

CHAPTER 4

Revenue and Finance

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ARTICLE I

General Provisions

Sec. 4-1-10. Fiscal year established.

The fiscal year of the Town shall be the calendar year. (Ord. 6 §1, 1904; Ord. 21 §1, 1905; Ord. 96-O-4 §1, 1996; Ord. O-15 §1, 2008)

Sec. 4-1-20. Custody and management of funds.

Moneys in the funds created in this Chapter shall be in the custody of and managed by the Treasurer. The 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 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 Article or other applicable law, the Board of Trustees may transfer out of any fund any amount at any time to be used for such purpose as the Board of Trustees may direct. (Ord. 96-O-4 §1, 1996; Ord. O-15 §1, 2008)

Sec. 4-1-30. General Fund.

There is hereby created a fund, to be known as the General Fund, which shall consist of all cash balances of the Town not specifically belonging to any existing special fund of the Town. (Ord. 96-O-4 §1, 1996; Ord. O-15 §1, 2008)

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

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. 96-O-4 §1, 1996; Ord. O-15 §1, 2008)

Sec. 4-1-50. Capital Improvement Fund.

There is hereby established a special fund of the Town to be known as the Capital Improvement Fund, which shall be used solely for the construction, installation and acquisition of capital improvements, or to pay debt service on bonds or other obligations of the Town issued to provide such capital improvements. Moneys credited to the Capital Improvement Fund shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general purposes of the Town. (Ord. 673 §11, 1987; Ord. 96-O-4 §1, 1996; Ord. O-15 §1, 2008)

Sec. 4-1-60. Open Space Fund.

A special fund is hereby established for the deposit of three-tenths percent (0.3%) of the sales and use tax collected by the Town as approved by the voters of the Town on November 6, 2001. The fund shall be used for paying incentives for creating and maintaining additional open space within commercial developments and to create, enhance or expand buffers between commercial and residential areas or main thoroughfares and residential areas and to create, enhance or expand wildlife

corridors or any other open space acquisitions and any expenses related thereto for open space to serve the residents of the Town. (Ord. O-26 §3, 2001; Ord. O-15 §1, 2008)

Sec. 4-1-70. McCaslin Interchange Fund.

A special fund is hereby established for the deposit of sixteen one-hundredths percent (0.16%) of the sales tax collected by the Town as approved by the voters of the Town on November 5, 2002. The fund shall be used for costs related to the planning, engineering, constructing, financing and any other costs related to improvements to the interchange of McCaslin Boulevard at U.S. 36. (Ord. O-17 §2, 2002; Ord. O-15 §1, 2008)

Sec. 4-1-80. Other funds.

The Board of Trustees may create other funds as determined during the budget setting process each year. (Ord. 96-O-4 §1, 1996; Ord O-12 §6, 200; Ord. O-15 §1, 2008)

Sec. 4-1-90. Fees.

All Town fees not established in this Code shall be set by resolution of the Board of Trustees. (Ord. O-15 §1, 2008)

Sec. 4-1-100. Use of revenues.

(a) Ten percent (10%) of the revenues derived from the sales tax imposed in this Chapter and ten percent (10%) of the revenues derived from the use tax imposed in this Chapter shall be deposited in the Capital Improvement Fund.

(b) After the required deposits are made pursuant to Subsection (a) hereof, the remaining ninety percent (90%) of the revenues derived from the sales tax and the remaining ninety percent (90%) of the revenues derived from the use tax shall be used in the following manner and priority:

(1) The Board of Trustees may, pursuant to intergovernmental agreements with other governmental entities which exist now or will exist in the future wholly or partly within the boundaries of the Town, allocate and return to such governmental entities up to fifty percent (50%) of the Town's sales tax revenues and up to fifty percent (50%) of the Town's use tax revenues which remain after the required deposits set forth in Subsection (a) hereof have been made.

(2) Sales and use tax revenues remaining after the applicable credits, deposits and allocations, if any, set forth in this Section have been made shall be used as may be directed by the Board of Trustees, including but not limited to use for credits to the General Fund and the Enterprise Fund. (Ord. O-15 §1, 2008)

Sec. 4-1-110. Lien.

