. (Prior code 4-49)

Sec. 4-2-100. Exemption; schools.

All sales made to schools other than schools held or conducted for private or corporate profit are exempt from taxation under this Article. (Prior code 4-50)

Sec. 4-2-110. Administration, collection and enforcement.

The collection, administration and enforcement of the sales tax shall be performed by the Director of Revenue of the State in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26, of Chapter 39, C.R.S., and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of the sales tax imposed by this Article. (Prior code 4-51)

Sec. 4-2-120. Amendments.

The Town Council may by majority vote amend, alter or change this Article, except as to the rate of tax imposed by Section 4-2-30 of this Article. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval. (Prior code 4-52)

ARTICLE 3

Real Property Transfer Tax

Sec. 4-3-10. Definitions.

With reference to this Article and its interpretation, the following terms shall have the meanings specified:

Consideration means and includes the actual cash paid and/or value of the property delivered, or contracted to be paid or delivered, in return for the transfer of ownership or title to, or any other possessory interest in, real property, and includes the amount of any lien, mortgage, contract indebtedness or other encumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. *Consideration* does not include the amount of any outstanding lien or encumbrance in favor of the United States, the State or a municipal or quasi-governmental agency, corporation or district for taxes, special benefits or improvements. In the event that the transaction or transfer is by lease agreement not specifically

exempted in this Section, the consideration shall be computed based upon the capitalization of the current annual rental for ten (10) years, plus any additional consideration, paid or to be paid. When it is not possible to determine the annual rental, the tax shall be based upon the appraised value of the property covered by the lease, and this decision that the average annual rental cannot be determined shall be solely at the discretion of the Mayor and/or Town Administrator.

Deed in lieu of foreclosure means a conveyance of a property owner to a secured party of property which is the subject of a mortgage, deed of trust or other security instrument in consideration of the cancellation of the indebtedness secured by the security instrument.

Real property means property other than personal property as defined by the statutes of the State, and does not include trailers or mobile homes except trailers or mobile homes which, by way of a foundation, have become attached as fixtures to the land on which they are located.

Transfer means any grant, conveyance or alienation of real property, as evidenced by any deed, instrument of conveyance or exchange, or any other writing wherein or whereby title to real property is granted, conveyed or alienated, or the conveyance of a possessory interest including any other indicia of ownership without the passing of legal title. (Prior code 4-71; Ord. 15-2008 §1)

Sec. 4-3-20. Imposition.

Except as provided in Section 4-3-60 of this Article, there is imposed a tax on all transfers of interests or possessory rights in and to real estate located in the Town by deed, lease, assignment of lease agreement for sale of stock or contract. The tax imposed is and shall constitute a tax payable with respect to the transfer, and the tax is due and payable at the time of the transfer. (Prior code 4-72)

Sec. 4-3-30. Amount.

The amount of tax payable shall be one percent (1%) of consideration. (Prior code 4-73)

Sec. 4-3-40. Allocation of revenue.

All revenues derived from the tax imposed pursuant to this Article shall be appropriated for the purpose of purchasing real property to be used for open space, recreation or park purposes; for the purpose of capital construction or improvements, including but not limited to bridges, streets, curbs and drainage; and/or for the purpose of capital outlay purchases. The appropriated revenues can be used for principal of, premium, if any, and interest on debt incurred by the Town for all the purposes mentioned in this Section, or upon determination of an emergency by majority vote of the entire Town Council for any valid municipal purpose. (Prior code 4-74)

Sec. 4-3-50. Persons liable.

Any purchaser or any other transferee of real property, the transfer of which is subject to the imposition of the tax described in Section 4-3-20 above, shall be jointly and severally liable for the payment of the tax. (Prior code 4-75)

Sec. 4-3-60. Exemptions.

The real property transfer tax shall not apply to the situations described below:

(1) Any transfer wherein the United States or any agency or instrumentality thereof, the State, any county, city and county, municipality, district or other political subdivision of the State is either the grantee or grantor.

