

CHAPTER 4

Revenue and Finance

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ARTICLE I

Fiscal Year

Sec. 4-1-10. 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. 481 §1, 2003)

ARTICLE II

General and Special 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. 481 §1, 2003)

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. 481 §1, 2003)

Sec. 4-2-30. Capital Improvement Fund created.

There is hereby created a special fund, to be known as the Capital Improvement Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 481 §1, 2003)

Sec. 4-2-40. Community Center Fund created.

There is hereby created a special fund, to be known as the Town of Milliken Community Center Fund, and the funds therein shall be used only for the purposes allowed by law and this Chapter. (Ord. 481 §1, 2003)

Sec. 4-2-50. 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. 481 §1, 2003)

Sec. 4-2-60. Use Tax Capital Improvement Fund created.

There is hereby created a special fund, to be known as the Town of Milliken Use Tax Capital Improvement Fund, and the funds therein shall be used only for the purposes allowed by law and this Chapter. (Ord. 481 §1, 2003)

ARTICLE III**Sales Tax****Sec. 4-3-10. Definitions.**

For the purposes of this Article, the definitions of the words herein contained shall be as said words are defined in Sections 39-26-102 and 39-26-201, C.R.S., as they currently exist or may hereafter be amended, and the definitions are incorporated in this Article by specific reference. (Ord. 140 §2, 1980; Ord. 278 §1, 1991)

Sec. 4-3-20. Imposition of tax.

(a) There is imposed on the sale of tangible personal property at retail or the furnishing of services as provided in Section 29-2-105(1)(d), C.R.S., a sales tax equal to two and one-half percent (2.5%) of the gross receipts (the "sales tax"). The tangible personal property and services taxable under this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S.; provided that the exemption for the sales of food as defined in Section 39-26-102(4.5), C.R.S., pursuant to Section 39-26-114(1)(a)(XX), C.R.S.; and the exemption for sales of electricity, coal, wood, gas, fuel oil or coke sold to occupants of residences pursuant to Section 39-26-114(1)(a)(XXI), C.R.S., shall not apply to the sales tax, and the sale of such items is expressly made taxable under this Article. The imposition of the sales tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the sales tax an amount in excess of the amount of the sales tax imposed by this Article, he or she shall remit to the Executive Director the full amount of the sales tax imposed in this Article, together with such excess.

(b) Although the sale of food is subject to the taxation, no sales or use tax shall apply to the sale of food purchased with food stamps. *Food*, for this purpose, is defined as provided in 7 U.S.C. §2012(g) as such section exists on October 1, 1987 or is thereafter amended.

(c) Although the sale of food is subject to the taxation, 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. *Food*, for this purpose, is defined as provided in 42 U.S.C. §1786, as such section exists on October 1, 1987 or is thereafter amended. (Ord. 140 §2, 1980; Ord. 278 §1, 1991; Ord. 312 §1, 1994; Ord. 427 §1, 2000; Ord. 457 §4, 2002; Ord. 481 §1, 2003)

Sec. 4-3-30. Location of sales.

For the purpose 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. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business in the Town or has more than one (1) place of business, the place at which the retail sales are consummated for the purpose of the sales tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue. (Ord. 140 §4.3, 1980; Ord. 278 §1, 1991)

Sec. 4-3-40. Exemptions.

(a) The sales tax shall not apply to the sale of construction and building materials 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 the Town evidencing that a local use tax has been paid or is required to be paid.

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

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

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

(2) Such personal property is registered (2) or required to be registered outside the limits of the Town under the laws of the State. (Ord. 140 §4, 1980; Ord. 278 §1, 1991)

Sec. 4-3-50. Credit for sales or use tax previously paid to another municipality.

The sales tax shall not 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 municipality equal to or in excess of the rate provided in this Article. A credit shall be granted against the sales tax 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 municipality. The amount of the credit shall not exceed the rate provided in this Article. (Ord. 278 §1, 1991)

Sec. 4-3-60. Sales tax collection.

The collection, administration and enforcement of the sales tax shall be performed by the Executive Director of the Department of Revenue of the State in the same manner as the collection, administration and enforcement of the states sales tax. Unless otherwise provided by Article 2 of Title 29, C.R.S., the provisions of Article 26 of Title 39, C.R.S., shall govern the collection, administration and enforcement of the sales tax. (Ord. 140 §5.2, 1980; Ord. 278 §1, 1991)

Sec. 4-3-70. Sales tax vendor's fees.

