

## TITLE 3

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## CHAPTER 3.04

### Use Tax

#### 3.04.010. Definitions.

When not clearly otherwise indicated by the context, the following words and phrases, as used in this Chapter, shall have the following meanings:

*Code* means the Town Municipal Code and/or ordinances.

*Motor vehicle* means any vehicle, including every device in, upon or by which any person or property is or may be transported or drawn upon a public highway upon which a specific ownership tax is imposed by the State, including but not limited to automobiles, trailers or semitrailers, but excepting devices moved by human power or used exclusively upon stationary rails or tracks and excepting any such vehicle as used or engaged in interstate commerce.

*Person* means an individual, firm or copartnership, joint venture, association, corporation, estate or trust, receiver, trustee, assignee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other group or combination acting as a unit; and the plural as well as the singular.

*Purchase price* means the aggregate value in money of anything or things paid or delivered by a lessee or purchaser to a retailer or vendor in the summation of a lease or of a retail sale, without any deduction therefrom an amount of the cost of the property sold, cost of material used, labor or service cost, or any other expense whatsoever; and provided that, when or after having been made to order, the gross value of all materials, labor, service and profit thereon shall be included in said purchase price; however, the purchase price shall not include any direct tax imposed by the federal government, the State or this Chapter.

*Purchaser* means any person who shall have leased or purchased at retail tangible personal property which is used, stored or consumed in the Town upon which a tax is imposed by this Chapter.

*Retail sale or purchased at retail* means any sale, purchase, lease, rental or grant of license to use tangible personal property, except a wholesale sale or purchase.

*Storage* means any keeping or retention of, exercise of dominion or control over or possession, for any length of time, of tangible personal property which is used, stored, distributed or consumed within the Town. A transaction shall be deemed to be a purchase or sale if the acquisition of tangible personal property was effected by:

- a. The transfer, either conditionally or absolutely, of title or possession or both of the tangible personal property; or
- b. A lease, rental or grant of a license to use (including royalty agreements), store, distribute or consume the tangible personal property.

*Tangible personal property* means corporeal personal property, including but not limited to automotive vehicles as defined in this Section, which may be seen, weighed, measured, felt or

touched, or are in any manner perceptible to the senses. The term *tangible property* shall not include newspapers as legally defined by Article 70, Title 24, C.R.S.

*Tax* means either the tax payable, or the aggregate amount of taxes due, pursuant to the provisions of this Chapter.

*Taxpayer* means any person obligated to account to the Town Clerk or from whom a tax is due under the terms of this Chapter.

*Town* means the Town of Georgetown, Colorado, and all land within its corporate limits.

*Use* means the exercise, for any length of time, by any person within the Town of any right, power or dominion over tangible personal property under a lease or when purchased at retail, either within or without the Town, from a vendor.

*Vendor* means a person making sales to a purchaser or leasing to a person at retail and not for resale, in the Town, of tangible personal property subject to the tax imposed by this Chapter for use, storage or consumption within the Town. To prevent evasion and to provide for more efficient administration, the term *vendor* shall be extended to include a salesman, representative, peddler or canvasser who as agent, indirectly or directly, of the dealer, distributor, supervisor or employer under whom he or she operates or from whom he or she obtains the tangible personal property sold by him or her, makes sales of tangible personal property subject to the tax imposed by this Chapter, in the event such agent refuses to become licensed as a vendor hereunder.

*Wholesale* means a person doing business regularly recognized as wholesale jobbing business, and known to the trade as such and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

*Wholesale sale* or *wholesale purchase* means a sale by wholesalers to retail merchants, jobbers, dealers, vendors or other wholesalers for resale. It does not include a sale by a wholesaler to users, purchasers or customers not for resale, which sales shall be deemed retail sales. (Ord. 01 §1, 2007)

#### **3.04.020. Tax imposed.**

There is imposed and there shall be paid and collected a use tax of three percent (3%) of the retail cost thereof upon the privilege of using or consuming within the Town construction and building materials and motor and other vehicles on which registration is required, purchased at retail (the "use tax"). The use tax shall be collected in accordance with the provisions of this Chapter. (Ord. 01 §1, 2007)

#### **3.04.030. Exceptions.**

Pursuant to Section 29-2-109, C.R.S., this tax known as a 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 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 the State.