(2) Any transfer granting or conveying title to real property in consequence of a gift of such property, where no consideration other than love and affection, charity or other such motive is in fact present.

(3) Any decree or agreement partitioning, terminating or evidencing termination of a joint tenancy in real property, except where additional consideration is paid in connection with the partition or termination.

(4) The transfer of title or interest in real property by reason of death, will or decree of distribution.

(5) Transfers made pursuant to business organization, reorganization or restructuring.

(6) Transfers made to effectuate any plan confirmed or ordered by any court of competent jurisdiction under the Bankruptcy Act or in any equity receivership proceeding.

(7) Any transfer evidenced by a deed made and delivered without consideration for the purpose of confirming, correcting, modifying or supplementing a transfer previously recorded; making minor boundary adjustments; removing clouds of title; or granting easements, rights-of-way or licenses.

(8) Any transfer granting title to cemetery lots.

(9) Any transfer by decree or order of court of record quieting, determining or resting title, including a final order awarding title pursuant to a condemnation proceeding.

(10) Any lease or other instrument or contract which transfers to the transferee a possessory right in real property where the possessory right is granted for a period of twenty-five (25) years or less or where, at the time of assignment thereof, twenty-five (25) years or less of the term remains. For purposes of this Article, where the initial term of the possessory right is for a period of less than twenty-five (25) years, but such right may be extended for a period exceeding twenty-five (25) years, or for periods which in the aggregate exceed twenty-five (25) years, the term of the possessory right shall be calculated as including the initial term and all extensions thereof.

(11) Any transfer of a mineral or royalty interest by deed or otherwise.

(12) Transfers to secure a debt or other obligation, or transfers of releases of property which is security for a debt or other obligation.

(13) Any transfer by deed or conveyance under execution sale, foreclosure sale, power sale, court decree or lien foreclosure, sheriff's deed, public trustee's deed or treasurer's deed, or any transfer by deed in lieu of foreclosure; provided that transfers encompassed by this Section:

a. Shall be exempt only if the grantee is the person, firm or entity holding the obligation or instrument upon which the proceeding is based or which, in the case of a deed in lieu of foreclosure, is being cancelled in exchange for the transfer; and

b. Shall be exempt only to the extent of the obligation to be satisfied at the execution or foreclosure sale and any obligations to prior lienholders paid from the proceeds of the sale or in the case of a deed in lieu of foreclosure, to the extent of the instrument cancelled by the transfer. (Prior code 4-76)

Sec. 4-3-70. Exemption; application and appeal.

(a) In the event that any transfer which is exempt from the real property transfer tax does not reflect that exemption clearly in the document evidencing the transfer, the grantee may apply for a Certificate of Exemption which may be affixed to the document evidencing the transfer. The Certificate of Exemption shall be in the following form:

**TOWN OF MINTURN
APPLICATION FOR EXEMPTIONS FROM REAL PROPERTY TRANSFER TAX**

The undersigned, as Grantee of a deed or instrument of conveyance from _____ to _____ (name of Grantee), dated _____, hereby applies for exemption from the payment of the Minturn Real Property Transfer Tax, imposed by Ordinance No. _____, Series of 1983, of the Town of Minturn.

The basis for such requested exemption is:

(State grounds for requested exemption, including applicable Section and subsection of the Real Property Tax Section under which the exemption is requested. Attach supporting documents, if necessary for full understanding of transaction, preferably Affidavit, setting out additional details concerning the transaction for which exempt status is being requested.)

I hereby certify under penalty of perjury that the foregoing statement is true and correct.

Grantee

CERTIFICATE OF EXEMPTION

I hereby certify that the above described transfer of real property exempt from the payment of the Minturn Real Property Transfer Tax under Ordinance No. _____, Series of 1983, Section _____.

Mayor and/or Town
Administrator

(b) A failure by the Mayor and/or Town Administrator to act upon the application within fifteen (15) business days after receipt of the application shall be conclusively deemed to constitute approval of the application. Any person whose claim of exemption is denied may within ten (10) days of denial appeal to the Town Council for a determination of the exemption, and the appeal shall be considered by the Town Council within thirty (30) days of the receipt of the notice of appeal. A

failure by the Town Council to hear and decide the matter within thirty (30) days shall operate as a decision favorable to the party appealing. (Prior code 4-77)

Sec. 4-3-80. Lands affected.