The vendor shall be entitled as collection agent for the Town to withhold an amount equal to three and one-third percent (3⅓%) of the total amount to be remitted by the vendor to the Executive Director each month to cover the vendor's expense in the collection and remittance of the sales tax. If any vendor is delinquent in remitting the sales tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor shall not be allowed to retain any amounts to cover expenses in collecting and remitting the sales tax, and an amount equivalent to the full amount of the sales tax imposed by this Article shall be remitted to the Executive Director by any such delinquent vendor. (Ord. 140 §3, 1980; Ord. 278 §1, 1991)

Sec. 4-3-80. Amendments.

Except as to the sales tax rate provided for herein, the items taxed and exempted from the sales tax under this Article, the Board of Trustees may amend, alter, delete or change the provisions of this Article by the adoption of an amending ordinance in accordance with law. Such amendment, alteration, deletion or change need not be submitted to the electors of the Town for their approval. (Ord. 140 §6, 1980; Ord. 278 §2, 1991)

ARTICLE IV**Use Tax****Sec. 4-4-10. Definitions.**

For the purposes of this Article, the words contained herein shall have the meanings set forth in Sections 39-26-102 and 39-26-201, C.R.S., as they currently exist or may hereafter be amended, and the definitions are incorporated in this Article by specific reference. (Ord. 270 §1, 1990)

Sec. 4-4-20. Use tax imposed.

There is imposed and there shall be paid and collected a use tax upon the privilege of using or consuming within the Town any construction and building materials purchased at retail, and for the privilege of storing, using or consuming in the Town motor and other vehicles on which registration is required, purchased at retail, such use tax to be in the amount of two and one-half percent (2.5%) of the retail cost thereof ("use tax"). The use tax shall be collected in accordance with the schedules set forth in the rules and regulations promulgated by the Department of Revenue. (Ord. 270 §1, 1990; Ord. 312 §2, 1994; Ord. 427 §1, 2000; Ord. 457 §4, 2002)

Sec. 4-4-30. Exemptions.

In no event shall the use tax 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 this State by a nonresident to be used in the conduct of a business in this State;

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

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

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

(7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the town and brought into it by a nonresident acquiring residency;

(8) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and he or she purchased the vehicle outside of the Town for use outside of the Town and actually so used it for a substantial and primary purpose for which it was acquired and he or she registered, titled and licensed the motor vehicle outside of the Town;

(9) To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of this use tax; and

(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 this use tax. (Ord. 270 §1, 1990; Ord. 481 §1, 2003)

Sec. 4-4-40. Motor and other vehicle use tax collection.

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

(b) The use tax on motor or other vehicles shall be collected by the authorized agent of the Department of Revenue of the State in the County, pursuant to agreement between the Town and the Executive Director pursuant to Sections 29-2-106(3)(b) and 39-26-208, C.R.S.

(c) In the event that the Executive Director fails or refuses to collect the use tax imposed by this Article, the Board of Trustees shall be authorized to provide for the collection, administration or enforcement of such use tax to the extent permitted by law or to amend this Article to comply with the requirements of the Department of Revenue. (Ord. 270 §1, 1990; Ord. 481 §1, 2003)

Sec. 4-4-50. Collection, administration and enforcement of construction and building materials use tax.

The collection, administration and enforcement of the use tax on construction and building materials shall be performed by the Town Clerk. The Board of Trustees is authorized to adopt all rules and regulations which may be necessary or appropriate for the collection, administration and enforcement of the use tax on construction and building materials. (Ord. 270 §1, 1990)

Sec. 4-4-60. Notice of deficiency.

(a) Notice. When the Town asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the Town shall mail a deficiency notice to the taxpayer pursuant to Section 29-2-106.1(2)(a), C.R.S. The taxpayer shall have thirty (30) days from the mailing thereof within which to pay the taxes or to request a hearing as provided in Subsection (b) below. Failure to request a hearing within such time shall constitute an admission that such taxes are due. The deficiency notice shall contain a warning that failure to request a hearing, pursuant to Subsection (b) shall constitute an admission that taxes are due. The deficiency notice shall also contain notification in clear and conspicuous type that the taxpayer has the right to a hearing before the local government and then to appeal that decision to a state hearing on the deficiency pursuant to Section 29-2-106.1, C.R.S. Such notice shall be sufficient if mailed by certified mail to the taxpayer at his or her last known address.

