

Title 3

REVENUE AND FINANCE

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Chapter 3.04

SALES TAX

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3.04.010 Purpose. The purpose of this Chapter is to impose a tax on the sale of tangible personal property at retail and the furnishing of services in the Town.

3.04.020 Definitions. For the purposes of this Chapter, the following definitions of words shall be applicable:

1. “Auction sale” means any sale conducted or transacted at a permanent place of business operated by auctioneer or a sale conducted and transacted at any location where tangible personal property is sold by an auctioneer when such auctioneer is acting either as agent for the owner of such personal property or is in fact the owner thereof. For purposes of this Chapter, the auctioneer at any sale defined in this Chapter, except when acting as an agent for a duly licensed retailer or vendor or when selling only tangible personal property which is exempt under the provisions of Sections 39-26-

114(5) and (6), C.R.S., as amended, is a retailer or vendor as defined in subsection (10) of this Section, and the sale made by him is a retail sale as defined in subsection (11) of this Section, and the business conducted by said auctioneer in accomplishing such sale is the transaction of a business as defined by subsection (2) of this Section;

2. The term "business" includes all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect;

3. "Charitable organization" means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

4. "Doing business in this State," for the purposes of this Chapter, means the selling, leasing, or delivering in this State, or any activity in this State in connection with the selling, leasing or delivering in this State, of tangible personal property by a retail sale as defined in this Chapter, for use, storage, distribution, or consumption within this State. This term includes, but shall not be limited to, the following acts or methods of transacting business:

a. The maintaining within this state, directly or indirectly or by a subsidiary, an office, distributing house, salesroom or house, warehouse, or other place of business,

b. The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio, or television advertising media, or by any other means whatsoever, of business from persons residing in this State, and by reason thereof receiving orders from, or selling or leasing tangible personal property to, such persons residing in this State for use, consumption, distribution, and storage for use or consumption in this State;

5. A "farm close out sale" means a sale by auction or private treaty, of all tangible personal property of a farmer or rancher previously used by him in carrying on his farming or ranching operations. Unless said farmer or rancher is making or attempting to make full and final disposition of all property used in his farming or ranching

operations and is abandoning the said operations on the premises whereon they were previously conducted, such sale shall not be deemed a "farm close out sale" within the meaning of this Chapter;

6. "Food" means food which is advertised or marketed for human consumption and is sold in the same form, condition, quantities, and packaging as is commonly sold by grocers. The term includes cereals and cereal products; milk and milk products; meats and meat products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruits and fruit products; sugars, sugar products, and sugar substitutes; coffees and coffee substitutes; teas, cocoa, and cocoa products; spices, condiments, salt, and oleo margarine. The term does not include food or drink served or furnished as described in Section 39-26-104(1)(e), C.R.S., as amended; chewing gum; spirituous, malt, or vinous liquors; cocktail mixes; proprietary medicines; nostrums; lozenges; tonics; vitamins and other dietary supplements; water, mineral water, and carbonated water marketed in containers; ice; pet foods; food or drink furnished, prepared or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer; prepared food or drink sold by retailers who regularly sell for consumption on or near the premises of the retailer even though such food or drink is sold on a "take-out" or "to-go" order and is bagged, packaged, or wrapped and taken from the premises of the retailer; and food or drink vended by or through machines on behalf of a vendor;

7. The term "gross taxable sales" means the total amount received in money, credits, property, excluding the fair market value of exchanged property which is to be sold thereafter in the usual course of the retailer's business, or other consideration valued in money from sales and purchases at retail within this State and embraced within the provisions of Article 26 of Title 39, C.R.S., as amended. The Taxpayer may take credit in this report of gross sales for an amount equal to the sale price of property returned by the purchaser when the full sale price thereof is refunded whether in cash or by credit. The fair market value of any exchanged property which is to be sold thereafter in the usual course of the retailer's business, if included in the full price of a new article, shall be excluded from the gross sales. On all sales at retail, valued in money, when such sales are made under conditional sales contract, or under other forms of sale where the payment of the principal sum thereunder be extended over a period longer than sixty (60) days from the date of sale thereof, only such portion of the sale amount thereof may be counted for the purpose of imposition of the tax imposed by Article 26 of Title 39, C.R.S., as amended, as has actually been received in cash by the taxpayer during the period for which the tax imposed by Article 26 of Title 39, C.R.S., as amended, is due and payable. Taxes paid on gross sales represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided, but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts so collected;

