

# Cattlemen's Days again named top TETWP rodeo

A milestone was reached Monday night at the 15th Annual Wrangler® Tough Enough to Wear Pink™ (TETWP) Night at the Wrangler National Finals Rodeo. The grassroots cowboy campaign has exceeded the \$32 million fundraising mark and Gunnison's Cattlemen's Days Rodeo gets the top spot once again.

The campaign was created in 2004 by Terry Wheatley, wine industry executive and matriarch of a professional rodeo cowboy family, and Karl Stressman, former director of special events for Wrangler and former commissioner of the Professional Rodeo Cowboys Association (PRCA). The idea was to raise money and awareness for breast cancer by challenging rodeo competitors and fans alike to wear pink.

Along with the generous support of western businesses such as Wrangler, Montana Silversmiths, Las Vegas Events, Twisted X Boots,

Cinch and Purple Cowboy Wines, Wrangler TETWP relies on the hard work of regional rodeos and western events across the country. The strength of the Wrangler TETWP campaign is funds raised remain within the community, benefitting local breast cancer charities. It is the dedication of volunteers on the ground at local events that drives the campaign.

"When we started the Wrangler Tough Enough to Wear Pink campaign in 2004,

we were overwhelmed by the support from the Professional Rodeo Cowboys Association, businesses, rodeo athletes, rodeo committees and western communities across the country. What seemed like an impossible dream to raise \$50 million by our 20th anniversary in 2024 is well on the way to becoming a reality," said Terry Wheatley, herself a breast cancer survivor.

A notable example of the

grassroots efforts is #1 PRCA rodeo fundraiser, Cattlemen's Days Rodeo in Gunnison, Colo. A long-time Top Five Wrangler TETWP fundraiser, the Gunnison community has raised more than \$3.2 million through the TETWP campaign to support the fight against breast cancer in their hometown.

Founded 120 years ago in the Gunnison Valley, Cattlemen's Days Rodeo is considered the "Granddaddy of Colorado Rodeos." Through the Cattlemen's Days Rodeo, the community has shown its steadfast commitment to providing local funding for breast cancer awareness, prevention, education, support, breast screenings and equipment.

Lacey Wheatley, Terry Wheatley's daughter-in-law, is the director of Wrangler TETWP and coordinates with rodeos and other non-rodeo organizations to create the pink-themed fundraisers.

## Did You Know?

### Asking for help makes you stronger.

Free Support is Available 24/7  
Call Our Crisis Line at **970.252.6220**  
or Text **HOME** to **741741**

National Suicide Prevention Line: **1.800.273.8255**

A Public Service Announcement Brought To You By: The Health Coalition of the Gunnison Valley



# Legals

legals@crestedbuttenews.com • phone: (970)349.0500 ext. 112 • fax: (970)349.9876 • www.crestedbuttenews.com

### —AGENDA— TOWN OF CRESTED BUTTE REGULAR TOWN COUNCIL MEETING MONDAY, DECEMBER 16, 2019 COUNCIL CHAMBERS, CRESTED BUTTE TOWN HALL

**The times are approximate. The meeting may move faster or slower than expected.**

**5:00 WORK SESSION**

1) Presentation Regarding Council Member Liability by Sam Light on Behalf of CIRSA.

**6:30 BREAK FOR DINNER**

**7:00 REGULAR COUNCIL MEETING CALLED TO ORDER BY MAYOR OR MAYOR PRO-TEM**

**7:02 APPROVAL OF AGENDA**

**7:04 CONSENT AGENDA**

1) December 2, 2019 Regular Town Council Meeting Minutes.

2) December 9, 2019 Special Town Council Meeting Minutes.

3) 2020 Services Agreement Between the Town of Crested Butte and the Crested Butte/Mt. Crested Butte Chamber of Commerce.

4) Resolution No. 29, Series 2019 - A Resolution of the Crested Butte Town Council Adopting Changes and Additions to the 2019 Budget and Appropriations Relative to the Affordable Housing and Enterprise Funds.

*The listing under Consent Agenda is a group*

*of items to be acted on with a single motion. The Consent Agenda is designed to expedite Council business. The Mayor will ask if any citizen or council member wishes to have any specific item discussed. You may request that an item be removed from Consent Agenda at that time, prior to the Council's vote. Items removed from the Consent Agenda will be considered under New Business.*

**7:06 PUBLIC COMMENT**

*Citizens may make comments on item not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments may be limited to five minutes.*

**7:12 STAFF UPDATES**

**7:20 PUBLIC HEARING**

1) Ordinance No. 39, Series 2019 - An Ordinance of the Crested Butte Town Council Approving the Lease of a Portion of the Property at 606 Sixth Street to The Center for the Arts.

2) Ordinance No. 41, Series 2019 - An Ordinance of the Crested Butte Town Council Approving the Lease of a One-Bedroom Apartment Located at 715 Elk Ave to Stephanie White.

3) Ordinance No. 42, Series 2019 - An Ordinance of the Crested Butte Town Council Approving a Loan from the Colorado Water Resources and Power Development Authority; and Authorizing the Execution of a Loan Agreement and a Governmental Agency Bond to Evidence Such Loan.

4) Continuation of Public Hearing for the State River Annexation.

**8:00 OLD BUSINESS**

1) Continuation of Discussion on the Community Compass.

**8:15 NEW BUSINESS**

1) Request from Craig Batchelor for the Town to Allow Trees to Remain in Block 3, Lot 1 in the Crested Butte Cemetery.

2) Resolution No. 25, Series 2019 - A Resolution of the Crested Butte Town Council Endorsing the Declaration of a Climate Emergency and Reaffirming Crested Butte's Commitment to Climate Action.

3) Ordinance No. 43, Series 2019 - An Ordinance of the Crested Butte Town Council Releasing Option with Bywater for Phase I of Paradise Park.

4) Ordinance No. 44, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing a Potable Water Agreement for Lot 8, Trapper's Crossing at Crested Butte, Gunnison County, Colorado.

9:05 LEGAL MATTERS

**9:10 COUNCIL REPORTS AND COMMITTEE UPDATES**

**9:20 OTHER BUSINESS TO COME BEFORE THE COUNCIL**

**9:30 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE**

- Monday, January 6, 2020 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, January
- Tuesday, January 21, 2020 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, February 3, 2019 - 6:00PM Work Session - 7:00PM Regular Council

**9:35 ADJOURNMENT**

Published in the *Crested Butte News*. Issue of December 13, 2019. #121308

### —REGULAR TOWN COUNCIL MEETING— DECEMBER 17, 2019 ~ 6:00 P.M. COUNCIL CHAMBERS MT. CRESTED BUTTE, COLORADO DRAFT AGENDA

for the official agenda please go to [www.mtcrestedbuttecolorado.us](http://www.mtcrestedbuttecolorado.us)

**6:00 P.M. - PUBLIC HEARING** – To Receive Input on Ordinance No. 12

Series 2019 – An Ordinance of the Town Council of the Town of Mt. Crested Butte establishing the Minimum Regulations Governing the Conditions and Maintenance of all Property, Buildings and Structures; By Providing the Standards for Supplied Utilities and Facilities and Other Physical Elements and Conditions Essential to Ensure that Structures are Safe, Sanitary and Fit for Occupations and Use; and the Condemnation of Buildings and Structures Unfit for Human Occupancy and Use and Demolition of Such Structures; Known as the Building Code by the Adoption by Reference of the 2015 International Building Code, Chapters 1 through 35 and Appendices B, C, E, F, I, and J; Adoption by Reference of the 2015 International Residential Code, Chapters 1 Through 24 and Chapter 41 and Appendices A Through H, Appendices J Through O and Appendices Q Through U; Adoption by Reference of the 2015 International Mechanical Code, Chapters 1 Through 15 and Appendices A and B; Adoption by Reference of the 2015 International Energy Conservation Code Chapters 1 through 6 (Commercial and Residential); Adoption by Reference of the 2015 International Fuel Gas Code, Chapters 1 Through 8 and Appendices A Through D; Adoption by Reference of the 2015 International Property Maintenance Code; Chapters 1 Through 8; Adoption by Reference of the 2015 International Existing Buildings Code; Chapters 1 Through 15, and Appendix Chapter A, and Chapters A1

through A5, and Appendices A and B and Resource Chapter A; Adoption by Reference of the 2015 International Fire Code Chapters 1 Through 80 and Appendices A Through C and Appendices E Through G; Adoption by Reference of the 2015 International Swimming Pool and Spa Code; Providing Penalties for the Violation Thereof; and Repealing Ordinance No. 2, Series 2015, of the Town of Mt. Crested Butte, Colorado and All Other Ordinances and Parts of Ordinances in Conflict Herewith.

**CALL TO ORDER  
ROLL CALL  
PUBLIC COMMENT** - Citizens may make comments on items NOT scheduled on the agenda. Per Colorado Open Meetings Law, no Council discussion or action will take place until a later date, if necessary. You must sign in with the Town Clerk before speaking. Comments are limited to three minutes.

**MINUTES**

- Approval of the November 19, 2019 Regular Town Council Meeting Minutes
- Approval of the December 3, 2019 Regular Town Council Meeting Minutes

**REPORTS**

- Town Manager's Report
- Department Head Reports
  - Community Development
  - Finance
  - Police Department
  - Public Works
- Summer 2019 – Admissions Tax Grant Report – Gunnison Crested Butte Tourism Association – CBGT Trails/Trail Quest
- Summer 2019 – Admissions Tax Grant Report – Gunnison Crested Butte Tourism Association – Houston Airfare

**CORRESPONDENCE  
OLD BUSINESS**

• Discussion and Possible Consideration of Ordinance 10, Series 2019 – An Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado, Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Town of Mt. Crested Butte, Colorado for the Calendar Year Beginning on the First day of January 2020 and Ending on the last Day of December 2020 – Second Reading – Karl Trujillo

• Discussion and Possible Consideration of Ordinance No. 11, Series 2019 – An Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado Adopting an Additional Appropriation for the Fiscal Year Ending December 31, 2019 – Second Reading – Karl Trujillo

• Discussion and Possible Consideration of Ordinance No. 13, Series 2019 – An Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado Adding Article VI. Short -Term Rental Tax to Chapter 19 Taxation, of the Town of Mt. Crested Butte Code – Second Reading – Kathy Fogo

• Discussion and Possible Consideration of the Town's Lottery Process for Homestead at Prospect Community Housing – Carlos Velado

• Discussion and Possible Consideration of a Planned Unit Development Major Alteration Application submitted by Pearls Management, LLC to amend the existing Planned Unit Development for the Nordic Inn. The alteration proposes a new layout for the hotel building, additional hotel units, and underground parking. The alteration only relates to changes on Lots NI-1 and NI-2. Lot ROS-

