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ARTICLE 1

Fiscal Year

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

The fiscal year of the Town shall commence on the first day of January and end on the last day of December of each year. (Prior code 3.01.01)

ARTICLE 2

Town Funds

Sec. 4-2-10. 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 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. 11-2007 §1)

Sec. 4-2-20. 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. 11-2007 §1)

Sec. 4-2-30. Merger of funds into General Fund.

(a) In the interest of simplifying and clarifying budgeting and accounting, the assets and liabilities of the Cemetery Perpetual Care Fund and Capital Projects Fund are hereby merged with the General Fund of the Town.

(b) A separate bank account shall be maintained for the purpose of depositing and recording monies for the exclusive purpose of the Cemetery Perpetual Care. (Prior code 3.05.03; Ord. 11-2007 §1)

Sec. 4-2-40. Conservation Trust Fund created.

There is established a Conservation Trust Fund in the Town as authorized by Section 29-21-201, C.R.S.. The funds received by the Town shall be expended as authorized by state laws as the same now exist or as may hereafter exist as a result of any amendments. This Section is necessary for the protection and preservation of funds which may be allocated to the Town by the State and for the protection of the rights of the residents of the Town. (Prior code 3.05.01)

Sec. 4-2-50. Library Fund created.

There is established a Library Fund in the Town. Funds received from overdue or damaged books and other library fines shall be deposited in this fund. Funds received from private contributions for library expenditures shall be deposited in this fund. Revenue received

from grants, loans or formula disbursements shall be deposited in this fund. The Board of Trustees shall annually determine an allocation from the General Fund to be transferred to the Library Fund in lieu of creating a library district and setting a mill levy. All other funds received by the library or by the Town for library functions shall be deposited in this fund. This fund is subject to all federal, state and local laws regulating the management of public funds. This Section is necessary for the protection and preservation of funds which may be allocated to the library and for the protection of the rights of the residents of the Town. (Ord. 4-1997 §1; Ord. 11-2007 §1)

Sec. 4-2-60. Sewer Fund created.

There is hereby created a special fund, to be known as the Sewer Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 11-2007 §1)

Sec. 4-2-70. Street Fund created.

There is hereby created a special fund, to be known as the Street Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 11-2007 §1)

Sec. 4-2-80. Water Fund created.

There is hereby created a special fund, to be known as the Water Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 11-2007 §1)

ARTICLE 3

Financial Management

Sec. 4-3-10. Annual budget.

Not later than the first regular meeting of the Board of Trustees in October of each year, the Budget Committee or other duly authorized person designated by the Board of Trustees shall

submit to the Board the itemized annual budget for the ensuing fiscal year. The budget as approved by the Board of Trustees shall be adopted and administered in accordance with the provisions of Section 29-1-103 et seq., C.R.S. (Prior code 3.01.02; Ord. 11-2007 §1)

Sec. 4-3-20. Rate of tax levy.

The Board of Trustees shall, by resolution, fix the rate of tax to be levied upon all taxable property within the Town for municipal purposes and, through the Town Administrator/Clerk, shall officially certify said levy to the County Commissioners prior to December 31 of each year. (Prior code 3.01.03; Ord. 11-2007 §1)

Sec. 4-3-30. Annual appropriation.

The Board of Trustees shall pass an ordinance within the last quarter of each fiscal year, to be termed the annual appropriation ordinance for the next fiscal year. In such ordinance, the Board of Trustees shall appropriate such sums of money as are necessary expenses and liabilities of the Town, specifying the objects and purposes for which such appropriations are made and the amount appropriated for each object or purpose. The total amount appropriated shall not exceed the probable amount of revenue that will be collected during the fiscal year. (Prior code 3.01.04)

Sec. 4-3-40. Publication of financial statements.

The Board of Trustees shall, within twenty (20) days after the adjournment of each regular or special meeting, publish such of its proceedings as related to the payment of bills, stating for what the same are allowed, the name of the person to whom allowed and to whom paid. Said publication shall be in a paper of general circulation within the Town. (Prior code 3.01.05; Ord. 11-2007 §1)

Sec. 4-3-50. Deposits and investments.

The Town Treasurer shall deposit all of the funds and moneys coming into the possession of the Town Treasurer in one (1) or more responsible banks located in the State which have been designated by written resolution of the Board of Trustees. The Board of Trustees may also authorize the Town Treasurer, by written resolution, to invest all or any part of such funds in securities which are authorized for such investment by state law. (Prior code 3.01.06; Ord. 11-2007 §1)

Sec. 4-3-60. Annual audit.