If any person fails to pay any tax imposed by this Chapter within ten (10) days after it is due, the Treasurer shall issue a notice setting forth the name of the taxpayer, the amount of the use tax owed, the date of the accrual thereof and that the Town claims a first and prior lien therefor on the real and personal property of the taxpayer, except as to preexisting liens of a bona fide mortgagee, pledgee,

judgment creditor or purchaser, which right has attached prior to the filing of the notice as hereinafter provided. The notice shall be on forms prepared by the Treasurer, and when filed in the office of the clerk and recorder of any county in the state in which the taxpayer owns real or personal property, such notice shall create a first and prior lien as aforesaid on such property in that county and constitute a notice thereof. (Ord. O-15 §1, 2008)

Sec. 4-1-120. Penalty.

Any person convicted of violating any provision of this Chapter shall be punished as set forth in Chapter 1 of this Code. (Ord. O-15 §1, 2008)

Sec. 4-1-130. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

Capital improvement means land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure and all other tangible and intangible assets that are used in operations and that have initial useful lives extending beyond a single financial reporting period.

Executive Director means the Executive Director of the Colorado Department of Revenue.

Interest means the rate of interest imposed by the Colorado Department of Revenue.

Penalties means the penalties imposed by the Colorado Department of Revenue.

Treasurer means the Town Treasurer or his or her designee. (Ord. O-15 §1, 2008)

ARTICLE II

Sales Tax

Sec. 4-2-10. Definitions.

The terms in this Article shall have the meanings set forth in Section 39-26-102, C.R.S. (Ord. 673 §1, 1987; Ord. O-15 §1, 2008)

Sec. 4-2-20. Tax imposed.

(a) There is hereby imposed on the sale of tangible personal property at retail or the furnishing of services as provided in Section 29-2-105(1)(d), C.R.S., a sales tax equal to three and forty-six one-hundredths percent (3.46%) of the gross receipts (the "sales tax"). The tangible personal property and services taxable under this Article 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 Title 39, Article 26, Part 7, C.R.S.; provided that the exemption for sales of food pursuant to Section 39-26-707, C.R.S., the exemption for sales of electricity, coal, wood, gas, fuel oil or coke sold to occupants of residences pursuant to Section 39-26-715(1)(a)(II), C.R.S., and the exemption for sales of machinery or machine tools pursuant to Section 39-26-709, C.R.S., shall not apply to the

Town's sales tax. The imposition of the sales tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the sales tax an amount in excess of the amount of the sales tax imposed by this Article, the vendor shall remit to the Executive Director the full amount of the sales tax and also such excess.

(b) 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. The gross receipts from such 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. If a retailer has no permanent place of business in the Town, or has more than one (1) place of business, the place at which the retail sales are consummated for the purpose of the sales tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue. The value of construction and building materials shall be exempt from the sales tax if the materials are picked up by the purchaser and if the purchaser presents to the retailer a building permit evidencing that a local use tax has been paid or is required to be paid.

(c) The amount subject to the sales tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

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

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

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

(e) The sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction already has been subjected to a legally imposed sales or use tax of another statutory or home rule city and county, city or town equal to or in excess of the sales tax. A credit shall be granted against the sales tax equal in amount to the legally imposed local sales or use tax previously paid elsewhere by the purchaser or user. The amount of the credit shall not exceed the amount of the sales tax.

(f) The sales tax shall not apply to any sales which the Town is prohibited from taxing under the Constitution or laws of the United States or the Constitution of the State of Colorado. (Ord. O-15 §1, 2008)

Sec. 4-2-30. Deposit of funds.

Upon receipt of the sales tax by the Town, the following deposits shall be made:

(1) Three-tenths percent (0.3%) shall be deposited in the Open Space Fund.

(2) Sixteen one-hundredths percent (0.16%) shall be deposited in the McCaslin Interchange Fund. (Ord. 673 §2, 1987; Ord. 95-O-13 §1, 1995; Ord. 11 §1, 2001; Ord. 26 §1, 2001; Ord. O-17 §1, 2002; Ord. O-15 §1, 2008)

Sec. 4-2-40. Collection.