1 will remain unchanged – Carlos Velado  
**NEW BUSINESS**

• Ordinance No. 12 Series 2019 – An Ordinance of the Town Council of the Town of Mt. Crested Butte Establishing the Minimum Regulations Governing the Conditions and Maintenance of all Property, Buildings and Structures; By Providing the Standards for Supplied Utilities and Facilities and Other Physical Elements and Conditions Essential to Ensure that Structures are Safe, Sanitary and Fit for Occupations and Use; and the Condemnation of Buildings and Structures Unfit for Human Occupancy and Use and Demolition of Such Structures; Known as the Building Code by the Adoption by Reference of the 2015 International Building Code, Chapters 1 through 35 and Appendices B, C, E, F, I, and J; Adoption by Reference of the 2015 International Residential Code, Chapters 1 Through 24 and Chapter 41 and Appendices A Through H, Appendices J Through O and Appendices Q Through U; Adoption by Reference of the 2015 International Mechanical Code, Chapters 1 Through 15 and Appendices A and B; Adoption by Reference of the 2015 International Energy Conservation Code Chapters 1 through 6 (Commercial and Residential); Adoption by Reference of the 2015 International Fuel Gas Code, Chapters 1 Through 8 and Appendices A Through D; Adoption by Reference of the 2015 International Property Maintenance Code; Chapters 1 Through 8; Adoption by Reference of the 2015 International Existing Buildings Code; Chapters 1 Through 15, and Appendix Chapter A, and Chapters A1 through A5, and Appendices A and B and Resource Chapter A;

Adoption by Reference of the 2015 International Fire Code Chapters 1 Through 80 and Appendices A Through C and Appendices E Through G; Adoption by Reference of the 2015 International Swimming Pool and Spa Code; Providing Penalties for the Violation Thereof; and Repealing Ordinance No. 2, Series 2015, of the Town of Mt. Crested Butte, Colorado and All Other Ordinances and Parts of Ordinances in Conflict Herewith – First Reading – Carlos Velado

• Discussion and Possible Consideration of the Law Enforcement Agreement Among and Between Gunnison County Board of County Commissioners, Gunnison County Sheriff and the Town of Mt. Crested Butte – Joe Fitzpatrick

• Discussion and Possible Consideration of the Mt. Crested Butte Town Council's Comments as a Referral Agency for the Slate River Annexation Major Subdivision Preliminary Plan Application Submitted to the Town of Crested Butte by Cypress Foothills, L.P. - Carlos Velado

• Discussion and Possible Consideration of an Amendment to the Agreement Between the Town of Mt. Crested Butte and Waste Management of Colorado, Inc. – Joe Fitzpatrick

**OTHER BUSINESS  
ADJOURN**

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 349-6632 at least 48 hours in advance. Public comment on these agenda items is encouraged.

Published in the *Crested Butte News*. Issue of December 13, 2019. #121309

# Legals

**—NOTICE OF PUBLIC HEARING—  
CRESTED BUTTE BOARD OF ZONING  
AND ARCHITECTURAL REVIEW  
TOWN OF CRESTED BUTTE, COLORADO  
322 BELLEVIEW AVENUE**

PLEASE TAKE NOTICE THAT a public hearing, which may result in the granting of a vested property right, will be held on December 17, 2019 beginning at 6:00 p.m. in the Crested Butte Town Hall located at 507 Maroon Ave. in Crested Butte, Colorado for the purpose of considering the following:  
The application of **322 Belleview LLC** to change to the previously approved plan from March 26, 2019 and demolish the slab foundation, and the east and west CMU walls of the North module of the building located at 322 Belleview Avenue, Block 46, Lots 5-6 in the C zone.  
Additional requirements:

**- Permission to demolish a portion of a non-historic commercial structure is requested.**  
TOWN OF CRESTED BUTTE  
By Jessie Earley, Assistant Design Review and Historic Preservation Coordinator

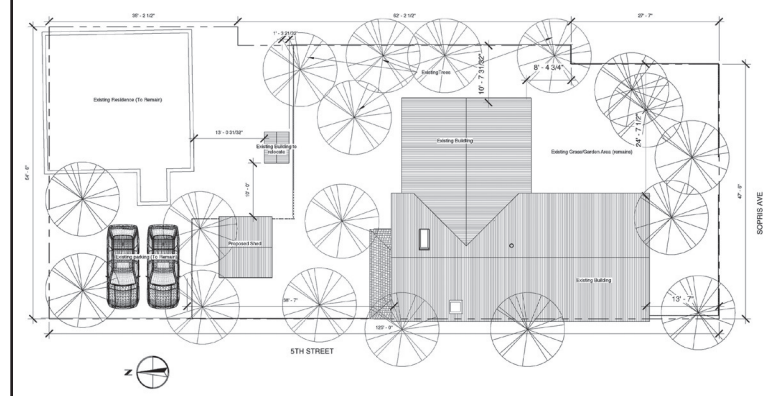
Published in the *Crested Butte News*. Issues of December 6 and 13, 2019. #120607

**NOTICE OF PUBLIC HEARING  
CRESTED BUTTE BOARD OF ZONING  
AND ARCHITECTURAL REVIEW  
TOWN OF CRESTED BUTTE, COLORADO  
501 SOPRIS AVENUE**

PLEASE TAKE NOTICE THAT a public hearing, which may result in the granting of a vested property right, will be held on December 17, 2019 beginning at 6:00 p.m. in the Crested Butte Town Hall located at 507 Maroon Ave. in Crested Butte, Colorado for the purpose of considering the following:  
The application of **Trilby Carriker** to relocate the existing historic shed onsite and construct a new shed to be located at 501 Sopris Avenue, Block 25, Lot 17, Lot 18 excluding the South 28' of the East 3.4', North 28' of the West 3.4' of Lot 19 (AKA Sopris Subdivision) in the R1C zone. Continued from the October 29, 2019 and November 19, 2019 BOZAR meetings.  
Additional requirements:

**- Architectural approval is required.**  
(See Attached Drawing)  
TOWN OF CRESTED BUTTE  
By Jessie Earley, Assistant Design Review and Historic Preservation Coordinator

Published in the *Crested Butte News*. Issues of December 6 and 13, 2019. #120608



**—NOTICE OF PUBLIC HEARING—  
2020 BUDGET – DECEMBER 9, 2019  
GUNNISON COUNTY METROPOLITAN RECREATION DISTRICT**

Notice is hereby given that the proposed 2020 budget has been submitted to the Board of Directors of the Gunnison County Metropolitan Recreation District. That a copy of said budget has been filed at the District's office, 710 S. 9th Street, Gunnison, Colorado 81230, where the same is open for public inspection. That said proposed 2020 budget will be considered at a regular meeting of the Board of Directors of the Gunnison County Metropolitan Recreation District to be held at the Crested Butte Town Hall at 507 Maroon Avenue, Crested

Butte Colorado, 81224 on Monday the 9th day of DECEMBER, 2019 at 9:00 A.M. The Board will hold a public hearing at such meeting during which all interested parties may be heard. Any interested elector of the District may inspect the proposed budget and file or register any objections thereto at any time prior to the final adoption of the budget on December 9, 2019. Hedda Peterson, District Manager

Published in the *Crested Butte News*. Issue of December 13, 2019. #121301

**—NOTICE OF GUNNISON COUNTY ELECTRIC ASSOCIATION ANNUAL MEETING & ELECTION—**

The Gunnison County Electric Association's 81st Annual Meeting will be held at GCEA headquarters located at 37250 W US Highway 50, Gunnison, Colorado on Tuesday, June 23, 2020 at 6:00 p.m.  
GCEA's Board of Director positions eligible for election are Districts 1, 4 and 5 currently held by Greg Wiggins, Michelle Lehmann, and Tom Carl, respectively. Petitions for candidacy will be available March 13, 2020.  
For more information call 641-3520.

Published in the *Crested Butte News*. Issue of December 13, 2019. #121302

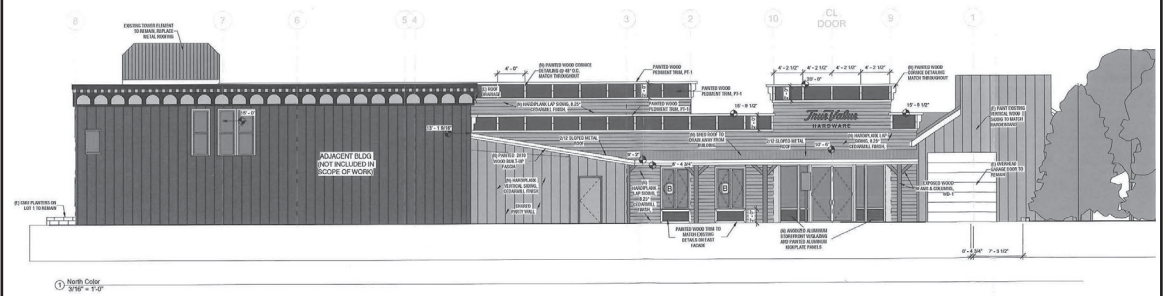
**—NOTICE OF PUBLIC HEARING—  
CRESTED BUTTE BOARD OF ZONING AND ARCHITECTURAL REVIEW  
TOWN OF CRESTED BUTTE, COLORADO  
607 SIXTH STREET**

PLEASE TAKE NOTICE THAT a public hearing, which may result in the granting of a vested property right, will be held on December 17, 2019 beginning at 6:00 p.m. in the Crested Butte Town Hall located at 507 Maroon Ave. in Crested Butte, Colorado for the purpose of considering the following:  
The application of **Pauckyla Ltd.**

to construct a one story addition on the rear (West) of the existing commercial building located at 607 Sixth Street associated with the existing PUD in Block 37, Part of Lots 1 and 6 and all of lots 2-5 and 7-9 in the B2 zone.  
Additional requirements:  
**- Concept Plan Review to alter an existing Planned Unit Develop-**

**ment (PUD) is required.**  
(See Attached Drawing)  
TOWN OF CRESTED BUTTE  
By Jessie Earley, Assistant Design Review and Historic Preservation Coordinator

Published in the *Crested Butte News*. Issues of December 6 and 13, 2019. #120612



**—NOTICE OF PUBLIC HEARING—  
CRESTED BUTTE BOARD OF ZONING AND ARCHITECTURAL REVIEW  
TOWN OF CRESTED BUTTE, COLORADO  
427 SOPRIS AVENUE**

PLEASE TAKE NOTICE THAT a public hearing, which may result in the granting of a vested property right, will be held on December 17, 2019 beginning at 6:00 p.m. in the Crested Butte Town Hall located at 507 Maroon Ave. in Crested Butte, Colorado for the purpose of considering the following:  
The application of **Peter C. Estep and**