8. "Person" includes any individual, firm, partnership, joint adventure, corporation, estate or trust, or any group or combination acting as a unit and the plural as well as the singular number;

9. "Purchase price" means the price to the consumer, exclusive of any direct tax imposed by the federal government or by Article 26 of Title 39, C.R.S., as amended, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the time and place of the exchange, if:

a. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or

b. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways off-highway recreation vehicles, watercraft and aircraft;

10. "Retailer" or "vendor" means a person doing a retail business, known to the trade and public as such, and selling to the user or consumer, and not for resale;

11. "Retail sale" includes all sales made within the state except wholesale sales;

12. "Sale" or "sale and purchase" includes installment and credit sales and the exchange of property as well as the sale thereof for money; every such transaction, conditional or otherwise, for a consideration, constituting a sale; and the sale or furnishing of electrical energy, gas, steam, telephone, or telegraph services taxable under the terms of this Chapter and Article 26 of Title 39, C.R.S., as amended. Neither term includes:

a. A division of partnership assets among the partners according to their interest in the partnership;

b. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;

c. The transfer of assets of shareholders in the formation or dissolution of professional corporations;

d. The dissolution and pro rata distribution of the corporation's assets to its shareholders;

e. The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

f. The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent (80%) by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

g. A transfer of a partnership interest;

h. The transfer in a reorganization qualifying under Section 368(a)(1) of the "Internal Revenue Code of 1954", as amended;

i. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;

j. The repossession of personal property by a chattel mortgage holder or a foreclosure by a lienholder;

k. The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this Chapter and Article 26 of Title 39, C.R.S., as amended, was paid by the transferor corporation at the time it acquired such assets, except to the extent provided by subsection (14) of this Section. For the purposes of this paragraph (k), a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock;

13. "Sale" or "sales and purchases," in addition to the items included in subsection (12) of this Section, includes the transaction of furnishing rooms or accommodations by any person, partnership, association, corporation, estate, receiver, trustee, assignee, lessee, or any person acting in a representative capacity or any other combination of individuals by whatever name known to a person, or persons who for a consideration, uses, possesses, or has the right to use or possess any room or rooms in a hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile

homes, auto camps, trailer courts and parks, under any concession, permit, right of access, license to use or other agreement, or otherwise;

14. Except as otherwise provided in this subsection (14), the sales tax is imposed on the full purchase price of articles sold after manufacture or after having been made to order and includes the full purchase price for materials used and the service performed in connection therewith, excluding however, such articles as are otherwise exempted in this Chapter. In connection with the transactions referred to in paragraph (k) of subsection (12) of this Section, the sales tax is imposed only on the amount of any increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. Except as otherwise provided in this subsection (14), the sales price is the gross value of all materials, labor, and service, and the profit thereon, included in the price charged to the user or consumer;

15. "School" means any educational institution having a curriculum comparable to grade, grammar, junior high, high school, or college, or any combination thereof, requiring daily attendance, having an enrollment of at least forty (40), students, and charging a tuition fee;

16. "State Treasurer" or "Treasurer" means the "State Treasurer of the State of Colorado";

17. "Tangible personal property" means corporeal personal property, excluding newspapers as legally defined by Section 24-70-102, C.R.S., as amended;

18. "Tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he is required to report his collections, as the context may require;

19. "Taxpayer" means any person obligated to account to the Director of Revenue for taxes collected or to be collected under the terms of Article 26 of Title 39, C.R.S., as amended;

20. "Wholesaler" means a person doing a regularly, organized wholesale or jobbing business, and known to the trade as such and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale;

21. "Wholesale sale" means a sale by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale; and the latter sales shall be deemed retail sales, and subject to the provisions of this Chapter;

22. a. Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, 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, shall be deemed to be wholesale sales and shall be exempt from taxation under this Chapter.

b. As used in paragraph (a) of this subsection (19) with regard to food products, tangible personal property enters into the processing of such products and is therefore exempt from taxation when:

i. It is intended that such property become an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption; or

ii. Such property, whether or not it becomes an integral or constituent part of a food product, is a chemical, solvent, agent, mold, skin casing, or other material; is used for the purpose of producing or inducing a chemical or physical change in a food product or is used for the purpose of placing a food product in a more marketable condition; and is directly utilized and consumed, dissipated, or destroyed, to the extent it is rendered unfit for further use, in the processing of a food product which is intended to be sold ultimately at retail for human consumption;

