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## **ARTICLE I**

### **Fiscal Year**

#### **Sec. 4-1. Fiscal year established.**

The fiscal year of the Town shall commence on January 1 of each year and shall extend through December 31 of the same year. (Ord. 195 §1, 1993)

#### **Secs. 4-2—4-10. Reserved.**

## **ARTICLE II**

### **Funds Generally**

#### **Sec. 4-11. 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, by other ordinances or laws or by this Code, 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. 195 §1, 1993)

#### **Secs. 4-12—4-30. Reserved.**

## **ARTICLE III**

### **General and Special Funds**

#### **Sec. 4-31. General Fund created.**

There is hereby created a fund, to be known as the General Fund, which shall consist of the following:

- (1) All cash balances of the Town not specifically belonging to any existing special fund of the Town.
- (2) All fixed assets of the Town (to be separately designated in an account known as the General Fund Fixed Assets) not specifically belonging to any existing special fund of the Town. (Ord. 195 §1, 1993)

**Sec. 4-32. Capital Improvement Fund created.**

There is hereby created a special fund, to be known as the Capital Improvement Fund. (Ord. 195 §1, 1993)

**Sec. 4-33. 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. 195 §1, 1993)

**Sec. 4-34. Sewer Fund created.**

There is hereby created a special fund, to be known as the Sewer Fund. (Ord. 195 §1, 1993)

**Sec. 4-35. Street Fund created.**

There is hereby created a special fund, to be known as the Street Fund. (Ord. 195 §1, 1993)

**Sec. 4-36. Water Fund created.**

There is hereby created a special fund, to be known as the Water Fund. (Ord. 195 §1, 1993)

**Secs. 4-37—4-50. Reserved.**

**ARTICLE IV**

**Sales Tax**

*Division 1  
General Provisions*

**Sec. 4-51. Purpose.**

The purpose of this Article is to impose a sales tax upon the sale at retail of tangible personal property and the furnishing of certain services in the Town, pursuant to the authority granted to incorporated towns of the State by Article 2 of Title 29, C.R.S. This Article shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State, levied by Article 26 of Title 39, C.R.S. (Ord. 187 §1, 1990)

**Sec. 4-52. Definitions.**

For the purpose of this Article, the definition of words herein contained shall be as said words are defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein. (Ord. 187 §2, 1990)

**Sec. 4-53. Licenses.**

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail, or to furnish certain services as herein specified, without first having obtained a

license therefor, which license shall be granted and issued by the Town Clerk and shall be in force and effect until December 31 of the year in which it is issued, unless sooner revoked. Such license shall be granted or renewed only upon application stating the name and address of the person desiring such license, the name and location of such business and such other facts as the Town Clerk may require.

(b) It shall be the duty of each such licensee on or before January 1 of each year during which this Article remains in effect to obtain a renewal thereof if the licensee remains in retail business or is liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of the licensee's prior license.

(c) For each license issued, a fee shall be charged as set forth in the Town's fee schedule.

(d) If business is transacted at two (2) or more separate places by one (1) person or organization, a separate license for each place of business shall be required.

(e) Each license shall be numbered and shall show the name and place of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

(f) Any license may be revoked for cause as provided in Section 39-26-103, C.R.S., which provision is incorporated herein by this reference.

(g) Any person engaged in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, without having first secured a license therefor as provided in this Article, shall be guilty of a violation of this Article. (Ord. 187 §3, 1990)

#### **Sec. 4-54. Property and services taxed.**

(a) There is hereby levied and there shall be collected and paid a sales tax in the amount as in this Article provided, upon the sale at retail of tangible personal property and the furnishing of certain services, as provided in Section 39-26-104, C.R.S.

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

(c) 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.

(d) No sales tax shall 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 such local government evidencing that a local use tax has been paid or is required to be paid.