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

(5) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or 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 town, city or county equal to or in excess of that imposed by this Chapter. A credit shall be granted against the use tax imposed by this Chapter with respect to a person's storage, use or consumption in the Town of tangible personal property purchased by him or her elsewhere. 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 of another town, city or county on his or her purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Chapter.

(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 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 said motor vehicle outside of the Town.

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

(11) To the use or consumption of taxable tangible personal property within the Town that occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used within the State for the principal purpose for which it was purchased.

(12) To any sales which the Town is prohibited from taxing under the Constitution or laws of the United States or the Constitution of the State of Colorado. (Ord. 01 §1, 2007)

**3.04.040. License issuance prohibited before collection of tax.**

(a) The use tax shall apply to the storage, use or consumption of 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 storage, use or consumption thereof has been paid.

(b) The use tax on motor or other vehicles shall be collected by the authorized agent of the County, pursuant to agreement between the Town and the County, execution of which agreement is authorized. The proceeds of the use tax on motor or other vehicles shall be paid to the Town periodically in accordance with such agreement. (Ord. 01 §1, 2007)

**3.04.050. Construction and building materials; collection, administration and enforcement.**

(a) For construction and building materials, the use tax imposed by this Chapter shall be collected in full prior to issuance of a building permit. The use tax shall be collected by the Town Treasurer or a designee thereof. The Board of Selectmen is hereby authorized to adopt all rules and regulations that may be necessary or appropriate for the collection, administration and enforcement of the use tax on construction and building materials.

(b) For purposes of determining the use tax for construction and building materials, fifty percent (50%) of the estimated general contract costs and fifty percent (50%) of the estimated mechanical contract costs shall be deemed to be the purchase price of such construction and building materials. (Ord. 01 §1, 2007)

**3.04.060. Refunds for overpayment.**

Upon completion of the construction or building project, the taxpayer may apply to the Town Treasurer for a refund for any overpayment of the use tax for construction and building materials, the tax having been computed upon an estimation of value, such application to be supported by a documented and notarized itemization of the actual purchases made 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. (Ord. 01 §1, 2007)

**3.04.070. Appeal.**

After exhausting all local remedies, a taxpayer may elect to appeal a use tax assessment or claim for a refund to the Colorado Department of Revenue pursuant to Section 29-2-106.1(3), C.R.S. A notice of this right shall be included in any notice of assessment or denial of refund in clear and conspicuous type. (Ord. 01 §1, 2007)

**3.04.080. Lien on property.**

If any person fails to pay the use tax within ten (10) days after it is due, the Town Treasurer or a designee thereof shall issue a notice setting forth the name of the taxpayer, the amount of the use tax owed, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on the real and personal property of the taxpayer, except as to pre-existing liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser, which right has attached prior to the filing of the notice as hereinafter provided. The notice shall be on forms prepared by the Town Treasurer or a designee

thereof, and when filed in the office of the clerk and recorder of any county in the state in which the taxpayer owns real or personal property, such notice shall create a lien as aforesaid on such property in that county and constitute a notice thereof. (Ord. 01 §1, 2007)

**3.04.090. Amendments.**

Except as to the use tax rate provided for in this Chapter, and the items taxed and exempted from the use tax hereunder, the Board of Selectmen may amend, alter, delete or change the provisions of this Chapter 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. 01 §1, 2007)

**3.04.100. Violation; penalty.**

It shall be a violation of this Chapter for any person who by this Chapter is required to make any return or pay any tax to fail or refuse to make any return or pay any tax required to be made or paid by this Chapter; or to make any false or fraudulent return or any false statements in any return; or to fail or refuse to make payment to the Town Treasurer, Town Clerk or County Clerk of any taxes collected or due the Town; or in any manner to evade the collection of any payment of the tax, or any part thereof, imposed by this Chapter; or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof or to aid or abet another in any attempt to evade the payment of the tax imposed by this Chapter. Any corporation or officer thereof making a false return or a return containing a false statement shall be guilty of a violation of this Chapter and shall be punished as set forth in Section 1.24.040 of this Code. (Ord. 01 §1, 2007)