23. Sales and purchases of electricity, coal, gas, fuel oil, coke, or nuclear fuel, for use in processing, manufacturing, mining, refining, irrigation, construction, telegraph, telephone, and radio communication, street and railroad transportation services and all industrial uses, and newsprint and printers' ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under this Chapter;

24. Should a dispute arise between the purchaser and seller as to whether or not any such sale is exempt from taxation hereunder, the seller shall nevertheless collect and the purchaser shall pay such tax and the seller shall thereupon issue to the purchaser a receipt or certificate, on forms prescribed by the Director of Revenue of the State, showing the names of the seller and purchaser, the items purchased, the date, price, amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to said Director of Revenue for a refund of such taxes, and it shall then be the duty of said Director of Revenue to determine the question of exemption, subject to review by the courts, as hereinafter provided. It shall be Class A municipal offense for any seller to fail to collect, or purchaser to fail to pay the tax levied by this Chapter, and on sales on which an exemption is disputed; (Amended Ord. 10-2001 §8,

2001);

25. Except as provided in Section 39-26-114(1)(a)(XII), C.R.S., as amended, when right to continuous possession or use for more than three (3) years of any article of tangible property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made, such lease or contract shall be considered the sale of such article, and the tax shall be computed and paid by the vendor upon the rentals paid.

3.04.030 Property and Services Taxed; General Provisions. A. There is hereby levied and there shall be collected and paid a sales tax in the amount provided in this Chapter, upon the sale at retail of all tangible personal property and the furnishing of all services taxable pursuant to "The Emergency Retail Sales Tax Act of 1935", set forth in Article 26 of Title 39, C.R.S., as amended, and any amendment thereto enacted after the effective date of this Chapter.

B. There is hereby levied and there shall be collected and paid a sales tax in the amount provided in this Chapter, upon the sales of food, purchases of machinery or machine tools, and upon all sales and purchases of electricity, coal, wood, gas, fuel oil, or coke sold, but not for resale, for domestic and commercial consumption.

C. 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., as amended.

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

E. If a retailer has no permanent place of business in the Town of Eagle, or has more than one (1) place of business, the place at which the retail sales are consummated for the purpose of a sales tax imposed by this Chapter shall be determined by the provisions of Article 26 of Title 39, C.R.S., as amended, and by rules and regulations promulgated by the Department of Revenue.

3.04.050 Exemptions from Taxation. A. There shall be exempt from taxation under the provisions of this Chapter, all of the tangible personal property and services which are exempt under the provisions of "The Emergency Retail Sales Act of 1935", as set forth in Article 26, Title 39, C.R.S., as amended, which exemptions are incorporated herein by this reference except the exemption allowed by Section 39-26-114(11), C.R.S., as amended, for purchases of machinery or machine tools; the exemption of sales and purchases of electricity, coal, wood, gas,

fuel oil, or coke as provided in Section 39-26-114(1)(a) (XXI), C.R.S., as amended; and the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S., as amended.

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

1. The purchaser is a non-resident of, or has his 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 of Colorado.

C. Notwithstanding any other provision of this Chapter, the value of construction and building materials on which a use tax has previously been collected by another incorporated town, city, or county shall be exempt from the Town of Eagle sales tax if the materials are delivered by the retailer or his agent to a site within the limits of such town, city, or county.

3.04.060 Amount of Sales Tax and Schedule.

A. There is hereby imposed and there shall be collected and paid a sales tax equal to four and one half percent (4.5%) of gross receipts, upon the sale at retail of tangible personal property and the furnishing of certain services as provided in this Chapter and “The Emergency Retail Sales Tax Act of 1935”, set forth in Article 26 of Title 39, C.R.S., as amended.