(e) No sales or use tax shall apply to the sale of food purchased with food stamps. For the purposes of this paragraph, *food* shall have the same meaning as provided in 7 U.S.C. § 2012(g), as such section exists on October 1, 1987, or is thereafter amended.

(f) No sales or use tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. § 1786. For the purposes of this paragraph, *food* shall have the same meaning as provided in 42 U.S.C. § 1786, as such section exists on October 1, 1987, or is thereafter amended.

(g) No sales tax shall 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 city and county, city or town equal to or in excess of that sought to be imposed by the Town. A credit shall be granted against the sales tax imposed by the Town 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 city and county, city or town. The amount of the credit shall not exceed the sales tax imposed by the Town.

(h) Notwithstanding any other provision of this Article, the value of construction and building materials on which a use tax has previously been collected by an incorporated town, city or county shall be exempt from the town, city or county sales tax if the materials are delivered by the retailer or his or her agent to a site within the limits of such town, city or county. (Ord. 187 §4, 1990)

#### **Sec. 4-55. Exemptions.**

(a) There shall be exempt from taxation under the provisions of this Article all of the tangible personal property and services which are exempt under the provisions set forth in Article 26, Title 39, C.R.S., which exemptions are incorporated herein by this reference, except the exemption allowed by Section 39-26-114(11), C.R.S., for the purchases of machinery or machine tools, and except the exemption of sales and purchases of electricity, coal, gas, fuel oil and coke as provided in Section 39-26-114(1)(a)(XXI), C.R.S., and except the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S.

(b) All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from 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 of the Town; and

(2) Such tangible personal property is registered or required to be registered outside the limits of the Town under the laws of the State. (Ord. 187 §5, 1990)

#### **Sec. 4-56. Amount of tax.**

There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in Section 4-54 above, a sales tax of three percent (3%) upon the sale at retail of tangible personal property and the furnishing of certain services as provided herein. (Ord. 187 §6, 1990)

#### **Sec. 4-57. General provisions.**

(a) For the purposes of this Article, all retail sales are 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) In the event a retailer has no permanent place of business in the Town or has more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the State Department of Revenue. (Ord. 187 §7, 1990)

**Sec. 4-58. Collection, administration and enforcement.**

(a) The collection, administration and enforcement of the sales tax imposed by this Article shall be performed by the Executive Director of the State Department of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, C.R.S., and all rules and regulations promulgated by the Executive Director of the State Department of Revenue pertaining to such collection, administration and enforcement, are incorporated herein by this reference.

(b) At the time of making his or her return of the tax, as required by this Article, every retailer shall be entitled to subtract from the tax so remitted a sum equal to three and one-third percent (3 $\frac{1}{3}$ %) of said tax as his or her fee, said fee to be known as the "vendor's fee."

(c) If said retailer shall be delinquent in remitting said tax, he or she shall forfeit the "vendor's fee," unless good cause can be shown for such delinquent remittance. (Ord. 187 §8, 1990)

**Sec. 4-59. Use of revenues.**

(a) The additional sales tax revenue collected as a result of the adoption of the ordinance codified herein which amounts to a one-percent sales tax or thirty-three and one-third percent (33 $\frac{1}{3}$ %) of all of the revenues derived from the Town's three-percent sales tax, shall be paid into the previously established street fund and shall be used solely for the purpose of providing for the construction, maintenance, repair, extension and improvements of the Town's streets, alleys and other street-related uses.