When a transaction subject to this Article includes property located within the Town and property located outside the Town, the tax imposed under this Article shall be computed only upon the consideration attributable to the real property located within the Town, on the following basis: The consideration paid for the real property located within the Town shall be considered to be the same percentage of the total consideration for the transaction as the acreage of property within the Town bears to the total acreage of the real property both within and without the Town. (Prior code 4-78)

Sec. 4-3-90. Enforcement and authority to collect.

(a) The Town Administrator is charged with the enforcement of the provisions of this Article.

(b) All banks, title companies, escrow companies, saving and loan institutions, attorneys, real estate brokers and salespersons and other closing agents, permitted to do business as such under the laws of the State, are authorized to collect and remit to the Town, on behalf of the purchaser, the real property transfer tax. (Prior code 4-79)

Sec. 4-3-100. Due dates, delinquencies, penalties and interest.

The tax imposed under this Article is due and payable at the time the deed, instrument or writing effecting a transfer subject to the tax is delivered, and is delinquent if unpaid within thirty (30) days thereafter. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of ten percent (10%) of the amount of tax due shall accrue. In the event a portion of the tax is unpaid prior to becoming delinquent, a delinquency penalty of ten percent (10%) of the amount of tax due shall accrue. In the event a portion of the tax is unpaid prior to becoming delinquent, the penalty shall only accrue as to the portion remaining unpaid. Interest shall accrue at the rate of one percent (1%) per month, or fraction thereof, on the amount of tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalty accrued shall become part of the tax. (Prior code 4-80)

Sec. 4-3-110. Lien.

(a) The amount of the real property transfer tax imposed by this Article, and penalty and interest due on it, is assessed against the property transferred; and, if not paid when due, the tax, penalty and interest, if any, shall constitute a lien on the property for the amount thereof, which lien shall continue until the amount thereof is paid or until its discharge of record by foreclosure or otherwise.

(b) If the tax is unpaid and delinquent, the Town Administrator shall give written notification of the delinquency to the purchaser at the address shown on the deed or instrument, or his or her last known address. The notification shall be mailed by certified mail, postage prepaid, return receipt requested, and shall be effective on the date of mailing. If the tax, penalty and interest are not paid within thirty (30) days of the effective date of the notification, the Town Administrator shall mark them delinquent on the Town's tax roll and shall, at least once each calendar year, but not sooner than the first day of December, certify the delinquencies, along with the interest and penalty, to the County

Treasurer; and the County Treasurer shall extend such delinquencies upon the real property tax rolls of the County and collect the delinquencies in the same manner as delinquent general taxes levied upon such property. Upon certification of the delinquent taxes, the penalties and interest thereon shall also become due and payable.

(c) The amount of the tax, penalty and interest imposed under the provisions of this Article shall be deemed a debt owed to the Town. Any person owing money to the Town under the provisions of this Article shall be liable to an action brought in the name of the Town for the recovery of such amount. (Prior code 4-81; Ord. 15-2008 §1)

Sec. 4-3-120. Remedies cumulative.

Any remedies provided for in this Article are cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Prior code 4-82)

ARTICLE 4

Lodging Tax

Sec. 4-4-10. Title and intent.

This Article shall be known as and referred to as the "Town of Minturn Lodging Tax," and the intent of this Article is to impose a tax upon every person who, for consideration, leases or rents any lodging accommodation located in the Town for less than thirty (30) consecutive days, and to impose the obligation to collect the tax contemplated by this Article upon any person who furnishes lodging services for less than thirty (30) consecutive days. (Prior code 4-91)

Sec. 4-4-20. Purpose and use of tax revenues.