The Board of Trustees shall select a qualified person as auditor and cause to be made an annual audit of the financial affairs and transactions of the Town in accordance with the requirements set forth in Section 29-1-603, C.R.S. (Prior code 3.01.07)

ARTICLE 4

Sales and Use Tax

*Division 1
Sales Tax*

Sec. 4-4-10. Purpose of sales tax.

A sales tax is imposed on the sale of tangible personal property at retail for the furnishing of taxable services upon every retailer in the Town as authorized by Part I of Article 2, Title 29, C.R.S. (Prior code 3.06.01; Ord. 11-2007 §1)

Sec. 4-4-20. Definitions.

For the purpose of this Division, the definitions of words herein contained shall be as defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein by this reference. (Prior code 3.06.02)

Sec. 4-4-30. Location of sale.

For the purpose of this Article, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the Town, or to a common carrier for delivery to a destination outside the limits of the Town. (Prior code 3.06.04)

Sec. 4-4-40. Credit for sales or use taxes previously paid to another municipality.

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 sales tax imposed by this Article 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. (Prior code 3.06.04)

Sec. 4-4-50. Determination of sales location.

In the event a retailer has no permanent place of business in the Town, or more than one (1) place of business, the place at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26, Title 39, C.R.S., and by rules and regulations promulgated by the Colorado Department of Revenue. (Prior code 3.06.04)

Sec. 4-4-60. State taxes excluded.

The amount subject to tax under this Article shall not include the state sales and use tax imposed by Article 26, Title 39, C.R.S. (Prior code 3.06.04)

Sec. 4-4-70. Exemptions.

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., and subject to the same exemptions as those specified in Section 39-26-701 et seq., C.R.S.; provided that the exemption allowed by Section 39-26-709, C.R.S., for purchase of machinery or machine tools, and the exemption for sales of food specified in Section 39-26-707, C.R.S., shall not be exempt from the sales tax imposed by this Article. Express provision is hereby made for the exemption of sales and purchases of electricity, coal, gas, fuel oil or coke as provided in Section 39-26-715, C.R.S., from the sales tax imposed by this Article, except that said exemption of sales and purchases of electricity, coal, gas, fuel oil or coke shall terminate without further action by the Town if the exemption of such sales and purchases provided in Section 39-26-715, C.R.S., is repealed, or if said exemption otherwise becomes unauthorized under state law. (Prior code 3.06.04; Ord. 11-2007 §1)

Sec. 4-4-80. Exemptions outside of Town limits.

All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Town's 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 Town; and
- (2) Such personal property is registered or required to be registered outside the limits of the Town, under state law. (Prior code 3.06.04)

Sec. 4-4-90. Collection.

The collection, administration and enforcement of the Town sales tax shall be performed by the Executive Director of the Colorado Department of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26, Title 39, C.R.S., shall govern the collection, administration and enforcement of sales taxes authorized under this Article, unless otherwise provided in said Article 26. (Prior code 3.06.05)

Sec. 4-4-100. Imposition and schedule of sales tax.

There is hereby imposed on all sales of tangible personal property at retail or the furnishing of services as provided in Section 39-26-104, C.R.S., a tax equal to three percent (3%) of the gross receipts. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by an amount established by resolution by the Board of Trustees to offset the Town's costs. (Prior code 3.06.06; Ord. 24-1998 §1; Ord. 11-2007 §1)

Sec. 4-4-110. Vendor's fee.

The vendor (retailer) shall be entitled as collection agent for the Town to withhold a collection fee in the amount of three and one-third percent (3⅓%) from the total amount remitted by the vendor to the Town each month. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Executive Director of the Colorado Department of Revenue, the vendor shall not be allowed to retain any amounts to cover the vendor's expense in collecting and remitting said tax, and an amount equivalent to the full sales tax shall be remitted to the Executive Director by any such delinquent vendor. (Prior code 3.06.07; Ord. 11-2007 §1)

*Division 2
Use Tax*

Sec. 4-4-210. Purpose of use tax.

The purpose of the provisions of this Division is to impose a use tax on building and construction materials and motor and other vehicles which are purchased outside the Town for use, storage or consumption within the Town, as authorized by Section 29-2-102, C.R.S. (Prior code 3.06.08)

Sec. 4-4-220. Definitions.