**CHAPTER 3.08**

**Sales Tax**

**3.08.010 Purpose.**

The purpose of this Chapter is to impose a sales tax on the privilege of selling tangible personal property at retail and the furnishing of services upon every retailer in the Town. (Ord. 194 §1, 1969; Ord. 254 §1(1), 1975; Ord. 307 §1(part), 1980)

**3.08.020 Statutory definitions adopted.**

For the purposes of this Chapter, the definitions of words herein contained shall be defined in Section 39-26-102, C.R.S., as amended, and said definitions are incorporated herein by this reference. (Ord. 194 §2, 1969; Ord. 254 §1(2), 1975; Ord. 307 §1(part), 1980)

**3.08.030 License; required fee.**

It is unlawful for any person to engage in the business of selling tangible personal property at retail, or the furnishing of services, without first having obtained an annual sales tax license. No license shall be granted and issued by the Town Clerk absent payment of a license fee as established by the Board of Selectmen, and each license shall be in force and effect until the 31st day of December next following the issuance of the license, unless sooner revoked. (Ord. 332 §1, 1982; Ord. 487 §1, 1998)

#### **3.08.040 License application.**

Licenses shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business and the location and such other facts as the Town Clerk may require. (Ord. 194 §3(2), 1969)

#### **3.08.050 License renewal.**

It shall be the duty of each licensee, on or before January 1 of each year, during which this Chapter remains in effect, to obtain a renewal of the sales tax license if the licensee remains in the retail business or liable to account for the tax therein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of the licensee's prior license. (Ord. 332 §2, 1982)

#### **3.08.060 License for separate premises.**

In case business is transacted at one (1) or more separate premises by one (1) person, a separate license for each place of business shall be required. (Ord. 194 §3(4), 1969)

#### **3.08.070 License; contents; posting; nontransferability.**

Each license shall be numbered and shall show the name, residence, place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. (Ord. 194 §3(6), 1969)

#### **3.08.080 License not required when.**

No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Chapter. (Ord. 194 §3(7), 1969)

#### **3.08.090 Violation.**

Any person engaged in the business of selling tangible personal property at retail or the furnishing of services in the Town, without having secured a license therefor, except as specifically provided in this Chapter, shall be guilty of a violation of this Chapter. (Ord. 194 §3(5), 1969; Ord. 254 §1(4), 1975; Ord. 307 §1(part), 1980)

#### **3.08.100 Taxability of property and services same as state law.**

For the purpose of collection, administration and enforcement of this Chapter by the Director of Revenue, State of Colorado, the tangible personal property and services taxable under this Chapter 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. (Ord. 194 §4(1), 1969; Ord. 254 §1(5), 1975; Ord. 307 §1(part), 1980)

#### **3.08.110 State sales and use tax not subject to tax.**

The amount subject to tax under this Chapter shall not include the state sales and use tax imposed by Article 26 of Title 39, C.R.S., as amended. (Ord. 194 §4(2), 1969; Ord. 254 §1(6), 1975; Ord. 307 §1(part), 1980)

**3.08.120 Place of consummation generally.**

For the purpose of this Chapter, 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. (Ord. 194 §4(3), 1969; Ord. 305 §1(part), 1980)

**3.08.130 Gross receipts include delivery charges.**

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. (Ord. 194 §4(4), 1969; Ord. 254 §1(7), 1975; Ord. 305 §1(part), 1980; Ord. 307 §1(part), 1980)

**3.08.140 Place of consummation; when no place of business within County.**

(a) If a retailer has no permanent place of business in the Town or the County, or has more than one (1) place of business, the place at which the retail sales are consummated for the purpose of the status of the sales tax imposed by this Chapter shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue. 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 exempted from the Town sales tax, if the materials are delivered by the retailer or his or her agent to a site within the limits of the Town.

(b) For transactions consummated on or after April 1, 1986, the Town's sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit evidencing that a local use tax has been paid or is required to be paid, or a completed Certificate of Use as set forth herein.

**CERTIFICATE OF USE**

The construction materials purchased on the following invoice(s):

# \_\_\_\_\_ dated \_\_\_\_\_      # \_\_\_\_\_ dated \_\_\_\_\_  
# \_\_\_\_\_ dated \_\_\_\_\_      # \_\_\_\_\_ dated \_\_\_\_\_  
# \_\_\_\_\_ dated \_\_\_\_\_      # \_\_\_\_\_ dated \_\_\_\_\_  
# \_\_\_\_\_ dated \_\_\_\_\_      # \_\_\_\_\_ dated \_\_\_\_\_

are to be incorporated into a structure or land located at the following address: \_\_\_\_\_.