The purpose of this Article is to impose a tax which will be borne by transient persons using lodging services within the Town for less than thirty (30) consecutive days. The tax will provide revenues for municipal purposes for the Town. A portion of the revenue derived from the tax imposed by this Article, as provided herein, will also be allocated for administrative and clerical expenses. (Prior code 4-92)

Sec. 4-4-30. Definitions.

When not clearly otherwise indicated by the context, the following terms, words and phrases as used in this Article have the following meanings:

Lodging accommodation means any room in a hotel, apartment hotel, lodging house, fractional fee club, time share, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court and park or any such similar place.

Lodging customer means any person who, through a taxable lodging transaction, acquires lodging services from a lodging provider.

Lodging price means the gross price paid, exclusive of other taxes paid or value given, by the lodging customer for the lodging services.

Lodging provider means any person furnishing lodging services or such provider's authorized agent.

Lodging services means the furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp or trailer court and park, for a period of less than thirty (30) consecutive days under any concession, permit, right of access, license to use or other agreement, or otherwise.

Lodging tax means an excise tax payable by the purchaser of lodging services or the aggregate amount of taxes due from a lodging provider during the period for which such person is required to report the collections of lodging tax as herein specified.

Lodging transaction means the furnishing of lodging services to any person who, for consideration, uses, possesses or has the right to use or possess any lodging accommodation under any concession permit, right of access, license to use or other agreement, or otherwise. (Prior code 4-93; Ord. 15-2008 §1)

Sec. 4-4-40. Imposition and rate of tax.

There is levied and shall be paid and collected a tax of one and one-half percent (1.5%) on the price paid for the leasing or rental, for less than thirty (30) consecutive days, of any lodging accommodation in the Town. (Prior code 4-94; Ord. 15-2008 §1)

Sec. 4-4-50. Collection of tax.

(a) When due and payable: Every person providing lodging services taxable by this Article shall collect the tax from each lodging customer and shall remit such tax and make a return to the Town Treasurer on or before the twentieth day of each month, on account of lodging services provided in the preceding month. Said return shall contain such information and be in such form as the Town may prescribe. For purposes of this Subsection, all such returns and remittance shall be considered made to the Town Treasurer on or before the twentieth day of each month if they are sent via the United States mail and are postmarked on or before the twentieth day of each month. If the twentieth day of any month falls on a weekend or holiday, said return and remittance may be postmarked the following business day. The forms for such returns of the taxpayer or duly authorized agent shall be furnished by the Finance Department.

(b) Quarterly payments negotiable: If the accounting methods regularly employed by the lodging provider in the transaction of such business or other conditions are such that the returns of lodging transactions made on a calendar-month basis impose unnecessary hardship, the Town Treasurer, upon written request of the vendor, may accept returns at such intervals as shall, in his or her opinion, better suit the convenience of the taxpayer and shall not jeopardize the collection of the tax. The

Town Treasurer may permit taxpayers whose monthly collective tax is less than fifty dollars (\$50.00) to make returns and pay taxes at intervals not greater than three (3) months.

(c) Maximum allowable grace period: The Town Treasurer may extend the date for making a return and paying the taxes due under such reasonable rules and regulations as may be prescribed therefor.

(d) Proof of exemption by taxpayer: The burden of proving that any person is exempt from paying the tax imposed by this Article shall be on the person asserting such claim for exemption under such reasonable requirements of proof as the Town Treasurer may prescribe.

(e) Payment proceeds exemption ruling: If a dispute arises between the lodging customer and lodging provider as to whether or not any lodging transaction is exempt from taxation pursuant to this Article, the lodging provider shall nevertheless collect and the lodging customer shall pay such tax, and the lodging provider shall thereupon issue to the lodging customer a receipt or certification, on forms furnished by the Finance Department, showing the names of the lodging customer and lodging provider, the lodging accommodation furnished, the date, the price, the amount of tax paid and a brief statement of the claim of exemption. The lodging customer may thereafter apply to the Town Treasurer for a refund of such taxes and may request a hearing pursuant to this Article. It is the duty of the Town Treasurer to determine the question of exemption, subject to review by the courts as provided herein. It shall be a violation of this Article for any lodging provider to fail to collect, or any lodging customer to fail to pay, a tax levied by this Article under circumstances in which an exemption is disputed. (Prior code 4-95; Ord. 15-2008 §1)

Sec. 4-4-60. Transactions exempt from tax.