For the purpose of this Division, the definitions of words herein contained shall be as defined in Sections 39-26-102 and 39-26-201, C.R.S., and said definitions are incorporated herein by this reference. (Prior code 3.06.09)

Sec. 4-4-230. Imposition.

There is hereby imposed on the privilege of storing, using or consuming in the Town any construction and building materials and motor and other vehicles on which registration is required, purchased at retail, a use tax of three percent (3%) of the retail purchase price of said construction or building materials or motor or other vehicles. Such tax shall be payable to and shall be collected by the Town Administrator/ Clerk. (Prior code 3.06.10; Ord. 24-1998 §1)

Sec. 4-4-240. Exemptions.

This use tax shall not apply:

- (1) To the storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the Town.
- (2) To the storage, use or consumption of any tangible personal property purchased for resale in the Town, either in its original form

or as an ingredient of a manufactured or compounded product in the regular course of a business.

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

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

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

(6) To the storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another county, city or town equal to or in excess of that imposed by this Article. A credit is granted against the use tax imposed by this Division with respect to a person's storage, use or consumption in the county, city or town of tangible personal property purchased elsewhere

custody the goods are, being severally liable therefore.

(4) If the alternative estimation procedure set forth in Paragraph (2) is elected, use tax is due and payable at the time of the filing of the return; and if the tax is not paid when due, a penalty equal to ten percent (10%) of the amount due, plus interest at the rate of twelve percent (12%) per annum, will be added to the principal amount of the tax, if the amount on deposit is greater than the tax owed the Town shall refund the difference within 30 days of final report approval

(5) The Town Administrator/Clerk is hereby authorized and directed to devise, publish and make available use tax returns and reports in and upon such forms as may be necessary and appropriate for the complete reporting and collection of the Town use tax under the provisions of this Article. The Town Attorney is authorized hereby to institute such legal action, suits or proceedings for and on behalf of the Town in any court of competent jurisdiction against any person from whom a use tax is due and payable, to establish the amount due and for collection of delinquent tax and any applicable penalties and interest.

(6) The tax imposed by this Article, together with any penalties and interest thereon, shall be a first and prior lien upon all of the property, real and personal, of the person from whom the tax is due, subject only to any liens of the State or the United States which, under applicable law, would have priority. Said lien shall become effective upon filing a notice of the same with the County Clerk and Recorder of any county in which the delinquent taxpayer owns any property, shall constitute a lien upon the property in said county, and shall constitute notice to all persons of said lien. Furthermore, the unpaid tax shall be a personal liability of the person owing the tax and the Town may pursue its

remedies by foreclosing its lien, by proceeding personally against the delinquent taxpayer, or both, in which latter event, the Town shall be entitled to any deficiency after sale of the property of the taxpayer, it being intended that remedies provided herein are cumulative.

(7) A copy of the notice of lien shall be mailed to the delinquent taxpayer by certified mail, return receipt requested, at the delinquent taxpayer's last known address, by delivering it personally to the taxpayer, or by delivering it to any member of the taxpayer's household at the taxpayer's usual place of residence. In the event the delinquent taxpayer is a corporation, entity or partnership, said notice may be mailed to any officer or registered agent of said corporation, entity or partnership by certified mail, return receipt requested at the officer's or registered agent's last known address. The delinquent taxpayer shall thereafter have ten (10) days from delivery or placement in the mail within which to apply to the Board of Trustees for a hearing on the issue of the deficiency. Upon timely written receipt of such a request, the Town Administrator/Clerk shall place upon the agenda for the next succeeding regular meeting of the Board of Trustees a hearing upon said issue. It shall be the responsibility of the person requesting said hearing to obtain information from the Town Administrator/Clerk as to the time, date and place of said hearing. At said hearing, the delinquent taxpayer shall have the opportunity to present evidence disproving his or her liability for said tax or the amount thereof. The Board of Trustees may, upon receipt of such evidence, including evidence given by the Town Administrator/Clerk, decide in favor of the Town Administrator/Clerk or in favor of the delinquent taxpayer, or may modify the assessment of the Town Administrator/Clerk in accordance with its findings as to the amount due upon the tax.

by the person. The amount of the credit shall be equal to the tax paid by the purchaser by reason of the imposition of a sales or use tax of another county, city or town on the purchase or use of the property. The amount of credit shall not exceed the tax imposed by this Article.