(b) The remainder of the sales tax shall be deposited in the Town's general fund and shall be used for any general purposes of the Town. The dedication of revenue in this Section shall not be changed without the affirmative vote of the registered electors. (Ord. 187 §10, 1990)

**Sec. 4-60. Effective date.**

The ordinance codified herein shall become effective and in force at 12:01 a.m. on January 1, 1991. (Ord. 187 Art. II, 1990)

*Division 2*  
*Sales Tax Incentive Program*

**Sec. 4-61. Title.**

There is hereby established within the Town a Sales Tax Incentive Program ("STIP"). (Ord. 2005-003 §1)

**Sec. 4-62. Purpose.**

The purpose of the sales tax incentive program created hereby is to encourage the establishment and/or substantial expansion of retail sales tax-generating businesses within the Town, thereby stimulating the economy of and within the Town, thereby providing employment for residents of the Town and others, thereby further expanding the goods available for purchase and consumption by residents of the Town and further increasing the sales taxes collected by the Town, which increased sales tax collections will enable the Town to provide expanded and improved municipal services to and for the benefit of the residents of the Town, while at the same time providing public or public-related improvements at no cost, or at deferred cost, to the Town and its taxpayers and residents. (Ord. 2005-003 §1)

**Sec. 4-63. Definitions.**

As used in this Chapter and all sections thereof, the following phrases shall have the following meanings:

(1) *Owner or proprietor* shall mean the record owner of the property or operator of an individual business or, in the case of a shopping center, the owner of the real property upon which more than one (1) business is operated, provided that said owner (whether an individual, corporation, partnership or other entity) is the owner or lessor of the individual businesses operated thereon.

(2) *Sales tax* shall mean the amount of Town sales tax collected from the applicant. (Ord. 2005-003 §1)

**Sec. 4-64. Participation.**

Participation in STIP shall be based upon approval by the Board of Trustees, exercising its legislative discretion in good faith. Any owner or proprietor of a newly established or proposed retail sales tax-generating business or location, or the owner or proprietor of an existing retail sales tax-generating business or location which is proposed to expand substantially, may apply to the Town for inclusion within the STIP, provided that the new or expanded business is reasonably likely to generate sales taxes of at least ten thousand dollars (\$10,000.00) in the first year of operation or expansion. (Ord. 2005-003 §1)

**Sec. 4-65. Board of Trustees approval.**

Approval by the Board of Trustees of an agreement implementing this STIP shall entitle the successful applicant to share in sales taxes derived from the applicant's property or business in an

amount which shall not in any event exceed fifty percent (50%) of the Town sales taxes; provided, however, that the applicant may use said amounts only for public and/or public-related purposes such as those specified herein and which are expressly approved by the Board of Trustees at the time of consideration of the application. The time period in which said sales taxes may be shared shall not commence until all public or public-related improvements are completed and shall be limited by the Board of Trustees, in its discretion, to a specified time, or until a specified amount is reached. (2005-003 §1)

**Sec. 4-66. Uses for revenue to be public-related.**

The uses to which said shared sales taxes may be put by an applicant shall be strictly limited to those which are public or public-related in nature. For the purposes of this Chapter, *public or public-related purposes* shall mean public improvements, including but not limited to streets, sidewalks, curbs, gutters, pedestrian malls, street lights, drainage facilities, landscaping, decorative structures, statuary, fountains, identification signs, traffic safety devices, bicycle paths, off-street parking facilities, benches, restrooms, information booths, public meeting facilities and all necessary, incidental and appurtenant structures and improvements, together with the relocation and improvements of existing utility lines and any other improvements of a similar nature which are specifically approved by the Board of Trustees and upon the Board's finding that said improvements are public or public-related improvements. (Ord. 2005-003 §1)

**Sec. 4-67. Monthly increment for sales tax.**

The Town shall use the actual monthly Town sales taxes collected by the applicant to determine the amount of shared Town sales tax to be provided to the applicant, based upon the agreed terms; but in any event, the amount of the shared Town sales tax shall not exceed fifty percent (50%) of the actual Town sales tax received by the Town and which was collected by the applicant. The actual Town sales taxes collected shall be used only for the purposes set forth in the original ordinance adopting any sales tax (one percent [1%] or one-third [ $\frac{1}{3}$ ] of the sales tax must be dedicated to streets and roads). (Ord. 2005-003 §1)