**Shari L. Estep** to demolish the existing non-historic accessory building, less than 200 square feet located at 427 Sopris Avenue, Block 26, Lots 29-31 in the R1C zone.  
Additional requirements:  
**- Permission to demolish the existing non-historic accessory building is**

**requested.**  
TOWN OF CRESTED BUTTE  
By Jessie Earley, Assistant Design Review and Historic Preservation Coordinator

Published in the *Crested Butte News*. Issues of December 6 and 13, 2019. #120610

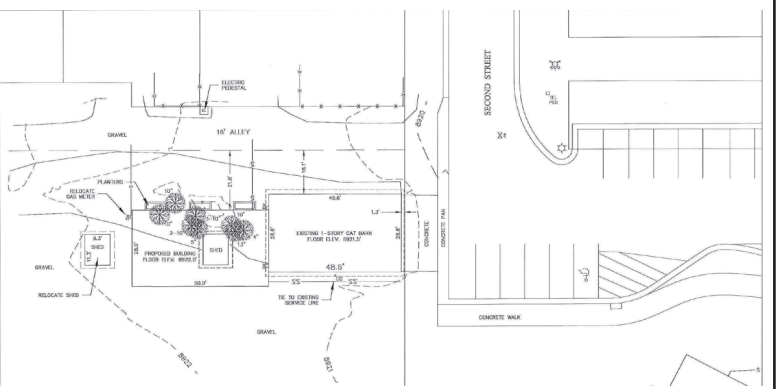
**—NOTICE OF PUBLIC HEARING—  
CRESTED BUTTE BOARD OF ZONING AND ARCHITECTURAL REVIEW  
TOWN OF CRESTED BUTTE, COLORADO  
615 SECOND STREET**

PLEASE TAKE NOTICE THAT a public hearing, which may result in the granting of a vested property right, will be held on December 17, 2019 beginning at 6:00 p.m. in the Crested Butte Town Hall located at 507 Maroon Ave. in Crested Butte, Colorado for the purpose of considering the following:  
The application of **Crested Butte Nordic in conjunction with the Town of Crested Butte** to construct an addition to the existing cat barn located at 615 Second Street, Block 41 in the P zone.  
Additional requirements:

**- Architectural approval is required.**  
**- Relocation or demolition of an existing non-historic accessory building in the P zone is requested.**  
(See Attached Drawing)  
TOWN OF CRESTED BUTTE

By Jessie Earley, Assistant Design Review and Historic Preservation Coordinator

Published in the *Crested Butte News*. Issues of December 6 and 13, 2019. #120609



**—NOTICE OF PUBLIC HEARING—  
CRESTED BUTTE BOARD OF ZONING AND ARCHITECTURAL REVIEW  
TOWN OF CRESTED BUTTE, COLORADO  
729 WHITEROCK AVENUE**

PLEASE TAKE NOTICE THAT a public hearing, which may result in the granting of a vested property right, will be held on December 17, 2019 beginning at 6:00 p.m. in the Crested Butte Town Hall located at 507 Maroon Ave. in Crested Butte, Colorado for the purpose of considering the following:  
The application of **Gregory S. Faust and Susan M. Faust** to demolish the existing building located at 729 Whiterock Avenue, Block 62, Lots 31-32 in the R2 zone.

Additional requirements:  
**- Permission to demolish an existing non-historic structure is requested per Ordinance #34, Series 2019.**  
TOWN OF CRESTED BUTTE  
By Jessie Earley, Assistant Design Review and Historic Preservation Coordinator

Published in the *Crested Butte News*. Issues of December 6 and 13, 2019. #120611

**—GUNNISON WATERSHED SCHOOL DISTRICT—  
DECEMBER 13, 2019 ~ 12:00 P.M.  
SPECIAL MEETING  
LAKE SCHOOL-GUNNISON, CO**

- |  |  |
|--|--|
| <p><b>12:00 p.m.</b> I. Call to Order<br/>II. Roll Call<br/>III. Pledge of Allegiance<br/>IV. Modifications/Approval of Agenda<br/>V. Administrative Action Summaries<br/>A. Discuss Negotiations-Dr. Nichols<br/>B. Athletics Proposals update-Dr. Nichols<br/>C. Branding update-Dr. Nichols<br/>D. Mill Levy Certification Presentation-Tia Mills</p> | <p>E. Audit presentation-Dave Taylor<br/>VII. New Business—<b>ACTION ITEMS</b><br/>1. Mill Levy Certification approval<br/>2. FY2019 Audited Financial Statements approval<br/>VIII. Adjournment</p> |
|--|--|

Published in the *Crested Butte News*. Issue of December 13, 2019. #121307

**—LEGAL NOTICE—  
NOTICE OF PUBLIC HEARING  
FOR THE MT. CRESTED BUTTE WATER & SANITATION DISTRICT WATER TREATMENT PLANT EXPANSION PROJECT  
JANUARY 14, 2019 ~ 5:00P.M.**

**MT. CRESTED BUTTE WATER & SANITATION DISTRICT OFFICE, 100 GOTHIC ROAD  
MT. CRESTED BUTTE, COLORADO 81225  
TOPIC: ENVIRONMENTAL ASSESSMENT, WATER TREATMENT PLANT EXPANSION PROJECT**

A public hearing will be conducted for informing citizens and soliciting public input, written or oral, regarding the Environmental Assessment (EA) for the Mt. Crested Butte Water and Sanitation District Water Treatment Plant (WTP) Expansion Project. The District serves the Town of Mt. Crested Butte, Colorado with an existing WTP that was built in 1985 and has undergone

only minor updates and repairs since construction. Installed equipment is approaching the end of its useful life and cannot reliably meet increasing water demands in the District. A Facility Assessment Report of the WTP, pump station, and pipeline was completed in 2017 followed by a Treatment Assessment Memorandum of the WTP in 2018. The Treatment Assess-

ment Memorandum included an alternatives analysis for improving and expanding plant capacity utilizing the findings of the Facility Assessment Report. Based on these evaluations, the District has elected to construct a new WTP, raw water pump station and pipeline. Included in the EA are details of the improvements, affected environmental

impacts of the proposed project, and a summary of public participation and agencies contacted. Copies of the EA will be made available for public review prior to the Public Hearing at Mt. Crested Butte Water & Sanitation District Office, 100 Gothic Road, Mt. Crested Butte, Colorado 81225. The report will also be available for public review on the District's website

www.mcbwsd.com.  
The point of contact for the Mt. Crested Butte Water and Sanitation District is Mike Fabbre, District Manager, (970) 349-7575. Dated 12/05/2019  
Published in the *Crested Butte News*. Issues of December 6, 13, 20, 27, January 3 and 10, 2019. #120605

**EARLY HOLIDAY DEADLINES: FRIDAY, 12/20 @ NOON (12/27 paper) & MONDAY, 12/30 @ NOON (1/3 paper)**

# Legals

—LEGAL—

**NOTICE OF FAIR CAMPAIGN PRACTICES ACT CONTRIBUTION AND SPENDING REPORTS  
FILED BY CANDIDATES FOR THE TOWN OF CRESTED BUTTE MAYOR AND TOWN COUNCIL  
FILING PERIOD OCTOBER 28, 2019 THROUGH NOVEMBER 30, 2019**

Mayoral Candidates	Amount of Contributions and Contributions In Kind Accepted	Campaign Spending Amount
Jim Schmidt	\$0	\$0
<b>Council Candidates</b>		
Candice Bradley	\$0	\$0
Will Dujardin	\$0	\$0
Laura Mitchell	\$0	\$0
Monique "Mona" Merrill	\$0	\$0
Mallika Magner	\$0	\$0
Anne Moore	\$0	\$0

**Town of Crested Butte, Colorado**  
/s/ Lynelle Stanford, Town Clerk

Published in the *Crested Butte News*. Issue on December 13, 2019. #121305

—MOUNTAIN EXPRESS BOARD OF DIRECTORS MEETING—  
AGENDA

THURSDAY, DECEMBER 19, 2019 ~ 9:00 A.M.  
MT. CRESTED BUTTE TOWN HALL

- I. Roll Call
- II. Reading and Approval of the Minutes of November 14, 2019 Meeting.
- III. Transit Manager's Operational and Financial Report
  - A. Operations Report
  - B. Financial Report
- IV. Unfinished Business
  - A. Late Night Taxi Service Discussion
- V. New Business
  - A. Public hearing – 2019 Mountain Express Capital Plan, 2019 Mountain Express Annual Report, 2020 Mountain Budget
  - B. Adoption of 2019 Mountain Express Capital Plan
  - C. Adoption of 2019 Mountain Express Annual Plan
  - D. Adoption of 2020 Mountain Express Budget
  - E. Bike Transportation Discussion
- VI. Unscheduled Business
- VII. Schedule Next Board Meeting
- VIII. Adjournment

Published in the *Crested Butte News*. Issue on December 13, 2019. #121306

—COMBINED NOTICE - PUBLICATION—  
CRS §38-38-103 FORECLOSURE SALE NO. 2019-007

To Whom It May Concern: This Notice is given with regard to the following described Deed of Trust:

On September 17, 2019, the undersigned Public Trustee caused the Notice of Election and Demand relating to the Deed of Trust described below to be recorded in the County of Gunnison records.  
Original Grantor(s)  
Eric W Kiklevich AKA Eric Walter Kiklevich and Marva Crothers AKA Marva Lynn Crothers  
Original Beneficiary(ies)  
National City Mortgage a Division of National City Bank  
Current Holder of Evidence of Debt  
Nationstar Mortgage LLC d/b/a Mr. Cooper  
Date of Deed of Trust  
July 16, 2007  
County of Recording  
Gunnison  
Recording Date of Deed of Trust  
July 16, 2007  
Recording Information (Reception No. and/or Book/Page No.)  
577050

Original Principal Amount  
\$196,200.00  
Outstanding Principal Balance  
\$175,207.58

Pursuant to CRS §38-38-101(4)(i), you are hereby notified that the covenants of the deed of trust have been violated as follows: failure to pay principal and interest when due together with all other payments provided for in the evidence of debt secured by the deed of trust and other violations thereof.

**THE LIEN FORECLOSED MAY NOT BE A FIRST LIEN.**

**LOT 1, CLINE'S HOME SITES, EXCEPTING THEREFROM THAT PORTION OF THE ABOVE LOT CONVEYED TO CHERYL S. ROGERS IN QUIT CLAIM DEED RECORDED DECEMBER 5, 1988 IN BOOK 661 AT PAGE 137, COUNTY OF GUNNISON, STATE OF COLORADO.**

**Also known by street and number as: 2788 Hwy 135, Gunnison, CO 81230.**

**THE PROPERTY DESCRIBED HEREIN IS ALL OF THE PROPERTY CURRENTLY ENCUMBERED BY THE LIEN OF THE DEED OF TRUST.**

**NOTICE OF SALE**

The current holder of the Evidence of Debt secured by the Deed of Trust, described herein, has filed Notice of Election and Demand for sale as provided by law and in said Deed of Trust.