(7) To the storage, use or consumption of tangible personal property 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; purchased the vehicle outside of the Town for use outside the Town and actually so used it for a substantial and primary purpose for which it was acquired; and 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 or other vehicles on which registration is required, if a written contract for the purchase thereof was entered into prior to the effective date of such 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 ordinance codified herein. (Prior code 3.06.11; Ord. 11-2007 §1)

Sec. 4-4-250. Collection of use tax on construction and building materials.

The tax herein imposed on the privilege of storing, using or consuming in the Town any construction and building materials at retail, shall be collected, as follows:

(1) Said use tax shall be paid to the Town Administrator/Clerk and shall be collected at the time permits are issued for building and construction. The payment of said use tax shall be the responsibility of the person applying for and receiving the building permit. For the purpose of this Section, the value of the construction and building materials to be stored, used or consumed as a part of any project shall be deemed to be an amount equal to fifty percent (50%) of the total valuation or gross cost of the building or construction project as is stated in the building permit issued. If the tax is paid in this way, no further sales or use tax information will be required for final inspection of the project by the Building Department.

(2) As an alternative to the estimation procedure for payment of the use tax described in Paragraph (1) above, the applicant, at the time of securing the building or construction permit, may register with the Town Administrator/Clerk to pay a deposit in an amount equal to fifty (50%) of the total valuation or gross cost of the building or construction project and file monthly use tax reports with a reconciliation of actual amounts owed at the end of the project. Use Tax reports shall be due on the first day of the month next succeeding storage, consumption or use within the Town. All such use tax reports shall be subscribed by the taxpayer or his or her agent, and shall contain a written declaration that is made under penalty of perjury. Failure to provide reports when due may result in a stop work order being issued on the project. No final inspection shall be requested until the final use tax report has been submitted. The Town may coordinate with Larimer County tax department in approving the total taxes owed. (Ord. 2-2011 §1)

(3) A building permit shall be applied for within thirty (30) days of storage, use or consumption within the limits of the Town, or, in lieu thereof, the owner or person whose

(8) After the hearing provided in Paragraph (7) above, or subsequent to the expiration of the period of time in which the delinquent taxpayer may make demand therefor, the Town Administrator/Clerk may proceed to file an action in the court of appropriate jurisdiction to pursue the remedies herein provided. (Prior code 3.06.12; Ord. 11-2007 §1)

Sec. 4-4-260. Collection of use tax on motor vehicles.

No registration shall be made for a motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Colorado Department of Revenue until any tax due upon the use, storage or consumption thereof pursuant to this Article has been paid. The use tax imposed upon motor vehicles or other vehicles by this Article shall be collected by the authorized agent of the Colorado Department of Revenue in the county in which the purchaser resides. The Mayor is empowered to enter into and execute on behalf of the Town any agreements with the Colorado Department of Revenue or its authorized agents necessary for the administration and enforcement of the use tax on motor or other vehicles. (Prior code 3.06.13)

*Division 3
General Provisions*

Sec. 4-4-310. Effective date.

This Article shall be and become effective not later than January 1, 1981, and the sales and use tax imposed hereby shall be collected on all taxable sales, service and transactions not later than that date; provided that the provisions of this Article relating to approval by the electorate shall become effective thirty days (30) after posting as provided by law. It is the intent of the

Board of Trustees that the sales and use tax imposed hereby shall become effective at the earliest time permitted by applicable state law. If state law permits, this Article shall become effective before January 1, 1981, or the earliest date permitted by state law, such as July 1, 1980, or other earlier date if permitted. (Prior code 3.06.14)

Sec. 4-4-320. Amendments.

Where permitted by the provisions of Part 1 of Article 2, Title 29, C.R.S., or where otherwise permitted by law, the Board of Trustees may amend, alter or change this Article, except as to the two-percent rate imposed, subsequent to adoption by a majority vote of the Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval. (Prior code 3.06.16)

ARTICLE 5

**Telephone Utility
Business and Occupation Tax**

Sec. 4-5-10. Levy of tax.

There is hereby levied on and against each telephone utility company operating within the Town a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the Town and of supplying local exchange telephone service to the inhabitants of the Town. The amount of the tax levied hereby shall be: for each calendar year, three dollars and forty cents (\$3.40) per telephone account per year for which local exchange telephone service is provided within the corporate limits of the Town. (Prior code 3.07.01; Ord. 11-2007 §1)

Sec. 4-5-20. Time of payment of tax.