The collection, administration and enforcement of the Town's sales tax shall be performed by the Executive Director, at no charge to the Town, in the same manner as the collection, administration and enforcement of the state sales tax. Unless otherwise provided by Article 2 of Title 29, C.R.S., Article 26 of Title 39, C.R.S., shall govern the collection, administration and enforcement of the Town's sales tax. (Ord. 673 §3, 1987; Ord. 96-O-4 §1, 1996; Ord. O-15 §1, 2008)

Sec. 4-2-50. Vendor fees.

All licensed vendors shall be entitled as collection agents for the Town to withhold an amount allowed by state statute to cover the vendor's expense in the collection and remittance of the sales tax. If any vendor is delinquent in remitting the sales 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 the vendor's expense in collecting and remitting said sales tax, and an amount equivalent to the full amount of the sales tax imposed by this Article shall be remitted to the Executive Director by any such delinquent vendor. (Ord. 673 §4, 1987; Ord. O-15 §1, 2008)

ARTICLE III

Use Tax

Sec. 4-3-10. Definitions.

(a) For purposes of this Article and except as otherwise specified in this Section, the terms in this Article shall have the meanings set forth in Section 39-26-201, C.R.S.

(b) *Construction materials* means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project, including public and private improvements, including but not limited to: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver; provided that the above materials, when used for forms or other items, which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials. (Ord. 673 §5, 1987; Ord. O-15 §1, 2004; Ord. O-15 §1, 2008)

Sec. 4-3-20. Tax imposed.

There is hereby imposed and there shall be paid and collected a use tax upon the privilege of using or consuming within the Town any construction and building materials purchased at retail and for the privilege of storing, using or consuming within the Town any motor and other vehicles, purchased at retail for which registration is required, such use tax to be in the amount of three and three-tenths percent (3.3%) of the retail cost thereof (the "use tax"). The use tax shall be collected in accordance with this Chapter. The amount subject to the use tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S. (Ord. 673 §6, 1987; Ord. 95-O-13 §3, 1995; Ord. O-26 §2, 2001; Ord. O-4 §1, 2003; Ord. O-15 §1, 2008)

Sec. 4-3-30. Exemptions.

In no event shall the use tax apply:

- (1) To the storage, use or consumption of any tangible 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 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; provided that this exemption shall not apply to the storage, use or consumption of tangible personal property brought into the State by a nonresident to be used in the conduct of a business in the 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 corporations 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 already has been subjected to a legally imposed sales or use tax of another statutory or home rule town, city or county equal to or in excess of the use tax, in which case a credit equal to the tax so paid shall be granted against the Town's use tax; provided that the credit shall not exceed the amount of the Town's use tax;
- (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 or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and the owner purchased the vehicle outside of the Town for use outside of the Town and actually so used it for a substantial and primary purpose for which it was acquired and the owner registered, titled and licensed said motor vehicle outside of the Town;

(9) 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 the use tax;

(10) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of the use tax; or

(11) To any sales which the Town is prohibited from taxing under the Constitution or laws of the United States or the Colorado Constitution. (Ord. 673 §7, 1987; Ord. 11 §3, 2001; Ord. O-15 §1, 2008)

Sec. 4-3-40. Motor vehicle use tax.

(a) No registration shall be made of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue, until any use tax due upon the storage, use or consumption thereof has been paid.

(b) The motor vehicle use tax shall be collected by the authorized agent of the Department of Revenue of the State, pursuant to agreement between the Town and the Executive Director. (Ord. 673 §8, 1987; Ord. O-12 §7, 2000; Ord. O-15 §1, 2008)

Sec. 4-3-50. Construction materials use tax.

(a) Collection. The collection, administration and enforcement of the construction materials use tax shall be performed by the Treasurer. The board of Trustees is hereby authorized to adopt rules and regulations necessary or appropriate for collection, administration and enforcement of such tax.