Use tax is required to be paid to \_\_\_\_\_ at the rate of \_\_\_\_\_ percent.

I certify that there has not been and will not be issued any building permit for the project for which these construction materials will be used.

I certify the foregoing information furnished is correct, under penalty of perjury, and that my records will be open to inspection.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Date: \_\_\_\_\_

(Ord. 194 §4(5), 1969; Ord. 305 §1(part), 1980; Ord. 384 §1, 1986)

**3.08.150 Vendor's fee.**

No licensee collecting sales tax on behalf of the Town shall be entitled to deduct a vendor's fee from the sales tax collected. (Ord. 383, §1, 1986)

**3.08.160 Exemption for other ownership tax and sales or use taxes paid.**

All sales of personal property on which a specific ownership tax or sale or use tax has been paid or is payable shall be exempt from the tax imposed by this Chapter if such sales meet the following conditions:

(1) Specific ownership tax:

a. The purchaser is a nonresident of or has his or her principal place of business outside of the Town; and

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

(2) Sales and use tax. For transactions consummated on or after April 1, 1986, the Town's 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 Town's applicable sales tax rate. A credit shall be granted against the Town's 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 Town's applicable sales tax rate. (Ord. 384, §2, 1986)

**3.08.170 Tax imposed; dedication of revenues.**

(a) There is imposed on all sales of tangible personal property a tax equal to three percent (3%) of the gross receipts. The imposition of the tax on individual sales shall be in accordance with the following schedule:

(1) On sales of \$.01 to and including \$.18, no tax;

(2) On sales of \$.19 to and including \$.51, a tax of \$.01;

(3) On sales of \$.52 to and including \$.84, a tax of \$.02;

(4) On sales of \$.85 to and including \$1.00, a tax of \$.03; and

(5) On sales in excess of \$1.00, the tax shall be \$.03 on each full dollar of the sales price, plus the tax shown in the above schedule for the applicable fractional part of a dollar of each such sales price.

(b) Thirty-three percent (33%) of the proceeds of the three-percent sales tax imposed under this Section shall, upon receipt, be credited to and immediately deposited in the Sales Tax Capital

Improvement Fund established under this Chapter, and shall be expended only for the purposes allowed under such fund.

(c) Sixty-seven percent (67%) of the proceeds of the three-percent sales tax imposed under this Section shall upon receipt be credited to and immediately deposited in the General Fund, and shall be expended for general municipal purposes as determined by the Board of Selectmen.

(d) The dedication and expenditure of proceeds from the three-percent sales tax provided for under this Section shall remain in effect until repealed or amended by vote of the Town's electorate at an election conducted for such purpose. (Ord. 194 §5(1), 1969; Ord. 252 §1, 1975; Ord. 1 §1, 2004)

### **3.08.175 Sales Tax Capital Improvement Fund.**

(a) There is hereby established a special fund to be known as the Sales Tax Capital Improvement Fund, which shall be kept separate from the general and other funds of the Town and into which shall be deposited thirty-three percent (33%) of all revenues generated by the three-percent sales tax imposed under Section 3.08.170 of this Chapter.

(b) Sales tax revenues pledged to and/or deposited into the Sales Tax Capital Improvement Fund shall be available and expended exclusively for capital improvement purposes and may not be transferred, pledged or expended for general municipal or other purposes absent the approval of the Town's electorate at an election conducted for such purpose.

(c) For purposes of this Section, *capital improvement purposes* shall include:

(1) Paying the costs of acquiring or constructing any capital improvements, inclusive of costs for capital improvement project planning and feasibility studies;

(2) Acquiring land or equipment;

(3) The costs of issuing capital improvement bonds;

(4) The costs of capitalized interest and reserves;

(5) The costs of operating and maintaining the capital improvements to be financed; and

(6) Any capital improvement purpose defined in Section 29-2-111, C.R.S., as presently existing or as may be amended from time to time.