The following lodging transactions shall be exempt from taxation under this Article:

(1) All lodging services provided to the United States government and to the State, its departments and institutions and the political subdivisions thereof in their governmental capacities only, including the Town and any department thereof.

(2) All lodging services provided to religious and charitable organizations in the conduct of their regular religious and charitable functions and activities only.

(3) All lodging services provided to persons whom the Town is prohibited from taxing under the Constitution, laws of the United States, the State or the Town's Charter.

(4) All lodging services provided to any person for a period of at least thirty (30) consecutive days. (Prior code 4-96)

Sec. 4-4-70. Separate fund; expenditures.

(a) All revenues derived from the lodging tax, less costs of collection and administration; shall be placed in the General Fund. All interest derived from the investment of revenues shall also be deposited for the benefit of the General Fund.

(b) All expenditures of revenue derived from the imposition of tax hereby authorized shall be for purposes designated in this Article and shall be in accordance with budgetary limitations and specific

proposals submitted to and approved by the Town Council, as the same may occur from time to time. Approval of such fund expenditures shall be accomplished through adoption of a resolution by the Town Council detailing the purpose and extent of such expenditures.

(c) There shall be budgeted from the monies received from the imposition of the lodging tax an amount necessary to reimburse the Town for administrative and clerical expenses incurred in the administration and collection of the tax authorized by this Article. (Prior code 4-97)

Sec. 4-4-80. Advertisement of assumption or absorption of tax prohibited.

It shall be unlawful for any person providing lodging services to advertise, hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this Article will be assumed or absorbed by the lodging provider or that it shall not be added to the lodging price of the property sold or the services tendered or, if added, that it or any part thereof shall be refunded. (Prior code 4-98)

Sec. 4-4-90. Confidential nature of returns.

(a) Right of privacy protected: Except in accordance with judicial order or as otherwise provided herein, the Town Administrator, the Town Treasurer and their agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this Article.

(b) Limited disclosure required: The Town officials charged with the custody of returns filed pursuant to this Article shall not be required to produce such returns or evidence of any matters contained therein in any action or proceeding in any court, except on behalf of the Town Treasurer in an action under the provisions of this Article to which the Town Treasurer is a party, or on behalf of any party to an action or proceeding under the provisions of this Article, or to punish a violator thereof or pursuant to any judicial order, in which event the court may require the production of and may admit in evidence so much of such returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.

(c) Access to information: No provision of this Section shall be construed to prohibit the delivery to a taxpayer or to such person's duly authorized representative of a copy of any return or report filed in connection with his or her tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the information contained therein, nor to prohibit the inspection by the Town Attorney or any other legal representative of the Town of the report or return of any taxpayer who brings an action to set aside or review the tax based thereon or against whom an action or proceeding is contemplated or has been instituted under this Article.

(d) Authorized disclosure; liability: The provisions of this Section shall not preclude the Town Administrator and the Town Treasurer from divulging any information gained from any return or audit to the federal government, the State, the Department of Revenue, the Town or any other municipality, the Town Attorney, the Town Administrator or the Town Treasurer; nor shall the Town Administrator and the Town Treasurer be liable to any person for such disclosure made for the purpose of computing or collecting the tax due and owing from any person, firm or corporation, or for the purpose of verifying compliance with this Article or for the purpose of investigating any criminal or illegal activity.

(e) Violation of confidentiality standards: Any Town officer or employee, who divulges any information classified by this Article as confidential in any manner except in accordance with proper judicial order or as otherwise provided herein or by other law, shall be guilty of a violation of this Article and shall be punished in the manner provided by state law. (Prior code 4-99; Ord. 15-2008 §1)

Sec. 4-4-100. Maintenance and preservation of tax returns, reports and records.