B. The imposition of the tax on the sale at retail of tangible personal property and the furnishing of certain services shall in accordance with specific schedules set forth in the rules and regulations promulgated by the Department of Revenue of the State of Colorado. (Ord. 2016-14 §1)

3.04.062 Tax Credit Against Payment of Public Improvement Fees in the Eagle River Station Planned Unit Development. Notwithstanding any other provisions of this Chapter to the contrary, and in order to implement the provisions of the Reimbursement Agreement entered into by the Town of Eagle Urban Renewal Authority, the Eagle River Station Metropolitan District, and the Town of Eagle, dated March 27, 2012 (the “Reimbursement Agreement”), there is hereby granted to each person or entity obligated to pay, collect or remit the sales tax on the sale or provision of goods or services described in this Chapter occurring within the property known as the Eagle River Station Planned Unit Development, and more particularly described in Exhibit “A” of the Development Agreement for Eagle River Station entered into by Trinity Red Eagle Development, LLC, the Town of Eagle and the Eagle River Station Metropolitan District on March 27, 2012, a tax credit in the amount of two and fifty-five one hundredths percent (2.55%) of PIF Sales on which a public improvement fee has been

collected in an amount equal to or greater than 2.55% ("Credit PIF"), as such term is defined in the declaration of covenants imposing and implementing the Credit PIF ("PIF Covenant"). Such sales tax credit shall be granted in an amount equal to the amount of revenues generated from the imposition and collection of the Credit PIF with respect thereto, and shall attach to a particular sales transaction only to the extent that the Credit PIF revenues are received by the PIF collection agent, as described in the Reimbursement Agreement, for such transaction. The amount of the sales tax credit granted hereunder shall be equal to the amount of the Credit PIF revenues collected by the application and imposition of the Credit PIF at the rate of two and fifty-five one hundredths percent (2.55%) of applicable PIF sales, as such term is defined in the PIF Covenant. The tax credit shall be automatic and shall take effect immediately upon the applicable retailer's (as reflected on the retailer's or vendor's periodic sales tax report) remittance to and receipt by the PIF collection agent of the Credit PIF revenues in accordance with the PIF Covenant and the Reimbursement Agreement. Upon receiving such sales tax credit, such the retailer shall only collect and remit 1.45% of gross receipts upon the sale at retail of personal property and the furnishing of certain services as provided in this Chapter, as and for Town of Eagle sales tax, to the Colorado Department of Revenue. The tax credit provided in this Section shall be granted during the sales tax credit term as set forth in Section 7.1 of the Reimbursement Agreement and shall terminate at the end of such term as described therein. (Amended Ord. 12-2012 § 1)

3.04.065 Collection, Administration & Enforcement. A. The collection, administration and enforcement of the sales tax imposed by this Chapter shall be performed by the Director of Revenue of the State of Colorado in the same manner as the collection, administration and enforcement of the Colorado State Sales Tax. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, C.R.S., as amended, and all rules and regulations promulgated by the Director of Revenue pertaining to such collection, administration and enforcement, to the extent applicable, shall govern the collection, administration and enforcement of the sales tax imposed by this Chapter.

B. Every retailer or vendor subject to the provisions' of this Chapter is entitled, as collecting agent of the Town, to withhold monthly a collection fee for his services as such agent, in the amount of three and one-third percent (3 1/3%) of the total amount of sales tax due from such retailer or vendor to the Town each month. Said fee shall be known as a "local vendor's expense fee."

C. If any retailer or vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the Director of Revenue, he shall not be allowed to retain any amounts to cover his expense in collecting and remitting said tax.

3.04.070 Amendments. Except as to the rate of tax herein imposed, the Board of Trustees may, by majority vote, amend, alter or change the ordinances codified herein. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval provided, however, the sales tax imposed herein shall continue in effect until repealed by the registered electors of the Town in an election held for such purpose.

3.04.080 Penalty. Any person who knowingly violates any provision of this Chapter, or fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense. (Amended Ord. 10-2001 §9, 2001).

3.04.090 Use of Sales Tax Revenues. All revenues derived from the two percent (2%) increase in the sales tax imposed by Ordinance No. 6, Series of 1981, as approved by a majority of the registered electors voting at a special election held on September 22, 1981, shall be deposited to the General Fund of the Town and used for any municipal purpose.

3.04.100 Effective Date. The increase in the amount of the sales tax, as approved by a majority of the registered electors voting in a special election held on September 22, 1981, shall apply to all transactions subject to such tax made on or after January 1, 1982.

3.04.110 Severability. If any provisions of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this Chapter are declared to be severable.

Chapter 3.05

USE TAX

Sections:

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3.05.120	Violation - Penalty.

3.05.010 Purpose. The purpose of this Chapter is to raise revenue for capital construction and improvements purposes and provide a complimentary tax to the Town of Eagle's Sales Tax. The taxes imposed in this Chapter are on the privilege of using or consuming in the Town any construction and building materials not otherwise subject to municipal sales taxes.