The tax levied by this Article shall be due and payable in four (4) equal quarterly installments each year, to be paid on the last business days of the months of March, June, September and December. (Prior code 3.07.02; Ord. 11-2007 §1)

Sec. 4-5-30. Interest on deficiency.

Interest on any deficiency in payment of this tax shall be enforced at the rate of twelve percent (12%) per annum. (Ord. 11-2007 §1)

Sec. 4-5-40. Filing statement.

Within thirty (30) days after the date on which the tax begins to accrue as provided in Section 4-5-20 above, each telephone utility company subject to this Article shall file with the Town Administrator/Clerk, in such form as the Town Administrator/Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the Town on said date. Such statement shall be filed within thirty (30) days after each anniversary of the date on which the tax begins to accrue, showing such accounts on the anniversary date. (Prior code 3.07.03)

Sec. 4-5-50. Failure to pay.

If any telephone utility company subject to the provisions of this Article shall fail to pay the taxes as set forth in Section 4-5-10 above and/or shall fail to pay the taxes in the time frame set forth in Section 4-5-20 above, the full amount thereof shall be due and collected from such company, and the same together with an addition of ten percent (10%) of the amount of taxes due shall be and hereby is declared to be a debt due and owing from such company to the Town.

The Town Attorney, upon direction of the Board of Trustees, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect said debt. (Prior code 3.07.04)

Sec. 4-5-60. Inspection of records.

The Town and its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the telephone utility companies which are subject to the provisions of this Article and to make copies of the entries or contents thereof. (Prior code 3.07.06)

Sec. 4-5-70. Local purpose.

The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Article shall be construed to mean that any telephone utility company is issued a franchise by the Town. (Prior code 3.07.07)

Sec. 4-5-80. Penalty clause.

If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Article shall fail, neglect, refuse to make or file the annual statement of accounts provided in Section 4-5-30 above, said officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00); provided that each day after said statement becomes delinquent during which said officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense. (Prior code 3.07.05)

ARTICLE 6

**Gas Company
Business and Occupation Tax**

Sec. 4-6-10. Legislative intent.

(a) The transportation, distribution and sale of gas within the Town through pipelines, mains and other fixed facilities using easements and rights-of-ways, either granted by the Town or crossing Town streets, utilities or other public facilities without the benefit of easements granted by the Town, involves the use, availability and potential use of Town personnel and facilities, creates the potential for hazards dissimilar to other utility services, may require stand-by and active service by fire, police and other local safety agencies, as well as public works employees and the Town Engineer, and are matters of local and municipal concern.

(b) The nature of companies transporting, distributing and selling gas and otherwise operating within the Town, including, without limitation, their demands on Town agencies, the use of public and private easements, streets and rights-of-way and the potential and actual hazards from the operations of such companies, has a substantial effect upon the health, safety and welfare of the citizens of the Town and upon the expenditures to be budgeted by the Town.

(c) Upon review of all matters proper to be considered relating to the operations and hazards of gas companies, the classification of such gas companies as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of the tax burdens of the Town.

(d) The potential for explosions of gas pipelines, as well as explosions related to escaping

gas within buildings, indicates that there are dangers to the property and lives of the citizens of the Town from the operation of gas companies within the Town.

(e) The use by a gas company of the streets, alleys and public rights-of-way located within the Town is a valuable special privilege not provided to the public generally and for which the Town is entitled to consideration in the form of occupation tax revenues.

(f) The occupation tax herein created and defined is imposed on the privilege of gas companies to do business within the Town as are other occupation taxes so created and imposed in the Town. (Prior code 3.08.01; Ord. 11-2007 §1)

Sec. 4-6-20. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Gas or natural gas means such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum manufactured or any mixture thereof.

Gas company means any person, officer, agent, manager or director of a company which provides, delivers or distributes gas to end users within the corporate limits of the Town through pipelines, mains and other facilities and appurtenances located in whole or in part on easements and rights-of-way granted by the Town or crossing Town streets, utilities or other public facilities without the benefit of easements granted by the Town.

Taxable amount means the monthly amount of the occupation tax levied upon a gas company by this Article.

Taxable year means the twelve-month period beginning on January 1 of any year, and ending on December 31 of that year. (Prior code 3.08.02; Ord. 11-2007 §1)

Sec. 4-6-30. Levy of tax.