(a) The Town may require any person to make such return, render such statement or keep and furnish such records as the Town may deem sufficient and reasonable to demonstrate whether or not the person is liable under this Article for payment or collection of the tax imposed herein.

(b) Any person required to make a return or file a report under this Article shall preserve those reports for three (3) years.

(c) The Town shall maintain all reports and returns of taxes required for three (3) years. (Prior code 4-100)

Sec. 4-4-110. Failure to pay or make return; enforcement.

(a) Lodging provider collects, holds tax monies: All sums of money paid by any lodging customer for lodging services as taxes imposed by this Article shall be and remain public money, the property of the Town, in the hands of such lodging provider, and he or she shall hold the same in trust for the sole use and benefit of the Town until paid to the Town Treasurer. For failure to so pay such amount to the Town Treasurer, such lodging provider shall be punished as provided herein.

(b) Failure to make return; penalty:

(1) If a taxpayer neglects or refuses to make a return in payment of the tax as required by this Article within five (5) business days after the same is due, then the Town Treasurer shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars (\$15.00) for such failure or ten percent (10%) thereof, whichever is greater, and interest on such delinquent taxes at the rate of one percent (1%) per month from the time the return was due. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent (100%) of the total amount of the deficiency and, in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Treasurer, and an additional three percent (3%) per month on said amount shall be added from the date that the return was due until paid.

(2) Promptly thereafter, the Town Treasurer shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice of assessment shall be personally served or sent by certified mail, return receipt requested, directed to the last address of such person on file with the Finance Department. Such estimate shall thereupon become a notice of deficiency when personally served or on the date of mailing, when mailed.

(3) If payments are not made by the vendor or person furnishing lodging services within ten (10) days after the furnishing of such written notice or the personal service of notice as provided in

this Section, the Town Treasurer shall cause the Town Attorney to bring an action in law or equity for collection of all taxes due, including, without limitation, and in addition thereto, any and all penalties and interest assessed thereon, the cost of collection and reasonable attorneys' fees incurred in connection therewith. (Prior code 4-101; Ord. 15-2008 §1)

Sec. 4-4-120. Excess tax; remittance.

If any lodging provider, during any reporting period, collects as a tax an amount in excess of that imposed by this Article, then such vendor shall remit to the Town Treasurer the full net amount of the tax imposed in this Article and also such excess amount. The retention by the lodging provider of any excess amount of tax collections over the amount imposed by this Article or the intentional failure to remit punctually to the Town Treasurer the full amount required to be remitted by the provisions of this Article is declared to be a violation of this Article and shall be recovered, together with interest, penalties and costs, as provided in this Article. (Prior code 4-102)

Sec. 4-4-130. Tax additional.

The tax imposed by this Article shall be in addition to all other taxes imposed by law, except as otherwise provided in this Article. (Prior code 4-103)

Sec. 4-4-140. Administration.

The Town Administrator may adopt rules and regulations in conformity with this Article for the proper administration and enforcement of this Article. The administration of this Article is vested in and shall be exercised by the Town Administrator. The Town Treasurer shall assist the Town Administrator in the administration of this Article to the extent provided herein, and of the rules and regulations promulgated hereunder. (Prior code 4-104)

Sec. 4-4-150. Refunds.

(a) Claim of exemption: A refund shall be made, or credit allowed, for the tax so paid under dispute by any person who claims an exemption as provided by this Article. Such refund shall be made by the Town Treasurer after compliance with the following conditions precedent in this Section.

(b) Applications for refund: Application for refund shall be made within sixty (60) days after the lodging transaction on which the exemption is claimed, must be supported by the affidavit of the person and accompanied by the original paid invoice or sales receipt and certificate issued by the lodging provider, and shall be made upon such forms as the Town Treasurer shall prescribe therefor.