THEREFORE, Notice Is Hereby Given that I will at public auction, at 10:00 A.M. on Wednesday, 01/15/2020, at Treasurer's Office, 221 N. Wisconsin, Suite T, Gunnison, CO 81230, sell to the highest and best bidder for cash, the said real property and all interest of the said Grantor(s), Grantor(s)' heirs and assigns therein, for the purpose of paying the indebtedness provided in said Evidence of Debt secured by the Deed of Trust, plus attorneys' fees, the expenses of sale and other items allowed by law, and will issue to the purchaser a Certificate of Purchase, all as provided by law.

First Publication 11/29/2019  
Last Publication 12/27/2019

Name of Publication Crested Butte News

**IF THE SALE DATE IS CONTINUED TO A LATER DATE, THE DEADLINE TO FILE A NOTICE OF INTENT TO CURE BY THOSE PARTIES ENTITLED TO CURE MAY ALSO BE EXTENDED;**

DATE: 09/17/2019

Debbie Dunbar, Public Trustee in and for the County of Gunnison, State of Colorado

/s/ Teresa Brown

By: Teresa Brown, Deputy Public Trustee

The name, address, business telephone number and bar registration number of the attorney(s) representing the legal holder of the indebtedness is:

Holly Shilliday #24423

Erin Croke #46557

Steven Bellanti #48306

McCarthy & Holthus, LLP 7700 E. Arapahoe Road, Suite 230, Centennial, CO 80112 (877) 369-6122

Attorney File # CO-19-867953-LL

The Attorney above is acting as a debt collector and is attempting to collect a debt. Any information provided may be used for that purpose.

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—TOWN OF MT. CRESTED BUTTE—  
ORDINANCE NO. 8  
SERIES 2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REPEALING AND REENACTING CHAPTER 19 TAXATION, OF THE TOWN OF MT. CRESTED BUTTE CODE WHEREAS, the Town of Mt. Crested Butte, is a Colorado home-rule municipality organized and acting under Article XX off the Colorado Constitution and the Town of Mt. Crested Butte, Colorado home-rule Charter; and WHEREAS, the Town has tax provisions to deal with taxation of businesses and entities within the Town; and WHEREAS, not all tax provisions of the Town are contained within Chapter 19, Taxation; and

WHEREAS, the Business and Occupational License Tax (BOLT) provisions should be located within Chapter 19; and

WHEREAS, this Ordinance repeals and reenacts Chapter 19 in order to place the BOLT provisions into Chapter 19 and renumber the remainder of the Chapter.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AS FOLLOWS:  
**Section 1.** Chapter 19 is repealed in its entirety, and is reenacted to read as follows:  
**Chapter 19 TAXATION**  
**ARTICLE I. IN GENERAL**  
**Secs. 19-1—19-15 Reserved.**  
**ARTICLE II. SALES TAX**  
**DIVISION 1. GENERALLY**  
**Sec. 19-16 Short title**

This article shall be known as and cited as the "Town of Mt. Crested Butte Sales Tax Ordinance."

**Sec. 19-17 Words and phrases defined.**

The following words and phrases as used in this article shall have the following meaning:

**Auction** means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

**Automotive vehicle** means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn by a public highway, or any device used or designed for aviation or flight in the air. Automotive vehicle includes, but is not limited to, motor vehicles, trailers, semi-trailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively

upon stationary rails or tracks.

**Business** means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

**Candy** means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, products that require refrigeration or marijuana infused products.

**Carrier access services** means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

**Charitable organization** means any entity which: (1) has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code; and (2) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

**City or town** means the municipality of the Town of Mt. Crested Butte, Colorado.

**Coins** means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of this state, the United States or any foreign nation.

**Coin operated device** means any device operated by coins or currency or any substitute therefor.

**Collection costs** shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

**Commercial packaging materials** means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. Commercial packaging materials does not include commercial shipping materials.

**Commercial shipping materials** means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process. Commercial shipping materials include, but are not limited to, containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

**Community organization** means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as: (1) no part of the net earnings of which inures to the benefit of any private shareholder or individual; (2) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and (3) 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.

**Construction equipment** means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

**Construction materials** means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, and, sanitary sewer pipe, sheet metal site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a

completed structure or project, are not construction materials.

**Consumer** means any person in the city who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the city.

**Contract auditor** means a duly authorized agent designated by the taxing authority and qualified to conduct tax audits on behalf of and pursuant to an agreement with the municipality.

**Contractor** means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For purposes of this definition, contractor also includes subcontractor.

**Cover charge** means a charge paid to a club or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

**Data processing equipment** means any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information.

**Digital product** means an electronic product including, but not limited to: (1) "digital images" which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as "photographs," "logos," "cartoons," or "drawings;" (2) "digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any; (3) "digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For purposes of the definition of "digital audio works," "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication; and (4) "digital books" which means works that are generally recognized in the ordinary and usual sense as "books."

**Distribution** means the act of distributing any article of tangible personal property for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shoppers guides,

catalogs, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

**Dual residency** means those situations including, but not limited to, where a person maintains a residence, place of business or business presence, both within and outside the city. A person shall be deemed to have established a legitimate residence, place of business or business presence outside of the city for purposes of dual residency if the person has a physical structure owned, leased or rented by such person which is designated by street number or road location outside of the city, has within it a telephone or telephones in the name of such person and conducts business operations on a regular basis at such location in a manner that includes the type of business activities for which the business (person), as defined in this Code, is organized.

**Dwelling unit** means a building or any portion of a building designed for occupancy as complete, independent living quarters for one (1) or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

**Engaged in business in the town** means performing or providing services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use, or consumption within the town. Engaged in business in the town includes, but is not limited to, any one of the following activities by a person:

- (1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the town;
- (2) Sends one (1) or more employees, agents, or commissioned sales persons into the town to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintains one (1) or more employees, agents, or commissioned sales persons on duty at a location within the town; or
- (4) Owns, leases, rents, or otherwise exercises control over real or personal property within the town; or
- (5) Makes more than one (1) delivery into the town within a twelve (12) month period.

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# Legals

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**Factory built housing** means a manufactured home or modular home.

**Farm closeout sale** means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

**Finance director** means the treasurer of the Town of Mt. Crested Butte, Colorado, or such other person designated by the town; finance director shall also include such person's designee.

**Food for home consumption** means food for domestic home consumption as defined in 7 U.S.C. Section 2012 (k) (2014), as amended, for purposes of the supplemental nutrition assistance program, or any successor program, as defined in 7 U.S.C. Section 2012 (t), as amended; except that "food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow foods; prepared salads and salad bars; packaged and unpackaged cold sandwiches; deli trays; and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

**Garage sales** means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale is being conducted. The term includes, but is not limited to, yard sales, estate sales, and block sales.

**Gross sales** means the total amount received in money, credit, property, or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

**Internet access services** means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of Internet access services.

**Internet subscription service** means software programs, systems, data and applications available online through rental, lease or subscription, that provide information and services including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

**License** means a Town of Mt. Crested Butte sales and/or use tax license.

**Linen services** means services involving provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls, and diapers.

**Lodging services** means the furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity, or any other combination of individuals by whatever name known to a person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp or trailer court and park, condominium, single or multiple-family residential unit, or similar establishment for a period of less than thirty (30) days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

**Machinery** means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

**Manufactured home** means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

**Manufacturing** means the operation

or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

**Mobile machinery and self-propelled construction equipment** means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

**Modular home** means any structure that consists of multiple sections fabricated, formed or assembled in manufacturing facilities for installation and assembly at the building site, and is constructed to the building codes adopted by the State Division of Housing, created in Section 24-32-706, C.R.S., and is designed to be installed on a permanent foundation.

**Newspaper** means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term "newspaper" does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

**Online garage sales** means sales of tangible personal property, except automotive vehicles, occurring online, where the property to be sold was originally purchased for use by the seller or members of the seller's household.

**Person** means any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee, or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

**Photovoltaic system** means a power system designed to supply usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling, metering systems and other electrical accessories to set up a working system.

**Preprinted newspaper supplements** shall mean inserts, attachments, or supplements circulated in newspapers that are primarily devoted to advertising; and the distribution, insertion, or attachment of which is commonly paid for by the advertiser.

**Prescription drugs for animals** means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301, et seq., as amended, to state at a minimum the symbol "Rx Only" and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

**Prescription drugs for humans** means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301, et seq., as amended, to state at a minimum the

symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

**Price or purchase price** means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, 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 same time and place of the exchange, if:

(1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or

(2) 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. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Price or purchase price includes:

(1) The amount of money received or due in cash and credits.

(2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

(3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

(4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.

(5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.

(6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.

(7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

(8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

Price or purchase price shall not include:

(1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.

(2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in Colorado. Out of state trade-ins are an allowable adjustment to the purchase price.

(3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

**Private communications services** means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication

channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

**Prosthetic devices for animals** means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

**Prosthetic devices for humans** means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

**Purchase or sale** means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, or sold. These terms include capital leases, installment and credit sales, and property and services acquired by:

(1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;

(2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services;

a. The utilization of coin operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property.

(3) Performance of taxable services; or

(4) Barter or exchange for other tangible personal property, other taxable products, or services.

The terms purchase and sale do not include:

(1) A division of partnership assets among the partners according to their interests in the partnership;

(2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(4) A transfer of a partnership or limited liability company interest;

(5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

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

(9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies 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 article was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent any transfer referred to in this paragraph (9) shall constitute a sale. For the purposes of this paragraph (9), a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at least eighty (80) percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty (80) percent of the total number of shares of all other classes of stock.

**Recreation services** means all services relating to athletic or entertainment participation events including but not limited to snow skiing, pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin operated amusement devices, video games, and video club memberships.

**Renewable energy** means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable energy does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

**Resident** means a person who resides or maintains one or more places of business within the town, regardless of whether that person also resides or maintains a place of business outside of the town.

**Retail sales** means all sales except wholesale sales.

**Retailer** means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. Retailer shall include, but is not limited to, any:

(1) Auctioneer;

(2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;

(3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;

(4) Retailer-Contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property.

**Retailer-contractor** means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

**Return** means any form prescribed by the city/town administration for computing and reporting a total tax liability.

**Sales tax** means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Code.

**School** means a public or nonpublic school for students in kindergarten through 12th grade or any portion thereof.

**Security system services** means electronic alarm and/or monitoring services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services.