(b) Hearing. The taxpayer shall have a right to a hearing, upon a request timely made, before the Town Clerk. Such 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, in which case the Town may submit a brief. The hearing shall be held and a final decision shall be issued thereon within ninety (90) days after the Town's receipt of the taxpayer's written request therefor; however, the Town may extend such period if the delay in holding the hearing or issuing a decision thereon was occasioned by the taxpayer, in which case the hearing shall be held and the decision issued within one hundred eighty (180) days of the taxpayer's request in writing therefor. (Ord. 270 §2, 1990)

Sec. 4-4-70. Use of revenue.

(a) There has been established a special fund of the Town to be known as the Town of Milliken Use Tax Capital Improvement Fund ("fund"). The revenue specified in Subsection (b) below shall be credited to the fund and used solely to pay interest and principal on bonds created as a result of the Town's Local Improvement Districts 2 and 3, and this use tax shall continue only for so long as the Town's indebtedness on these bonds remains unpaid. Monies credited to the fund shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general purposes of the Town.

(b) The revenues derived from the Town's two-and-one-half-percent use tax shall be deposited to the fund immediately upon receipt or collection and used solely for the purpose of paying the principal and interest on the bond indebtedness for the Local Improvement Districts until such time as this indebtedness has been paid in full. (Ord. 270 §3, 1990; Ord. 312 §2, 1994; Ord. 427 §1, 2000; Ord. 457 §4, 2002; Ord. 481 §1, 2003)

Sec. 4-4-80. Amendments.

Except as to the use tax rate provided for herein, the items taxed and exempted from the use tax under this Article and the use of the tax revenue provided for in Section 4-4-70, the Board of Trustees may amend, alter, delete or change the provisions of this Article by the adoption of an amending ordinance in accordance with law. Such amendment, alteration, deletion or change need not be submitted to the electors of the Town for their approval. (Ord. 270 §4, 1990)

ARTICLE V

Abandoned Property

Sec. 4-5-10. Definitions.

As used in this Article, the term *abandoned personal property* means personal property which comes into the custody of the Town and which is unclaimed by the owner of such property, except for abandoned motor vehicles, for which disposition shall be governed by Section 42-4-1601 et seq., C.R.S., and contraband articles, for which disposition shall be governed by Section 16-13-501 et seq., C.R.S., and any other personal property for which a method of disposition is specified by state statutes as from time to time amended. (Ord. 250 §1, 1988; Ord. 481 §1, 2003)

Sec. 4-5-20. Custody of property.

The Chief of Police shall be the custodian of abandoned personal property. (Ord. 250 §2, 1988; Ord. 481 §1, 2003)

Sec. 4-5-30. Location of owner.

The Chief of Police shall make reasonable efforts to identify and locate the owner of abandoned personal property and shall return the property to the owner upon the owner's presentation to the Chief of Police of satisfactory proof of ownership. (Ord. 250 §3, 1988; Ord. 481 §1, 2003)

Sec. 4-5-40. Escheat.

If no owner claims ownership of and provides proof of satisfactory ownership of any abandoned personal property within sixty (60) days from the date when the property comes into the custody of the Town, then the property shall escheat to and become the property of the Town, and no person shall thereafter have any claim or right to the property or any proceeds therefrom. (Ord. 250 §4, 1988)

Sec. 4-5-50. Inventory.

The Chief of Police shall cause to be maintained a record of all abandoned personal property, including the date on which the property came into the custody of the Town, a description of the property, including any serial numbers, and the date and means of disposition of the property. (Ord. 250 §5, 1988; Ord. 481 §1, 2003)

Sec. 4-5-60. Disposition.

The Chief of Police may from time to time cause any abandoned personal property which becomes the property of the Town as provided in this Article to be destroyed or to be sold after advertisement to the highest bidder and the proceeds of the sale deposited to the general fund of the Town. The Chief of Police, at his or her discretion, may elect not to destroy or sell the property and to vest title to the property in the Town. (Ord. 250 §6, 1988; Ord. 481 §1, 2003)

Sec. 4-5-70. Exemptions.

This Article shall not apply to personal property held by the Police Department as evidence in any court case or held by the Police Department for investigation. The Police Department shall retain custody of such property until written notice is received from the person responsible for the court case or the investigation that the property is no longer needed for such purposes and, upon such receipt, the procedures set forth in this Article shall apply. (Ord. 250 §7, 1988)