(c) Decision; hearing: Upon receipt of an application, the Town Treasurer shall examine the same with due speed and shall give notice to the applicant by order in writing of the Town Treasurer's decision thereon. Any aggrieved applicant, within twenty (20) days after such decision is mailed to him or her, may petition the Town Treasurer for a hearing on the claim in the manner provided in this Article. The right of any person to a refund under this Article shall not be assignable, and such application for refund must be made by the same person who purchased the lodging services and paid the tax thereon as shown in the invoice of the sale thereof. Any applicant for a refund under the provisions of this Subsection, or any other person who makes any false statements in connection with

an application for a refund of any taxes, is guilty of a violation of this Article and shall be punished in the manner provided by state law.

(d) Refund applied to tax deficiencies: Claims for tax monies paid in error or by mistake shall be made within three (3) years after the date of purchase of the lodging services for which the refund is claimed and shall be processed for refund in accordance with the rules and regulations prescribed above, except that the proceeds of any such claim for a refund shall first be applied by the Finance Department to any tax deficiencies or liabilities existing against the claimant before allowance of such claim by the Finance Department, and further, except that if such excess payment of tax monies in any period is discovered as a result of an audit by the Finance Department and deficiencies are discovered and assessed against the taxpayer as a result of such audit, then such excess monies shall be first applied against any deficiencies outstanding to the date of the assessment, but shall not be applied to any future tax liabilities.

(e) Recovery of refund received erroneously: If any person is convicted under the provisions of this Section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Town Treasurer is empowered to bring appropriate action for recovery of such refunds. A brief summary statement of the above-described penalties shall be printed on each form for a refund. (Prior code 4-105)

Sec. 4-4-160. Hearings by Town Treasurer.

(a) Appeal assessed tax amount: An appeal of a notice of assessment issued to a lodging provider for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the Town Treasurer within twenty (20) calendar days from the date of the notice of assessment. Any such appeal shall identify the amount of tax disputed and the basis for the appeal.

(b) Appeal of denial of refund: An appeal of a denial of a refund shall be submitted in writing to the Town Treasurer within twenty (20) calendar days from the date of the denial of the refund and shall identify the amount of the refund requested and the basis for the appeal by the lodging provider or taxpayer. (Prior code 4-106)

Sec. 4-4-170. Review by District Court.

(a) Authority: If the petitioner or an applicant for a refund is aggrieved at the final decision of the Town Treasurer, then he or she may proceed to have the same reviewed by the District Court. The procedure of review shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(b) Bond required: Within fifteen (15) days after filing a notice of appeal as provided in this Section, the taxpayer shall file with the District Court a surety bond in twice the amount of the taxes and other charges stated in the final decision by the Town Treasurer that are contested on appeal. The taxpayer may, at such taxpayer's option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank or by a state or federal savings and loan association, in accordance with the provisions of Section 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest and other charges stated in the final decision by the Town Treasurer. The taxpayer may, at his or her option, deposit the disputed amount with the Town

Treasurer in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the Supreme Court or the Court of Appeals of the State or after the time for such appeal has expired, the funds deposited shall be, at the direction of the District Court, either retained by the Town Treasurer and applied against the deficiency or returned in whole or part to the taxpayer. No claim for refund of amounts deposited with the Town Treasurer need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the District Court.

(c) Writ issuance: The District Court shall have original jurisdiction in proceedings to review all questions of law and fact determined by the Town Treasurer in administering the provisions of this Article by writ under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Any writ issued pursuant to this Subsection shall be issued by the Clerk of the District Court upon a verified petition of the taxpayer filed within twenty (20) days after notice of the decision of the Town Treasurer in any such matter. Such writ shall be served within five (5) days after its issuance and shall be returnable at such time as the District Court may determine, not less than ten (10) days nor more than twenty (20) days after the date of issuance of such writ. The Town Treasurer shall certify the record of his or her proceedings to the District Court.

(d) Appeal of court decision: The decision of the District Court may be reviewed in the Supreme Court of the State upon writ of error by any party thereto. (Prior code 4-107)

Sec. 4-4-180. Violation; penalty

It is unlawful for any person to violate any provision of or fail to comply with any of the requirements of this Article. Any person who violates any provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 4-108; Ord. 15-2008 §1)