**Soft drink** means a nonalcoholic beverage that contains natural or artificial sweeteners. "Soft drink" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty (50) percent of vegetable or fruit juice by volume.

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# Legals

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**Software program** means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g. a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. Software program includes: (1) custom software program, which is a software program prepared to the special order or specifications of a single customer; (2) pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as "canned," "off-the-shelf" ("COTS"), "mass produced" or "standardized;" (3) modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and (4) the generic term "software," "software application," as well as "updates," "upgrades," "patches," "user exits," and any items which add or extend functionality to existing software programs.

**Software as a service** means software that is rented, leased or subscribed to from a provider and used at the consumer's location, including, but not limited to, applications, systems or programs.

**Software license fee** means a fee charged for the right to use, access, or maintain software programs.

**Software maintenance agreement** means an agreement, typically with a software provider, that may include: (1) provisions to maintain the right to use the software; (2) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software; or (3) technical support.

**Solar thermal systems** means a system whose primary purpose is to use energy from the sun to produce heat or cold for: (1) heating or cooling a residential or commercial building; (2) heating or cooling water; or (3) any industrial, commercial, or manufacturing process.

**Sound system services** means the provision of broadcast or pre-recorded audio programming to a building or portion thereof. Such term does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

**Special sales event** means any sales event which includes more than three (3) vendors, taking place at a single location for a limited period of time not to exceed seven (7) consecutive days.

**Storage** means any keeping or retention of, or to exercise dominion or control over, or possession of, for any length of time, tangible personal property not while in transit but on a stand-still basis for future use when leased, rented or purchased at retail from sources either within or without the city from any person or vendor.

**Tangible personal property** means personal property that can be one or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged, or that is in any other manner perceptible to the senses.

**Tax** means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

**Tax deficiency or deficiency** means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Code.

**Taxable sales** means gross sales less any exemptions and deductions specified in this Code.

**Taxable services** means services subject to tax pursuant to this Code.

**Taxpayer** means any person obligated to collect and/or pay tax under the terms of this Code.

**Telecommunications service** means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications including, but not limited to, voice, image, data and any other information, by the use of any means, but not limited to, wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such

media, including any form of mobile two-way communication. "Telecommunications service" does not include separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted.

**Television and entertainment services** means audio or visual content, that can be transmitted electronically by any means, for which a charge is imposed.

**Therapeutic device** means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

**Toll free telecommunications service** means a telecommunications service that allows a caller to dial a number without incurring an additional charge for the call.

**Total tax liability** means the total of all tax, penalties, or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

**Transient/temporary sale** means a sale by any person who engages in a temporary business of selling and delivering goods within the city for a period of no more than seven (7) consecutive days.

**Transient/temporary vendor** means any person who engages in the business of transient/temporary sales.

**Use** means the exercise, for any length of time by any person within the city of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the city from any person or vendor or used in the performance of a contract in the city whether such tangible personal property is owned or not owned by the taxpayer. Use also includes the withdrawal of items from inventory for consumption.

**Use tax** means the tax paid or required to be paid by a consumer for using, storing, distributing, or otherwise consuming tangible personal property or taxable services inside the town.

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

**Wholesaler** means any person doing an organized wholesale or jobbing business and selling to retailers, jobbers, dealers, or other wholesalers, for the purpose of resale, and not for storage, use, consumption, or distribution.

**Sec. 19-18 Rate: imposition and collection: distribution.**

(a) Sales tax. There is hereby levied a tax or excise upon all sales of tangible personal property and services specified in section 19-20(a). For transactions consummated or contracts entered into on or after January 1, 2010, the rate levied shall be five (5) percent.

(b) Imposition and collection. The tax specified in this section is imposed upon the purchaser. Any seller engaged in business in the town shall collect the tax and remit it to the town pursuant to the schedule set forth in this article.

(c) Distribution. Except as specified in this subsection, the town shall distribute all sales tax receipts first for costs of administration and collection of sales tax, next for the fulfillment of any sales tax bond covenants, and finally, for any lawful purpose of the town.

(d) The tax imposed in this section shall continue to be levied and collected until amended or repealed by ordinance.

(e) The tax imposed in this article shall be in addition to all other taxes imposed by law.

## Sec. 19-19 Tax schedule.

The sales tax imposed under this chapter shall be computed and collected in accordance with schedules, systems and regulations approved by the executive director of the Colorado Department of Revenue.

## Sec. 19-20 Transactions and items subject to tax.

(a) The tax levied by section 19-18(a) shall apply to the price of the following:

(1) Tangible personal property that is sold, leased, or rented, whether or not such property has been included in a previous taxable transaction.

(2) Telecommunications service, access services, and WATS/800 service.

(3) Installation in the town of equipment required to receive or transmit telecommunication service.

(4) Food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drug stores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carry-out shops and other like places of business at which prepared food or drink, prepared salads in salad bars, cold sandwiches, and deli trays are regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities and vending machines.

(5) Gas, electricity, and steam furnished for domestic, commercial, or industrial consumption.

(6) Pay television.

(7) Services of an operator when furnished with the lease or rental of tangible personal property if such services are not separately stated.

(8) Coin-operated devices that dispense tangible personal property.

(9) Security system and sound system services, whether purchased or leased.

(10) Linen services.

(11) Dry cleaning services.

(12) Automotive vehicles repair services.

(13) Meals sold to employees.

(14) Lodging services.

## Sec. 19-21 Exemptions from sales tax.

(a) The tax levied by section 19-18(a) shall not apply to the following:

(1) Automotive vehicles sold to non-residents of the town for registration outside the town.

(2) Tangible personal property when both of the following conditions exist:

a. The sales are to individuals who reside or businesses which are located outside the town, and

b. The articles purchased are delivered to the purchaser outside the town by common carrier or by the conveyance of the seller or by mail, and such articles delivered are used outside the town.

(3) The sale and purchase of medical supplies, prescription drugs for animals, and therapeutic devices.

(4) Cigarettes.

(5) All direct sales to charitable organizations in the conduct of their regular charitable functions and activities, when billed to and paid for by the charitable organization.

(6) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned or used by charitable organizations in the conduct of their regular charitable functions and activities.

(7) All direct sales to the United States Government, the State of Colorado, its departments or institutions, and the political subdivisions thereof in their governmental capacities only, when billed to and paid for by the governmental entity.

(8) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned or used by the United States Government, the State of Colorado, its departments and institutions, or the political subdivisions thereof, in their governmental capacities only.

(9) All sales which the town is prohibited from taxing under the Constitution or laws of the United States, or the Constitution or laws of the State of Colorado.

(10) All sales of construction and building materials to a common carrier by rail operating in interstate or foreign commerce for use by such common carrier in construction and maintenance of its railroad tracks.

(11) Motor fuel upon which there has been accrued or paid either the gasoline tax or special fuel tax, required by Article 27 of Title 39, C.R.S., and which is not subject to refund.

(12) Neat cattle, sheep, lambs, fish for stock purposes, swine and goats; mares and stallions for breeding purposes.

(13) Feed for livestock or poultry, seeds, and orchard trees when such products are to be used in the commercial production of livestock or crops.

(14) All wholesale sales.

(15) Tangible personal property sold to a person engaged in manufacturing or processing for sale when the product being manufactured or processed is transformed in fact by the addition of the property, and such property becomes a constituent part of the finished product.

(16) Exempt commercial packaging materials.

(17) Newsprint and printer's ink for use by publishers and commercial printers.

(18) Newspapers and pre-printed newspaper supplements which become attached to or inserted in and distributed with newspapers.

(19) Tangible personal property sold for rental or leasing inventory, including but not limited to coin-operated devices, provided that such property is not otherwise used except for customer demonstration or display.

(20) Labor sold with tangible personal property, if such labor is stated separately on the invoice from the tangible personal property sold; except that manufacturing or fabricating or other processing labor is never exempt.

(21) Construction materials, if the purchaser of such materials presents to the retailer a building permit which evidences that a use tax on such materials has been paid or is required to be paid to the town or a municipality.

(22) Tangible personal property sold through coin-operated devices for a price of fifteen cents (\$0.15) or less.

(23) The sale of food.

(24) All sales of aircraft used or purchased for use in interstate commerce by a commercial airline.

(25) Forty-eight (48) percent of the purchase price of factory-built housing, as such housing is defined in Section 24-32-703(3), C.R.S., shall be exempt from taxation under this article.

(26) The sale of recreation services.

(b) Reserved.

## Sec. 19-22 Exemption: burden of proof.

The burden of proving that any retailer is exempt from collecting or paying sales tax shall be on the retailer under such reasonable requirements of proof as the finance director may prescribe.

## Sec. 19-23 Deductions and credits.

(a) Deductions from gross sales. If included in reported gross sales, the following are deductible from gross sales:

(1) Refunds. The price of tangible personal property or taxable services returned by a purchaser when the price and the sales tax collected are refunded in cash or by credit.

(2) Bad debts charged off. Taxable sales which are represented by accounts not secured by conditional sales contract, rental purchase contract, or security interest, and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State of Colorado; provided, however, that if such amounts are thereafter collected by the taxpayers, a tax shall be paid on the amount so collected.

(3) Interest and finance charges. The amount of interest or finance charges on credit extended in connection with any sale, if the interest or finance charges are separately stated from the price.

(b) Credits from tax due:

(1) Vendor's fee: A retailer's collection and remittance expense equal to three and one-third (3 1/3) percent of the sum of the sales tax computed and any excess tax collected may be taken as a credit against sales tax paid on or before the due date. Such vendor's fee shall be forfeited for any sales tax that is not reported and paid by the due date. Forfeiture of the vendor's fee shall be prima facie evidence that the taxpayer was in violation of this article.

(2) Amounts previously paid pursuant to a tax levied by a municipality may be credited against the tax due on transactions or items other than construction materials as follows:

a. When the present owner or user has previously paid a legally imposed sales or use tax on the transaction or item; except that the amount of such credit shall not exceed the amount of tax on such transaction or item computed at the rate established by section 19-18(a).

b. When the present owner or user of construction equipment has not previously paid a legally imposed sales or use tax attributable to any

one municipality on the full price of such equipment, the credit shall be the aggregate value of all such taxes paid on such equipment up to the amount of tax due to the town on such equipment.

## Sec. 19-24 Credit sales.

(a) In the case of a sale upon credit, or a contract for sale where the price is paid in installments, and title does not pass until a future date, or a sale secured by a chattel mortgage or a conditional sale, there shall be paid upon each payment that portion of the total tax which the amount paid bears in relation to the total purchase price.

(b) If a retailer transfers, sells, assigns, or otherwise disposes of an account receivable, then he/she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a closely held subsidiary, as defined in section 19-17, shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time that the customer makes payment on said account.