**Sec. 4-68. Account created.**

It is an overriding consideration and determination of the Board of Trustees that existing sources of Town sales tax revenues shall not be used, impaired or otherwise affected by this Sales Tax Incentive Program. Therefore, it is hereby conclusively determined that only Town sales taxes generated by the properties described in an application shall be subject to division under this STIP. It shall be the affirmative duty of the Town Treasurer to account for all such "sales taxes" separately from the sales taxes generated by and collected from the other sales-tax-generating uses and businesses within the Town and to provide an accounting system which accomplishes the overriding purpose of this Section. It is conclusively stated by the Board of Trustees that Sections 4-61 through 4-71 of this Article would not be adopted or implemented but for the provisions of this Section. (2005-003 §1)

**Sec. 4-69. Approval criteria.**

A decision concerning an application for inclusion in this STIP shall be considered by the Board of Trustees, at a regularly scheduled Board meeting, based upon the following criteria:



(1) The amount of Town sales taxes that are reasonably to be anticipated to be derived by the Town through the expanded or new retail sales tax-generating business;

(2) The public benefits provided by the applicant through public works, public improvements, additional employment for Town residents and other similar appropriate criteria;

(3) The amount of expenditures that may be deferred by the Town based upon public improvements to be completed by the applicant;

(4) The conformance of the applicant's property or project with the Comprehensive Plan and zoning ordinances of the Town; and

(5) The agreement required by Section 4-70 below having been reached, which agreement shall contain and conform to all requirements of said Section 4-70. Approval shall be by motion adopted by a majority of the entire Board of Trustees. (Ord. 2005-003 §1)

**Sec. 4-70. Agreement required.**

Each application for approval submitted to the Board of Trustees shall be subject to approval by the Board solely on its own merits. Approval of an application shall require that an agreement be executed by the owner and the Town, which agreement shall, at a minimum, contain:

(1) A list of those public or public-related improvements that justify the application's approval, and the amount that shall be spent on said improvements by the applicant if it is practical to do so and if the improvements have been identified;

(2) The maximum amount of Town sales taxes to be shared, or the maximum time during which said agreement shall continue, it being expressly understood that any such agreement shall expire and be of no further force and effect upon the occurrence of either reaching the maximum time of the agreement or collecting the maximum amount to be shared;

(3) A statement that this is a personal agreement that is not transferable and that does not run with the land;

(4) That this agreement shall never constitute a debt or obligation of the Town within any constitutional or statutory provision;

(5) A provision that any Town sales taxes subject to sharing shall be escrowed in the event there is a legal challenge to this Sales Tax Incentive Program or the approval of any application therefor;

(6) An affirmative statement that the obligations, benefits and/or provisions of the agreement may not be assigned in whole or in any part without the express authorization of the Board of Trustees, and further that no third party shall be entitled to rely upon or enforce any provision hereof; and

(7) Any other provisions agreed upon by the parties and approved by the Board of Trustees. (Ord. 2005-003 §1)

**Sec. 4-71. Board of Trustees intentions.**

The Board of Trustees has enacted this STIP as a joint benefit to the public at large and to private owners/business operators for the purposes of: providing the Town with increased sales tax revenues generated upon and by properties improved as a result of this program; public improvements being completed by private owners through no debt obligation being incurred on the part of the Town; and allowing applicants an opportunity to improve properties that generate sales activities and make those properties more competitive in the marketplace and further provide to the applicant additional contingent sources of revenues for upgrading said properties. The Board of Trustees specifically finds and determines that creation of this STIP is consistent with the Town's powers pursuant to Sections 31-15-301 and 31-15-302, C.R.S. Notwithstanding any provision hereof, the Town shall never participate in a joint venture with any private entity or activity which participates in this STIP, and the Town shall never be liable or responsible for any debt or obligation of any participant in the STIP. (Ord. 2005-003 §1)

**Secs. 4-72—4-80. Reserved.**