(d) Notwithstanding any other provision to the contrary, no sales tax revenues in the Sales Tax Capital Improvement Fund may be expended in any year for the purposes specified in this Section unless said fund contains sufficient revenues to pay the anticipated annual debt service on any sales tax revenue bonds for which monies in the fund have been pledged. (Ord. 1 §2, 2004)

### **3.08.180 State rules to govern.**

The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue of the State in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26 of Title 39, C.R.S., as amended, and all rules and regulations promulgated by the Director of Revenue of the State, shall govern the collection,

administration and enforcement of the sales tax imposed by this Chapter. (Ord. 194 §5(2), 1969; Ord. 254 §1(10), 1975; Ord. 307 §1(part), 1980)

## **CHAPTER 3.12**

### **Telephone Utility Tax**

#### **3.12.010 Tax levied; amount.**

There is levied against every telephone utility which is engaged in the business of furnishing local exchange telephone service within the Town a tax on the privilege of engaging in such business. The amount of such tax shall be two thousand three hundred dollars (\$2,300.00) for the year 1983 after the effective date of the ordinance codified in this Chapter and two thousand three hundred dollars (\$2,300.00) annually for each subsequent year. The tax and the payment thereof shall be annually reviewed by the Board of Selectmen. (Ord. 357, §1, 1984)

#### **3.12.015 Savings clause.**

All offenses committed and all liabilities incurred prior to the effective date of the ordinance codified herein shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offense and liabilities. All taxes, the liability for which has been accrued under the terms of the provisions of Section 3.12.010 of this Code, on or before the effective date of the ordinance codified herein, shall be and remain unconditionally due and payable and shall constitute a debt to the Town, payable in conformity with the provisions and terms of said Section 3.12.010, prior to the adoption of the ordinance codified herein; and all of said terms and provisions of Section 3.12.010 shall be and remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this Chapter. (Ord. 357 §2, 1984)

#### **3.12.020 Due date of payments.**

Unless otherwise established between the Town and any telephone utility, the tax levied by this Chapter shall be due and payable for years subsequent to 1977 in twelve (12) equal monthly installments, each installment to be paid on the last business day of each calendar month. The tax for the remaining portion of 1977 shall be due and payable in four (4) equal monthly installments payable on the last business day of each calendar month. (Ord. 262 §2, 1977; Ord. 2 §1, 2003)

#### **3.12.030 Power to examine records.**

The Town and its officers, agents or representatives shall have the right at any reasonable time to examine the books and records of any telephone utility which is subject to the tax imposed by this Chapter and to make copies of the entries or contents thereof. (Ord. 262 §3, 1977)

#### **3.12.040 Tax on local functions only.**

The tax provided in this Chapter is upon the affected occupations and businesses in their performance of local functions and is not a tax upon those functions relating to interstate commerce. (Ord. 262 §4, 1977)

### **3.12.050 Failure to pay; collection of debt.**

If any telephone utility subject to this Chapter fails to pay the taxes as provided in this Chapter, 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 is declared to be a debt due and owing from such utility to the Town. The Town Attorney, upon direction of the Board of Selectmen, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the debt in the name of the people of the State. (Ord. 262 §6, 1977)

### **3.12.060 Tax in lieu of other occupation taxes.**

The tax herein provided shall be in lieu of all other occupation taxes or taxes on the privilege of doing business within the Town, on any telephone utility subject to the provisions of this Chapter. (Ord. 357 §3, 1984)

### **3.12.070 Town use of poles.**

The Town shall have the privilege, during the life of this Chapter, free of charge, where aerial construction exists, of maintaining upon the poles of the telephone utilities within the Town limits wire and pole fixtures necessary for police and fire alarm systems, such wires and pole fixtures to be constructed and maintained to the satisfaction of said utilities and in accordance with its specifications. The Town, in its use and maintenance of such wires and fixtures, shall at all times comply with the rules and regulations of said utilities so that there may be a minimum danger of contact or conflict between the wires and fixtures of said utilities and the wires and fixtures used by the Town. It is further agreed, in order to avoid danger to life and property, that the privilege in this Section is granted on the condition that no such wires or fixtures of the Town shall be placed on poles carrying electric light or power wires without the acknowledgment of said utilities to the danger of contact with any conductor carrying a voltage greater than the normal telephone voltage. (Ord. 262 §8, 1977; Ord. 2 §1, 2003)