## Sec. 19-25 Acquisition, inception or cessation of business.

(a) Acquisition of an existing business:

(1) Seller's responsibilities: Any person engaged in business in the town who sells such business shall file a final return. The reporting period shall end on the date of the transfer of ownership of the business.

(2) Purchaser's responsibilities:

a. Any person who purchases an existing business shall be responsible for determining whether there is any tax due from that business and shall withhold from the initial purchase payment an amount sufficient to cover all such tax due, unless the former owner produces a receipt from the town showing that all tax due has been paid or a certificate from the town that there is no tax due.

b. Any amount so withheld shall be paid to the town within ten (10) days of the date of the sale of the business.

c. Any purchaser who fails to withhold such tax due or fails to pay to the town the amount so withheld within the ten (10) day period allowed shall, as well as the seller, be liable for any unpaid tax due.

(b) Cessation of business: Every person engaged in business in the town who quits doing business in the town shall file a final return. The reporting period for such return shall end on the last day of business in the town.

## DIVISION 2. TAXPAYER'S RESPONSIBILITIES

### Sec. 19-26 Retailer responsible for collection and payment of tax.

Every retailer engaged in business in the town shall be liable and responsible for payment of an amount equivalent to the taxable sales multiplied by the rate established by section 19-18(a).

(1) Tax added to price. Retailers shall add the tax imposed, or the average equivalent thereof, to the price, showing such tax as a separate and distinct item. Except as provided in this subsection, no retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the sales tax or any part thereof shall be assumed or absorbed by the retailer, or that it will not be added to the price, or if added, that it or any part thereof shall be refunded.

a. Nothing herein contained shall be deemed to prohibit any retailer selling malt, vinous, or spirituous liquors by the drink from electing to include in his/her purchase price any tax levied under this section 19-18 (a).

b. Sales tax may be included in the price of items sold from coin-operated devices or the price of utilizing such devices.

(2) Tax constitutes debt. Any tax added to the price by a retailer shall constitute a debt from the purchaser to the retailer until paid and shall be recoverable at law in the same manner as other debts.

(3) Excess tax. No retailer shall retain any sales tax collected in excess of the tax computed, but shall report such excess collections on the return for the period in which it was collected and include it in the calculation of tax due.

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(4) Disputed tax. When a dispute arises between a retailer and a purchaser who claims that the sale is exempt from the tax, the retailer shall collect and the purchaser shall pay such tax. The purchaser may then submit a claim for refund to the town within sixty (60) days of the date of purchase. Any such tax refunded by the town will be paid directly to the purchaser.

(Ord. No. 88-8, § 1,9-20-88)

## **Sec. 19-27 Trust status of tax in possession of retailer.**

All sales tax collected by any retailer shall be the property of the town and remain public money in the hands of such retailer, who shall hold the same in trust for the sole use and benefit of the town until paid to the town.

## **Sec. 19-28 Filing returns: due date.**

(a) Every taxpayer shall file a return, whether or not tax is due, and remit any tax due to the town on or before the twentieth (20th) day of the month following the reporting period. Failure to receive a return does not relieve a taxpayer of its legal responsibility for filing a return on or before the due date.

(b) A retailer engaged in business in the town at two or more locations, whether inside or outside the town, who collects sales tax, may file one (1) return for all such locations, when accompanied by a supplemental schedule showing the gross sales and net taxable sales for each location.

(c) For good cause shown in a written request of a taxpayer, the finance director may extend the time for making returns and paying tax due.

(d) No person shall make any false statement in connection with a return.

## **Sec. 19-29 Reporting periods.**

(a) Unless otherwise approved, taxpayers must file returns and pay tax as follows:

(1) Upon approval of the finance director, a taxpayer whose monthly tax is less than ten dollars (\$10.00) may file returns and pay tax annually, semi-annually, quarterly, or monthly.

(2) Upon approval of the finance director, a taxpayer whose monthly tax due is less than twenty dollars (\$20.00) may file returns and pay tax semi-annually, quarterly, or monthly.

(3) Upon approval of the finance director, a taxpayer whose monthly tax due is less than forty dollars (\$40.00) may file returns and pay tax quarterly or monthly.

(4) A taxpayer whose monthly tax due is forty dollars (\$40.00) or more shall file returns and pay tax monthly.

(b) The reporting period for a final return shall end on the date of the transfer of ownership or cessation of the business.

(c) The reporting period for a vendor selling tangible personal property at a temporary location or special event inside the town shall end on the day the temporary location closes or special event concludes.

(d) If any taxpayer who has been granted permission to file returns and pay tax on other than a monthly basis becomes delinquent, authorization for such alternate method of reporting may be revoked by the finance director and immediately following notice of such revocation, the taxpayer shall file returns and pay tax on a monthly basis as if the alternate method of reporting and paying the tax had never been granted.

## **Sec. 19-30 Duty to keep books and records.**

(a) Every person engaged in business in the town shall keep and preserve for at least three (3) years after the date of the taxable transaction suitable records which will allow the accurate determination of the tax due.

(b) Every person shall provide all such records for audit by the town during normal business hours.

## **DIVISION 3. LICENSING**

### **Sec. 19-31 License required.**

(a) Except as provided in this section, any person engaged in business in the town must first obtain a sales tax license.

(1) No sales tax license shall be required for any governmental agency or charitable organization which is exempt from the sales tax under this article.

(b) When business is transacted by one (1) person at two (2) or more separate locations inside the town, a separate license for each place of business shall be required.

### **Sec. 19-32 License: application and content.**

(a) Persons for whom a license is required shall first submit to the town an application stating the name and address of the person requesting such license; the name of the business being licensed and the character thereof; the location, including the street number of such business; and such other information as may be required by the finance director.

(b) Licenses which are granted shall be issued without fee by the town on January 1st of each year.

(c) Licenses shall be in effect for one (1) year and shall be renewed upon renewal of the general business license or upon completion of a license renewal request.

(d) Each license shall be numbered and shall show the name, location, mailing address, and character of business of the licensee and shall be posted in a conspicuous place at the business location for which it is issued.

(e) No license shall be transferable. After any sale of a business, the new owner shall apply for a new license.

### **Sec. 19-33 License cancellation or revocation.**

(a) Cancellation. The finance director may cancel any license:

(1) Upon receipt of a written notice that he/she taxpayer is no longer engaged in business in the town.

(2) Upon the taxpayer's failure to respond to three (3) consecutive notices of delinquency. The finance director shall give notice to the taxpayer that the license has been cancelled.

(b) Revocation. The finance director may, after a reasonable notice and after a full hearing, issue a finding and order to revoke the license of any person found to have violated any provision of this article.

(c) Appeal. Any person may appeal a finding and order revoking their license in district court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(d) No taxpayer shall continue engaging in business in the town after his/her license has been cancelled or revoked.

## **DIVISION 4. ADMINISTRATION**

### **Sec. 19-34 Authority of the finance director.**

The administration of this article is hereby vested in the finance director.

(1) Forms and procedures. The finance director shall prescribe forms and administrative procedures for the ascertainment, assessment, and collection of the tax.

(2) Regulations. The finance director may formulate and promulgate, after hearing, appropriate regulations to effectuate the purpose of this article.

(3) Additional information. The finance director may require any person to make additional returns, render statements, furnish records, or make informational reports to determine whether or not such person is liable for payment or collection of the tax.

(4) Subpoenas. The finance director may issue a subpoena to command a person to attend and give testimony or to produce books, accounts, and records.

a. Any subpoena issued under this article shall be served as set forth in the Colorado Rules of Civil Procedure, including the payment of witness fees. When the witness is subpoenaed at the insistence of the town, such fees shall be paid by the town. When a witness is subpoenaed at the insistence of the taxpayer, the finance director may require that the cost of service of the subpoena and the fee be paid by the taxpayer. In the discretion of the finance director, a deposit to cover the cost of the subpoena and witness fees may be required.

b. If a subpoena issued by the finance director is duly served and the respondent fails to attend, give testimony, or to produce books, accounts, and records as commanded, the finance director may request the town attorney to file a motion with the municipal court of the town for an order enforcing the subpoena.

(5) Oaths. The finance director is authorized to administer oaths and take testimony at the hearing.

(6) Agents. The finance director may designate agents to assist in the performance of the duties and responsibilities set forth in this article.

(7) Partial payments. The finance director may accept any partial payment made and apply such payments towards the tax due. Deposit of such

payments shall not in any way imply that the remaining balance is or has been abated.

(8) Notices. Notices required by this article shall be in writing and delivered in person or sent postage paid by first class mail to the last known address of the taxpayer.

### **Sec. 19-35 Audit of records.**

(a) For the purpose of ascertaining the correct amount of tax due from any person engaged in business in the town the finance director may authorize an agent to conduct an audit by examining any relevant books, accounts, and records of such person.

(b) All books, accounts, and records shall be open at any time during regular business hours for examination by an authorized agent of the finance director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested by the finance director or authorized agent, the finance director may issue a subpoena to require that the taxpayer or his/her representative attend a hearing or produce any such books, accounts, and records for examination.

(c) Any tax deficiency or overpayment ascertained through audit shall be computed by one or more of the following methods as the finance director deems appropriate:

(1) By comparing the tax reported and paid on returns to the actual tax due.

(2) By identifying transactions on which the tax was not properly or accurately collected or paid.

(3) By identifying other irregularities in the calculation of tax due.

(d) Any charitable organization claiming exemption under the provisions of this article is subject to audit in the same manner as any other person engaged in business in the town.

### **Sec. 19-35.5 Coordinated audit.**

(a) Any taxpayer licensed in this town pursuant to section 9-31 and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.

(b) Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the finance director of this town, by certified mail, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time based limitation upon this town's right to recover tax owed by the taxpayer for the audit period.

(c) Except as provided in subsection 19-35.5(g), any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of section 19-59 may be audited by this town during the twelve (12) months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) If this town desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to subsection (c), the finance director shall so notify the finance director of the municipality whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the taxpayer's request for a coordinated audit. The finance director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this town, this town's finance director shall facilitate arrangements between this town and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The

finance director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this town, the town's finance director shall, once arrangements for the coordinated audit between the town and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited, and the records most likely to be required by the participating municipalities for completion of the coordinated audit. The finance director shall also propose a schedule for the coordinated audit.

(g) The coordinated audit procedure set forth in this section shall not apply:

(1) When the proposed audit is a jeopardy audit;

(2) To audits for which a notice of audit was given prior to the effective date of this section;

(3) When a taxpayer refuses to promptly sign a waiver of section 19-54; or

(4) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in subsection (b).

### **Sec. 19-36 Tax information confidential.**

All specific information gained under the provisions of this article which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the town and its officers, employees, or legal representatives as confidential.