(a) There is hereby levied upon every gas company that operates within the Town an occupation tax.

(b) The taxable amount shall be twenty thousand dollars (\$20,000.00) each year. (Prior code 3.08.03)

Sec. 4-6-40. Time of payment of tax.

The occupation tax levied by this Article shall accrue against each and every gas company and shall be payable in equal monthly installments. Each installment shall be due and payable by such company no later than the tenth day of each calendar month. Any monthly installment not paid on the tenth day of each calendar month shall become delinquent. (Prior code 3.08.04)

Sec. 4-6-50. Interest on deficiency.

Interest on any deficiency in payment of this tax shall be enforced at the rate of twelve percent (12%) per annum. (Prior code 3.08.05)

Sec. 4-6-60. Failure to pay.

If any gas company shall fail to pay the taxes as herein provided, the full amount thereof plus costs of collection, including reasonable attorney fees, shall be due and collected from such company, and the same together with an addition of ten percent (10%) of the amount of taxes due shall be and hereby is declared to be a debt due and owing from such company to the Town. The computation of said ten percent (10%) shall be in addition to interest on the deficiency as set forth in Section 4-6-50 above. The Town Attorney, upon the direction of the Board of Trustees,

shall commence any legal action necessary to recover any amount so due and owing. (Prior code 3.08.06)

Sec. 4-6-70. Inspection of records.

(a) The Town, its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the gas companies which are subject to the provisions of this Article and to make copies of the entries or contents thereof.

(b) Each gas company which is subject to the provisions of this Article shall provide to the Town on or before March 1 and September 1 of each year a report showing the following information for the preceding twelve (12) months ending December 31 and June 30, respectively:

(1) The total gas volumes delivered to all customers located within the Town.

(2) A statement of the total dollar amount, if any, surcharged by a gas company pursuant to this tax. (Prior code 3.08.07)

Sec. 4-6-80. Administrative hearings.

Any gas company subject to the provisions of this Article may request a hearing on the levy of the occupation tax after receiving notice of a final determination, assessment, demand for payment or denial of claim for refund. Such hearing shall be conducted in the manner prescribed hereinafter:

(1) If a gas company disputes the reasonableness or applicability of the tax, it may seek review of the assessment by filing a protest with the Town Administrator/Clerk within thirty (30) days of the mailing of the accounting statement. If such a protest is filed, the gas company shall appear before the Board of Trustees at a date specified. The gas company shall be notified of this hearing date by certified mail, return receipt

requested. At this hearing, the gas company may present evidence regarding the reasonableness or applicability of the tax. The gas company shall bear the burden of proof.

(2) Said hearing shall be solely for the purpose of hearing protests as to the reasonableness and applicability of the tax.

(3) At said hearing, the Board of Trustees shall have all powers necessary to ensure the fair and efficient conduct of the hearing, but shall not be bound by the Colorado Rules of Evidence. The hearing shall be open to the public.

(4) Within sixty (60) days of such hearing, the Board of Trustees shall make such order in the matter as it shall deem just and proper, and shall furnish a copy of such final order to the protester. (Prior code 3.08.08)

Sec. 4-6-90. Administration of tax.

The Town Administrator/Clerk shall administer the provisions of this Article. The Board of Trustees may promulgate rules or regulations to aid in the enforcement and administration of this Article as it deems necessary. (Prior code 3.08.09)

Sec. 4-6-100. Local purpose.

The tax herein provided is upon occupations and business in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Article shall be construed to mean that any gas company subject to this tax is granted a franchise by the Town. (Prior code 3.08.10)

Sec. 4-6-110. Indemnification.

It is the expressed intent of this Article that all gas companies subject to this business and occupation tax shall hold harmless and indemnify the Town from any and all actions at law arising from their operations within the Town. (Prior code 3.08.11)

Sec. 4-6-120. Reimbursement of costs.

Any entity challenging the validity, legality, applicability or constitutionality of this Article or the tax levied, if unsuccessful, shall reimburse the Town for all cost incurred, including attorney's fees, in such litigation. (Prior code 3.08.12)

Sec. 4-6-130. Penalty.

If any officer, agent, manager or director of a gas company which is subject to the provisions of this Article shall fail, neglect or refuse to comply with the provisions of this Article, said officer, agent, manager or director, shall, upon conviction thereof, be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 3.08.13; Ord. 11-2007 §1)

4-4-70, CRS references were updated.