### **3.12.080 Utilities liability for negligence.**

Said utilities shall, at all times during the life of the ordinance codified in this Chapter, be subject to all lawful exercise of the police power by the Town and to such reasonable dominion and regulation as the Town may by ordinance or resolution thereafter provide. It is expressly understood and agreed by and between said utilities and the Town that said utilities shall save the Town harmless from all loss sustained by the Town on account of any suit, judgment, execution, claim or demand whatsoever, resulting from negligence on the part of said utilities in the construction or maintenance of their telephone system in the Town. The Town shall notify said utilities' representatives in the Town within five (5) days after the presentation of any claim or demand, either by suit or otherwise, made against the Town on account of any negligence as aforesaid on the part of said utilities. (Ord. 262 §9, 1977)

### **3.12.090 Moving buildings.**

Any person desiring to move a building or other improvement along or to make any unusual use of the streets, alleys and public ways of the Town which interferes with the poles, wires or other fixtures of said utilities or the Town, shall first give notice to said utilities or the Town, as the case may be, and shall pay to said utilities or the Town, as the case may be, a sum sufficient to cover the expense and

damage incident to the cutting, altering and moving of the wires or other fixtures of said utilities or the Town; and before a permit is given by the Town therefor, the applicant shall present a receipt from said utilities. Upon presentation of said permit, the applicant shall within forty-eight (48) hours thereafter provide for and do such cutting, altering and moving of the wires or other fixtures of said utilities as may be necessary to allow such moving or other unusual use of the streets, alleys and public ways of the Town. (Ord. 262 §10, 1977)

**3.12.100 Violation; penalty.**

If any firm, partnership, joint venture, association, corporation or company which is subject to the provisions of this Chapter fails, neglects or refuses to make any monthly installment payment in the manner prescribed in this Chapter, such firm, partnership, joint venture, association, corporation or company shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Each day beyond the due date of the monthly installment payment shall constitute a separate and distinct misdemeanor. (Ord. 262 §5, 1977)

**CHAPTER 3.16**

**Fees for Permits, Licenses and Services**

**3.16.010 Fees to be set by resolution; review.**

Except as may be otherwise established by individual ordinance, fees, assessments or charges for permits, licenses or services as called for in this Code shall be set from time to time by resolution duly adopted by the Board of Selectmen. The Town Administrator shall regularly review all fees, assessments and charges and shall make recommendations on same to the Board of Selectmen as he or she deems necessary and prudent. It is the intent of the Board of Selectmen that all municipal fees and charges shall, at a minimum, be reviewed annually in conjunction with the adoption of the Town's annual budget, and that additions, deletions or adjustments in such fees and charges shall be adopted and become effective by resolution at the commencement of each new fiscal year as part of the Town's annual budget process. A failure to conduct an annual review of any fee, assessment or charge shall not in any way affect the continuing validity thereof, and all fees, assessments and charges shall remain in full force until amended by subsequent resolution or ordinance adopted by the Board of Selectmen. (Ord. 487 §2, 1998)

**3.16.020 Costs; timely payment.**

*Costs*, referenced with regard to any fee or charge, shall include at a minimum all costs for the publication and/or posting of notices, mailing, copying and recording/filing fees. Unless otherwise specified, fees, charges and costs shall be due and paid at the time of application, and a failure to timely pay any fee, charge or cost shall result in the denial or revocation of the subject permit, license or service. (Ord. 487 §2, 1998)

## **CHAPTER 3.20**

### **Revenue Changes**

#### **3.20.010 Retention of sales and use tax revenues and state grants.**

Pursuant to Article X, Section 20 of the Colorado Constitution, the qualified electors of the Town authorize the Town to collect, accept, retain and expend the full proceeds of the Town's sales and use taxes and all State grants, notwithstanding any state restriction on fiscal year spending, including without limitation the restrictions of Article X, Section 20 of the Colorado Constitution. Such taxes and grants shall be excluded from the definition of fiscal year spending contained in Article X, Section 20 of the Colorado Constitution. (Ord. 459 §1, 1993; 11/2/93 Town election; 4/3/95 Town election)