(1) Except as directed by judicial order or as provided in this section, no town officer, employee, or legal representative shall divulge any confidential information.

a. Nothing contained in this section shall be construed to prohibit the delivery to a taxpayer or his/her duly authorized representative of a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the town.

(2) If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information that is directly involved in the action or proceeding.

### **Sec. 19-37 Timely payment: computation of dates.**

(a) Timely payment shall be evidenced by the postmark date if mailed; otherwise, timely payment shall be evidenced by the town receipt.

(b) Any due date, payment date, or deadline for paying tax due, providing information, or taking other action, which falls on a Saturday, Sunday or legal holiday recognized by either the federal government or State of Colorado shall be extended to the first business day following such weekend or holiday.

## **DIVISION 5. TAX OVERPAYMENTS**

### **Sec. 19-38 Overpayment from returns.**

If the amount remitted with the return is more than the tax due as computed from information in such return, the taxpayer shall be notified.

(1) If the overpayment is at least fifteen dollars (\$15.00), a notice of overpayment will be issued. After examining such notice, the taxpayer may either submit a claim for refund or report the correct tax due by filing an amended return. No refund of such overpayment shall be paid unless a signed claim for refund is submitted on or before the thirtieth (30th) day after the date of notice of overpayment.

(2) If the overpayment is less than fifteen dollars (\$15.00), it shall be credited to the tax due for the next reporting period.

### **Sec. 19-39 Tax overpayment determined through audit.**

If the town ascertains through an audit of a taxpayer's records that the tax due is less than the full amount

paid, a notice of overpayment shall be issued. Such notice will serve as documentation for a claim for refund, if such claim is signed and submitted by the taxpayer within thirty (30) days of the date of the notice of overpayment.

### **Sec. 19-40 Refunds of disputed tax.**

Refunds of tax paid to a retailer by a purchaser who claims that the sale is exempt from the tax may be requested by such purchaser by signing and submitting a claim for refund on or before sixty (60) days from the date of such purchase.

### **Sec. 19-41 Claim for refund.**

No tax overpayment except as provided in section 19-38(2) shall be refunded unless a claim for refund is signed and submitted to the town by the taxpayer.

(1) Application. An application for refund of tax shall:

a. Be made on a claim for refund form furnished by the town.

b. Be signed by the taxpayer.

c. Include adequate documentation of the claim.

(2) The finance director shall examine the claim for refund and give written notice to the taxpayer of the amount to be refunded or denied.

(3) Refunds not assignable. The right of any person to obtain a refund pursuant to this article shall not be assignable.

(4) No person shall make any false statement in connection with a claim for refund.

### **Sec. 19-41.5 Intercity claims for recovery.**

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales and use taxes to the town.

(a) As used herein, "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

(b) When it is determined by the director of finance of the town that sales and use tax owed to the town has been reported and paid to another municipality, the town shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(c) The town may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the town or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the town. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part the claim within ninety (90) days of its receipt. The municipality to which the town submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the town shall not be unreasonably withheld.

(d) Within ninety (90) days after receipt of a claim for recovery, the town shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the town shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

(e) The town may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

(f) The period subject to a claim for recovery shall be limited to the thirty-six (36) month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. No. 91-4, § 7, 12-3-91)

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## **DIVISION 6. TAX DEFICIENCIES** **Sec. 19-42 Underpayments from returns.**

If the amount remitted with a return is less than the tax computed from information in such return, the taxpayer shall be notified.

(1) If the underpayment is at least fifteen dollars (\$15.00), a notice of assessment shall be issued.

(2) If the underpayment is less than fifteen dollars (\$15.00), it shall be added to the tax due for the next reporting period.

## **Sec. 19-43 Tax deficiencies from failure to file.**

(a) If any taxpayer neglects or refuses to obtain a license, the amount of tax due shall be estimated, based upon such information as may be available, and a notice of assessment shall be issued.

(b) If any taxpayer neglects or refuses to file a return by the due date, the tax due shall be estimated, based upon such information as may be available, and a notice of assessment shall be issued.

(c) Estimated tax due shall be adjusted if a return reporting actual tax due is filed on or before the payment date of the notice of assessment.

## **Sec. 19-44 Tax deficiencies determined through audit.**

If the town ascertains through an audit of the taxpayer's records that the tax due has not been fully reported or paid by the applicable due date, a notice of assessment shall be issued.

## **Sec. 19-45 Penalties.**

(a) Penalty for late payment. A penalty shall be levied upon any tax deficiency. For transactions consummated on or after January 1, 1989, such penalty shall be fifteen dollars (\$15.00) or ten (10) percent of the tax deficiency, whichever is greater, plus one-half percent per month from the date when due, not exceeding eighteen (18) percent in the aggregate.

(b) Penalty for fraud. If any tax deficiency is due to fraud or the intent to evade the tax, the penalty shall be one hundred (100) percent of the total tax deficiency.

(c) Abatement of penalty. Any penalty assessed in this section may be abated by the finance director if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the finance director finds good cause therefor.

## **Sec. 19-46 Interest.**

Interest shall be levied on any tax deficiency.

(1) Interest shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid. For transactions consummated on or after January 1, 1989, the monthly interest rate shall be at a rate determined by the commissioner of banking pursuant to section 39-21-110.5, C.R.S.

(2) When a timely protest is made to a notice of assessment, no additional interest shall be assessed on any tax upheld by the finance director for the period between the due date of such assessment and the payment date established in an informal meeting or thirty (30) days after the date of a findings of fact, conclusion, and decision issued after a hearing.

(3) Interest properly assessed on any tax deficiency shall not be abated.

## **Sec. 19-47 Notice of assessment.**

The finance director or specifically authorized agent shall issue a notice of assessment for any tax deficiency, penalties, or interest due.

(1) Notices of assessment shall be in writing and delivered in person or sent postpaid by first class mail, to the last known address of the taxpayer.

(2) The payment due date for the tax due pursuant to a notice of assessment shall be twenty-one (21) days after the date of the notice of assessment.

(3) The finance director may abate a portion of any tax deficiency if the finance director finds good cause therefor.

## **DIVISION 7. TAXPAYER'S REMEDIES** **Sec. 19-48 Protest of notice of assessment or denial of refund.**

(a) Any notice of assessment may be protested by the taxpayer to whom it is issued.

(1) A protest of a notice of assessment issued to a vendor or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing, to the finance director within

twenty (20) calendar days from the date of the notice of assessment. Any such protest shall identify the amount of tax disputed and the basis for the protest.

(2) When a timely protest is made, no further enforcement action will be instituted by the town for the portion of the assessment being protested unless the taxpayer fails to pursue the protest in a timely manner.

(b) Any denial of a claim for refund may be protested by the taxpayer who submitted the claim.

(1) A protest of a denial or a refund shall be submitted in writing to the finance director within twenty (20) calendar days from the date of the denial of the refund and shall identify the amount of the refund requested and the basis for the protest.

(2) Reserved.

(c) Any timely protest entitles a taxpayer to a hearing under the provisions of this article.

(1) If, in the opinion of the finance director, the issues involved in such protest are not a matter of interpretation or may be resolved administratively, the finance director may recommend an informal meeting with the taxpayer.

(2) Participation in such an informal meeting does not prevent either the taxpayer or the town from holding a hearing if the dispute cannot be resolved by such meeting.

## **Sec. 19-49 Hearings.**

(a) The town shall commence a hearing within ninety (90) days after the town's receipt of the taxpayer's written protest; except the town may extend such period if the delay is requested by the taxpayer. The finance director shall notify the taxpayer in writing of the time and place of such hearing.

(b) Every hearing shall be held in the town before the finance director.

(c) The taxpayer may assert any facts, make any arguments, and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required.

(d) Based on the evidence presented at the hearing, the finance director shall issue a findings of fact, conclusions, and decision which may modify or abate in full the tax, penalties, and interest protested at the hearing, approve a refund, or uphold the assessment.

(e) After such hearing, the taxpayer shall not be entitled to a second hearing on the same notice of assessment or denial of refund.

(f) Unless the decision of the finance director is appealed as provided in this article, the remaining tax due, if any, shall be paid on or before thirty (30) days after the date of the findings of fact, conclusions, and decision.

## **Sec. 19-50 Appeals.**

(a) Subsequent to a hearing the taxpayer may appeal the decision of the finance director in district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(b) Upon appeal to the district court, the taxpayer shall either file with the finance director a bond for twice the unpaid amount or deposit the unpaid amount with the finance director.

(c) An appeal of a final decision of the finance director in a hearing held pursuant to section 19-49 shall be commenced within thirty (30) days of such decision.

## **DIVISION 8. ENFORCEMENT**

### **Sec. 19-51 Lien for tax due.**

(a) Issuance. If any tax due is not paid by the payment date of a notice of assessment, the finance director may issue a notice of lien on the real and personal property of the taxpayer. Such lien shall specify the name of the taxpayer, the tax due, the date of the accrual thereof, and the location of the property, and shall be certified by the finance director.

(b) Filing. The notice of lien shall be filed in the office of the clerk and recorder of any county in Colorado in which the real or personal property of the taxpayer is located. Such filing shall create a lien on such property in that county and constitute a notice thereof.

(c) Priority. The attachment and priority of such lien shall be as follows:

(1) Such lien shall be a first and prior lien upon the goods and business fixtures owned or used by any tax-payer, including those used under lease, installment sale, or other contract agreement, and shall take precedence on all such property over all other liens or claims of whatsoever kind or nature.

(2) Such lien on the real and

tangible personal property of the taxpayer that is not goods, stock in trade, and business fixtures shall be a first and prior lien except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached and been perfected prior to the filing of the notice of lien.

(3) The personal property of an owner who has made a bona fide lease to a taxpayer shall be exempt from the lien created in this subsection if such property can reasonably be identified from the lease description and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the county clerk and recorder of the county where the property is located or based.

(4) Motor vehicles which are properly registered in this state, showing the lessor as owner thereof, shall be exempt from such lien except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed the fair market value, or similar interest which is or may be credited to the lessee.

(5) Where a lessor and lessee are blood relatives or relatives by law or have twenty-five (25) percent or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for purposes of this section.

(d) Enforcement against real property. If a notice of lien is filed against real property, the finance director may direct the town attorney to file a civil action to enforce such lien. The court may determine the interest in the property of each party, decree a sale of the real property, and distribute the proceeds according to such findings. Procedure for the action and the manner of sale, the period for and manner of redemption from the sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

### **Sec. 19-52 Performance of lien.**

(a) Any lien for tax due shall continue until a release of lien is filed by the finance director.

(b) Any person who purchases or repossesses real or personal property upon which a lien has been filed by the finance director for tax due shall be liable for the payment of such tax due up to the value of the property taken or acquired.