3.05.020 Definitions. For the purposes of this Chapter, words not otherwise defined herein shall have the meanings set forth in Section 39-26-201, C.R.S., as it currently exists or may hereafter be amended, and said definitions are incorporated herein by specific reference.

3.05.030 Use Tax Imposed. There is hereby imposed, which shall be paid and collected, a Use Tax on the privilege of using or consuming within the Town of Eagle construction and building materials of every kind and form purchased outside the Town of Eagle at retail on or after April 8, 1998, for the purpose of use or consumption within the Town, in the amount of four percent (4%) of the retail purchase price of said construction and building materials.

3.05.040 Exemptions. In no event shall the Use Tax apply:

A. 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 of Eagle;

B. To the storage, use, or consumption of any tangible personal property purchased for resale in the Town of Eagle, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of business;

C. To the storage, use, or consumption of tangible personal property brought into the Town of Eagle by a non-resident thereof for his own storage, use, or consumption while temporarily within the Town of Eagle; however this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this State by a non-resident to be used in the conduct of business in this State;

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

E. 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;

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

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

H. To the storage, use, or consumption of any construction and building materials if a written contract for the purchase thereof was entered into prior to the effective date of the Use Tax imposed herein;

I. 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 imposed herein; and

J. To the storage of construction and building materials.

3.05.050 Collection and Administration. A. The collection, administration and enforcement of the Use Tax imposed herein shall be performed by the Town Treasurer. The Board of Trustees is authorized to adopt all rules and regulations which may be necessary or appropriate for the collection, administration or enforcement of the Use Tax.

B. The Use Tax shall be initially paid by estimate through the payment of the Tax at or prior to the time any permit is necessary for building or construction within the Town is issued. No permit shall be issued by the Town Building Official to any person requesting a permit for construction within the Town until such estimated Use Tax has been paid.

C. Before a final building inspection is allowed and a certificate of occupancy or temporary certificate of occupancy is issued, all Use Tax due to the Town must be paid. If such person is entitled to a refund, such refund shall be paid at the time the certificate of occupancy is issued.

D. Upon completion of construction, the taxpayer may apply to the Town Treasurer for a refund for any overpayment of the taxes, the Tax having been computed upon in estimation of value, when such application is supported by the documentation required by the regulations adopted hereunder, for construction and building materials actually used or consumed in the project for which the building permit was issued and upon which the Tax was paid.

3.05.060 Interest and Penalties for Deficiencies. If any amount of the Use Tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate of interest established by the State Commissioner of Banking pursuant to Section 39-12-110.5, C.R.S., shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment granted and shall be determined without regard to any notice and demand for payment issued. In the case of Tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the Tax arises, and in no event shall be later than the date notice and demand for the tax is made by the Town Treasurer. Interest shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the Tax to which it is applicable.

B. If any portion of the Tax is satisfied by credit of an overpayment, then no interest shall be imposed under this Section on the portion of the Tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.

C. If any part of a deficiency is due to negligence, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency from the time the addition becomes due and payable and following ten (10) days after written notice and demand is

issued by the Town Treasurer.

D. If any part of a deficiency is due to the intent by the taxpayer to evade the Tax, or fraud, then there shall be added fifty percent (50%) of the total amount of the deficiency, and in such case the whole amount of the Tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand is issued by the Town Treasurer, and an additional one percent (1%) per month on said amount shall be added from the date the Tax was due until paid.

E. If a person neglects or refuses to make a return in payment of the Use Tax or to pay any Use Tax as required, 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 interest on such delinquent taxes at the rate prescribed under this Section plus the penalties prescribed under this Section.

3.05.070 Delinquency - Lien on Property. If any Tax imposed by this Chapter is not paid within ten (10) days after it is due, the Town Treasurer shall issue a notice setting forth the name of the taxpayer, the amount of the Tax, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on real and personal property of the taxpayer, except as to pre-existing liens of a bonafide mortgagee, pledgee, judgment creditor, or purchaser whose right has attached prior to the filing of the notice as hereafter provided. This notice shall be on forms prepared by the Town Treasurer, and, when filed in the office of the Clerk and Recorder of any county in this State in which the taxpayer owns real or personal property, such notice shall create a lien as aforesaid on such property in that county and constitutes notice thereof.

3.05.080 Deficiency Notice - Alternative Dispute Resolution Procedures. Any taxpayer subject to the Use Tax pursuant to this Chapter may elect to have a state hearing on the Town of Eagle's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this Section.