(b) Calculation. Use taxes are assessed on the cost of construction materials only. Prior to the issuance of any building permit, all use taxes shall be paid on construction materials. A receipt for the use taxes paid will be provided and should be presented upon purchase of construction materials so that the applicant will not be double-taxed for use taxes and sales taxes. Use taxes are normally established as an estimate equal to fifty percent (50%) of the total project value, and are calculated as follows:

50% of total valuation = total cost of construction materials x 3.3% = use tax.

For example, the use tax on a \$100,000 house would equal \$1,650 (50% of total valuation = \$50,000 x 3.3% = \$1,650).

(c) Audit. Use taxes paid on construction materials may be reviewed by audit of actual costs at the discretion of the Treasurer within three (3) years of the issuance of any certificate of occupancy. If additional use tax is owed, the Treasurer may issue a notice of assessment for use tax due.

(d) Rebate. If the fifty percent (50%) of total valuation used to calculate use taxes for a particular project is in excess of the actual cost of the materials as verified by all of the actual receipts for materials, such receipts may be submitted to the Treasurer for a determination as to whether a refund of the excess use taxes paid may be given. If an applicant intends to utilize this rebate procedure, the applicant shall notify the Treasurer of such intent upon submittal of his or her building permit application. Failure to so notify the Treasurer shall be grounds for denying a rebate request. No refund of excess use taxes paid will automatically be given. Any request for a refund must be accompanied by receipts with the applicant's name and address clearly indicated. Upon receipt of the request for a refund, complete with all receipts, the Treasurer shall submit the same to the Chief Building Official for review and a determination as to whether, in the Chief Building Official's reasonable opinion, receipts for all of the materials used have been provided. (Reso. 741 §II, 1988; Ord. 96-O-4 §1, 1996; Ord. O-12 §10, 2000; Ord. O-4 §2, 2003; Ord. O-15 §1, 2004; Ord. O-15 §1, 2008)

Sec. 4-3-60. Deposit of funds.

Upon receipt of the use tax by the Town, three-tenths percent (0.3%) thereof shall be deposited in the Open Space Fund. (Ord. O-15 §1, 2008)

Sec. 4-3-70. Administrative hearing procedures.

(a) A taxpayer may request a hearing on any proposed use tax imposed under this Article after receiving a notice of assessment and demand for payment, or denial of a claim for refund by filing a request for hearing within twenty (20) days of the date of mailing of the notice of assessment or refund denial. The Treasurer may allow a later filing of a hearing request if the taxpayer shows good cause for a late filing. The request for hearing shall set forth the reasons for and amount of charges in the notice of assessment or refund denial that the taxpayer seeks and such other information as the Treasurer may prescribe.

(b) The Treasurer shall conduct the hearing and shall notify the taxpayer in writing of the time and place of the hearing at least seven (7) days before it is scheduled. The hearing shall be held within sixty (60) days of the date of receipt of the request for a hearing, unless the taxpayer agrees to a later date.

(c) The Treasurer shall conduct the hearing and may administer oaths and take testimony.

(d) The Treasurer may modify or abate in full the tax, penalty and interest protested by the taxpayer or grant the requested refund, based on the evidence and argument presented.

(e) The Treasurer shall send a determination notice to the taxpayer setting forth a decision, including any amount found due or amount of claim for refund denied and the grounds for allowing or rejecting the claim in whole or in part. The determination notice is an assessment that is due and payable within thirty (30) days from its date.

(f) Thirty (30) days after the date of the mailing of the determination notice, if the tax has not been paid, no request for hearing has been made, no extension has been requested and no request for reconsideration has been filed by the taxpayer, the determination notice previously mailed constitutes a final assessment of the amount of tax specified, together with interest and penalties or a final denial

of refund, except as to any amounts about which the taxpayer has filed a protest with the Treasurer. (Ord. O-4 §4, 2003; Ord. O-15 §1, 2004; Ord. O-15 §1, 2008)

ARTICLE IV

Landscape Maintenance Fee

Sec. 4-4-10. Purpose and applicability.

(a) Purpose. The purpose of this Article is to adopt and implement the terms of the dissolution order entered by the Boulder District Court on December 29, 2003, dissolving the Superior Metropolitan Districts No. 2 and No. 3 and designating the Board of Trustees as the responsible party to impose and collect all maintenance fees thereunder.

(b) Applicability. This Article shall apply to all residential dwelling units that were formerly included within the boundaries of Superior Metropolitan Districts No. 2 and No. 3. (Ord. O-1 §1, 2004; Ord. O-10 §1, 2007; Ord. O-15 §1, 2008)

Sec. 4-4-20. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Apartment means a dwelling unit in a building with more than two (2) dwelling units, where the occupant has no ownership interest in the dwelling unit or appurtenant common areas or facilities.

Common interest community means real estate described in a recorded declaration with respect to which a person, by virtue of such person's ownership of a unit within that community, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvements of other real estate described in the declaration.

Condominium means an individual airspace dwelling unit of a common interest community in which a person obtains separate ownership of the individual airspace unit and a common ownership in the remaining common elements of the real estate, solely with the other owners of the individual airspace units. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the airspace unit owners.

Cooperative means a common interest community in which the real property is owned by an association, each member of which is entitled by virtue of such member's ownership interest in the association to exclusive possession of a dwelling unit.

Duplex means a residential building in which two (2) dwelling units with separate ground floor entrances share a common wall which may include the wall of an attached garage or porch.

Dwelling unit means an enclosure of four hundred (400) square feet or more containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one (1) family.

Planned community means a common interest community that is not a condominium or cooperative.

Single-family detached residence means a residential building containing one (1) dwelling unit which is located on a lot containing no other dwelling units. (Ord. O-1 §1, 2004; Ord. O-10 §1, 2007; Ord. O-15 §1, 2008)

Sec. 4-4-30. Fee schedule.

The Town hereby imposes the following landscape maintenance fees:

- (1) A monthly fee of thirty dollars (\$30.00) for each single-family detached residence.
- (2) A fee of twenty-five dollars (\$25.00) for each condominium and each dwelling unit of a cooperative, planned community or duplex.
- (3) A fee of twenty dollars (\$20.00) for each apartment. (Ord. O-1 §1, 2004; Ord. O-10 §1, 2007; Ord. O-15 §1, 2008)

Sec. 4-4-40. Collection, administration and enforcement.

(a) The Treasurer shall be responsible for collecting, administering and enforcing the landscape maintenance fees.

(b) The Town shall deliver a monthly invoice for landscape maintenance fees to the owner or occupant of each property subject to the fees. The owner or occupant shall remit payment to the Town within thirty (30) days of receipt of the invoice.

(c) The Board of Trustees may adopt necessary rules and regulations for the administration and enforcement of this Article. (Ord. O-1 §1, 2004; Ord. O-10 §1, 2007; Ord. O-15 §1, 2008)

Sec. 4-4-50. Lien on property.

(a) If a landscape maintenance fee remains unpaid ten (10) days after its due date, the Treasurer shall issue a notice of delinquency to the owner or occupant of the property. Such notice shall include the name of the owner or occupant, the amount of the fee owed, the accrual date of the fee and a statement that the Town maintains the right to claim a first and prior lien on the property.

(b) If the owner or occupant fails to pay the landscape maintenance fee within thirty (30) days of receiving the delinquency notice, the Treasurer may file notice of the amount due with the Boulder County Clerk and Recorder, imposing a lien on the property to be collected with property taxes. (Ord. O-1 §1, 2004; Ord. O-10 §1, 2007; Ord. O-15 §1, 2008)

Sec. 4-4-60. Use of revenues.

All revenues received from the collection of landscape maintenance fees shall be placed into a separate account and used solely for the operation and maintenance of Class 1 tracts, as described in Exhibit C to the Intergovernmental Agreement and Plan of Dissolution incorporated into the orders for dissolving Superior Metropolitan Districts No. 2 and No. 3 and providing for outstanding financial

obligations entered by the Boulder District Court on December 29, 2003. (Ord. O-1 §1, 2004; Ord. O-10 §1, 2007; Ord. O-15 §1, 2008)