A. As used in this Section, "State hearing" means a hearing before the Executive Director of the Department of Revenue or delegate thereof as provided in-Section 29-2-106.1, C.R.S.

B. When the Town of Eagle asserts that Use Taxes are due in an amount greater than the amount paid by a taxpayer, the Town Treasurer shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional Use Taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to Section 29-1- 106.1, C.R.S. The taxpayer shall also have the right to elect a state hearing upon the Town's denial of such taxpayer's claim for a refund of Use Tax previously paid.

C. The taxpayer shall request the State hearing within thirty (30) days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he has not exhausted local remedies or if he fails to request such hearing within the time period provided for in this subsection. "Exhaustion of local remedies" means:

1. The taxpayer has timely requested in writing a hearing before the Town Administrator and the Town Administrator has held such hearing and issued a final decision thereon. The hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, and in such case the Town may submit a brief. The Town Administrator shall hold such hearing and issue the final decision thereon within ninety (90) days after the Town's receipt of the taxpayer's written request therefor, except the Town may extend such period if the delay in holding hearing or issuing the decision thereon was occasioned by the taxpayer, but, in such event, the Town Administrator shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or

2. The taxpayer has timely requested in writing a hearing before the Town Administrator and the Town Administrator has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in this subsection.

D. If a taxpayer has exhausted his local remedies as provided in subsection (C) of this Section, the taxpayer may request a State hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in Section 29-2-106.1, (3) -- (7), C.R.S.

E. If the deficiency notice or claim for refund involves only the Town of Eagle, in lieu of requesting State hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the Eagle County District Court, as provided in Section 29-2-106.1(8), C.R.S.; provided, the taxpayer complies with the procedures set forth in subsection (C) of this Section.

F. If the Town reasonably finds that the collection of the Use Tax will be jeopardized by delay, the Town may utilize the procedures set forth in Section 39-21-111, C.R.S.

3.05.090 Use Tax - Capital Improvement Fund. A. Pursuant to Section 29-2-111, C.R.S., there is hereby established a special fund of the Town to be known as the "Town of Eagle Sales and Use Tax Capital Improvement Fund". Immediately upon the receipt and collection of the revenues derived from the Use Tax imposed under this Chapter, the revenues derived from such Use Tax net of the Town's cost of collection and administration shall be deposited into such Capital Improvement Fund and shall be used solely to provide capital improvements or to pay debt service on bonds or other obligations issued for the purpose or providing capital improvements, including without limitation, the payment of all costs associated

with the construction, installation, acquisition of land, provision, design, completion, improvement, replacement and financing of capital improvements of every character and the acquisition, replacement and financing of equipment, machinery and vehicles.

B. Amounts deposited to the Capital Improvement Fund shall not be available to be pledged or expended for general municipal purposes.

3.05.100 Amendments. Except as to the Use Tax rate provided for in this Chapter, the items taxed and exempted from the Use Tax hereunder, and the application of Use Tax revenues provided for herein, the Board of Trustees may amend, alter, delete or change the provisions of this Chapter by the adoption of an amending ordinance in accordance with law, and such amendment, alteration, deletion or change need not be submitted to the electors of the Town for their approval.

3.05.110 Effective Date. This Chapter shall be effective as of 12:01 A.M., on April 8, 1998, upon approval thereof by the registered electors of the Town of Eagle.

3.05.120 Violations - Penalty. A. It shall be unlawful for any person to make any false or fraudulent return or false statement on any return, or for any person to fail or refuse to pay the Use Tax as set forth in this Chapter, or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of such Tax.

B. Any person who knowingly violates any provision of this Chapter or who knowingly fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense. (Amended Ord. 10-2001 §10, 2001).

C. Each and every twenty-four (24) hour continuation of any violation shall constitute a distinct and separate offense.

Chapter 3.08

FISCAL YEAR

Sections:

- 3.08.010 Established.
- 3.08.020 Purposes.

3.08.010 Established. The first day of January, 1934, and the first day of January of each and every year thereafter, be and the same hereby is fixed and established as the beginning of the fiscal year for the Town.

3.08.020 Purposes. Computation of the levies required for Town purposes will be made more accurate, and a more complete financial plan will be presented in the budget to be prepared for the Town, for the ensuing budget year, by fixing and establishing the first day of January, 1934, and the first day of January of each and every year thereafter as the beginning of the fiscal year for the Town.