### **Sec. 19-53 Release of lien.**

Upon payment of the tax due or enforcement of the lien, the finance director shall file a release of lien with the county clerk and recorder of the county in which the lien was filed.

### **Sec. 19-54 Civil action to recover tax due.**

(a) Any unpaid tax due shall constitute a debt of the taxpayer to the town, and the finance director may direct the town attorney to file a civil action to collect such tax due.

(b) The return filed by a taxpayer or the notice of assessment issued by the finance director shall be prima facie proof of the tax due.

(c) If a judgment is obtained by the town, collection of the tax due may be made by attachment, garnishment or other means established by law. When attachment is sought no bond shall be required of the finance director, nor shall any sheriff required of the finance director an indemnity bond for executing the writ of attachment or writ of execution upon any judgment.

### **Sec. 19-55 Jeopardy assessment.**

(a) Issuance. If the collection of any tax due from a taxpayer, whether or not previously assessed, will be jeopardized by delay, the town manager may declare the taxable period immediately terminated, order the finance director to determine the tax, and issue a jeopardy assessment and demand for payment. Any tax so assessed shall be due and payable immediately.

(b) Security for payment. Enforcement of a jeopardy assessment and demand for payment may be stayed if the taxpayer gives security for payment which is satisfactory to the town manager.

(c) Dispute of jeopardy assessment. If, in the opinion of the taxpayer, the jeopardy assessment is not for the

correct amount of tax due, the taxpayer shall pay the tax due as assessed and submit a claim for refund to the town.

### **Sec. 19-56 Distraint and sale.**

(a) Unless such property is exempt by state statutes from distraint and sale, the town manager may sign and issue a warrant directed to any employee or agent of the town, or any sheriff of any county in Colorado, commanding the distraint and sale of personal property of the taxpayer on which a lien has attached for the payment of the tax due.

(1) Such warrant may be issued if the tax due is not paid on or before twenty-one (21) days from the payment date of a notice of assessment and no protest of such assessment has been timely filed.

(2) Such warrant may be issued immediately if a jeopardy assessment and demand for payment has been issued.

(b) If the taxpayer does not volunteer entry to the premises, the town manager may apply to the municipal court of the town for a warrant authorizing any employee or agent of the town to search for and distraint property located inside the town to enforce the collection of tax due.

(1) The town manager shall demonstrate to the court that the premises to which entry is sought contains property that is subject to distraint and sale for tax due.

(2) If a jeopardy assessment and demand for payment has been issued, the town manager shall specify to the court why collection of the tax will be jeopardized.

(3) The procedures to be followed in issuing and executing a warrant pursuant to this subsection shall comply with Rule 241 of the Colorado Municipal Court Rules of Procedure.

### **(c) Disposal of Distrainted Property:**

(1) A signed inventory of the property distrainted shall be made by the town or its agent. Prior to the sale the owner or possessor shall be served with a copy of said inventory, a notice of the sum of the tax due and related expenses incurred to date, and the time and place of sale.

(2) A notice of the time and place of the sale, together with a description of the property to be sold, shall be published in a newspaper of general circulation within the county where distraint is made or, in lieu thereof and in the discretion of the finance director, the notice shall be posted at the courthouse of the county where distraint is made, and in at least two (2) other places within such county.

(3) The time fixed for the sale shall not be less than ten (10) days nor more than sixty (60) days from the date of distraint. The sale may be postponed by the town or agent for no more than ninety (90) days from the date originally fixed for the sale.

(4) The property shall be sold at public auction for not less than a fair minimum price, and if the amount bid for the property is less than the fair minimum price so fixed, the property may be declared to be purchased by the town and the town shall file a release of lien thereof. If the property is purchased by the town such property may be disposed of in the same manner as other town property and the lien thereon shall be released.

(5) The property may be offered first by bulk bid, then subsequently for bid singularly or by lots, and the town or its agent may accept the higher bid.

(6) The property offered for sale may be redeemed if the owner or possessor or other person holding an unperfected chattel mortgage or other right of possession, pays the tax due and all collection costs no less than twenty-four (24) hours before the sale.

(7) The town or its agent shall issue to each purchaser a certificate of sale which shall be prima facie evidence of its right to make the sale and transfer to the purchaser all right, title, and interest of the taxpayer in and to the property sold.

a. When the property sold consists of certificates of stock, the certificate of sale shall be notice to any corporation, company, or association to record the transfer on its books and records.

b. When the property sold consists of securities or other evidence of debt, the certificate of sale shall be good and valid evidence of title.

(8) Any surplus remaining after satisfaction of the tax due plus any costs of making the distraint and advertising the

sale, may be distributed by the town first to other jurisdictions which have filed liens or claims of sales and use or personal property ad valorem taxes, and second to the owner, or such other person having a legal right thereto.

(9) The finance director shall submit a written account of the sale to the town manager.

(d) Exempt property. Property of the taxpayer subject to distraint shall include the personal property of the taxpayer and the goods, stock in trade and business fixtures owned or used by any taxpayer including those used under lease, installment sale, or other contract arrangement. Property exempt from distraint and sale shall include the personal property described as such in section 19-51(c).

(e) Return of the property. The taxpayer or any person who claims an ownership interest or right of possession in the distraint property may petition the town manager, or the municipal court if the property was seized pursuant to warrant issued by the court, for return of the property.

(1) The grounds for return of the property shall be that the person has a perfected interest in such property which is superior to the town's interest or that the property is exempt from the town's lien.

(2) The factfinder shall receive evidence on any issue of fact necessary to the decision of the petition. If the factfinder determines by a preponderance of the evidence in favor of the taxpayer or other petitioner, the property shall be returned.

### **Sec. 19-57 Status of tax due in bankruptcy and receivership.**

Whenever the business or property of any taxpayer is subject to receivership, bankruptcy or assignment for the benefit of creditors, or distrainted for property taxes, all tax due shall be a prior and preferred lien against all the property of the taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any such taxpayer under process or order of the finance director the amount of tax due. The officer shall pay any tax due before making payment to any judgment creditor or other claimants.

### **Sec. 19-58 Violations: summons and complaints: penalty.**

(a) It shall be a violation of this article to fail to perform any applicable affirmative duty specified in this article including, but not limited to:

(1) The failure of any person engaged in business in the town to obtain a license.

(2) The failure of any taxpayer to file a timely return or to make timely payment of any tax due.

(3) The making of any false or fraudulent statement by any person in any return, claim for refund, or hearing.

(4) The evasion of collection of any sales tax by any person or the aiding or abetting of any other person in an attempt to evade the timely payment of tax due.

(b) The finance director may direct the issuance of a complaint and summons to appear before the municipal court of the town to any person who may be in violation of this article or of the rules and regulations promulgated by the finance director to enforce this article.

(c) Violations of this article shall be punished by a fine or imprisonment or both pursuant to the limits established in section 1-14 of this Code. Each and every twenty-four-hour continuation of any violation shall constitute a distinct and separate offense.

### **Sec. 19-59 Statute of limitations.**

Unless the limitation period has been extended as provided in this section, the statute of limitations for provisions contained in this chapter shall be as follows:

(1) Refunds:

a. Any claim for refund for disputed tax shall be submitted to the town on or before sixty (60) days from the date of such purchase.

b. Any claim for refund resulting from a notice of overpayment shall be submitted to the town on or before thirty (30) days after the date of such notice of overpayment.

c. Any other claim for refund shall be filed on or before three (3) years after the date such overpayment was paid to the town.

(2) Assessments: No notice of assessment shall be issued more than three (3) years after the due date of such tax due.

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# Legals

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(3) Liens: No notice of lien shall be issued more than three (3) years after the due date of the tax due. If the limitation period is extended, a notice of lien may be filed on or before thirty (30) days from the date of the notice of assessment issued for such extended period.

(4) Returns:

a. When a taxpayer fails or refuses to file a return, the tax due may be assessed and collected at any time.

b. In the case of a false or fraudulent return filed with intent to evade tax, the tax due may be assessed, or proceedings for the collection of such tax due may be begun at any time.

(5) Protests: No protest of a notice of assessment or denial of a claim for refund shall be valid if submitted to the finance director in other than written form or after the period allowed in this article.

(6) The period of limitation may be extended before its expiration.

a. The taxpayer and the finance director may agree in writing to extend the period.

b. If the town provides written notice to the taxpayer prior to the expiration of the period of the period limitation that the latter's records will be audited pursuant to this article, such period of limitation shall be extended for the audit period until thirty (30) days after the date of the notice of assessment or notice of overpayment issued as a result of such audit. "Audit period" is the thirty-six (36) month reporting period preceding the date of the notice of audit.

(7) Performance of an audit does not constitute a statute of limitations or preclude additional audits of the same period within the parameters of this section.

## **Sec. 19-60 Notice of sales and use tax ordinance amendment.**

(a) In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the finance director of the town shall file with the Colorado Municipal League prior to the effective date of this section a copy of the town sales and use tax ordinance reflecting all provisions in effect on the effective date of this section.

(b) In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the finance director of the town shall file with the Colorado Municipal League prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the town.

(c) Failure of the town to file such ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto.

## **Sec. 19-60.5 Participation in simplification meetings.**

The finance director shall cooperate with and participate on an as-needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League which is composed of state and municipal sales and use tax officials and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise.

## **ARTICLE III. BUSINESS AND OCCUPATIONAL LICENSE TAX**

### **Sec. 19-70 Definitions.**

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given herein:

**Accommodation unit** shall mean any room or group of rooms with or without full kitchen facilities designed for or adapted to occupancy by guests, available for short-term rental by an individual or group of individuals which is intended to be rented on a short-term basis. Included within this definition are hotels, bed and breakfast establishments, condominiums, duplexes and single or multi-family residences.

**Advertisement** shall mean a non-personal marketing communication to promote the rental of an accommodation unit. This includes paid and non-paid forms of marketing, including print (e.g., mailings, brochures) and electronic means (e.g., Internet listings, blogs, e-mail, social media sites).

**Business** shall mean all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters,

together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the town or anywhere else within its jurisdiction.

**Business licensee or licensee** shall mean any person holding a valid business and occupational license issued by the town under this article.

**Employee** shall mean any person receiving compensation from a business subject to the provisions of this article subject only to the following: Any person who works twenty (20) hours or more per week is considered a full-time employee. Any combination of persons who together work twenty (20) hours or more per week are counted as one (1) full-time employee for each increment of twenty (20) hours, or fraction thereof, worked per week; an employee includes an owner, manager, partner, associate or proprietor who works for and receives compensation from his/her business; and, further, includes commissioned agents or independent contractors performing services for the business on more than a temporary basis.

**Peddler** shall mean a person who engages in a temporary business of selling and/or delivering wares or merchandise within the town.

**Person** shall mean individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations, or any officers, agents, employees, factors or any kinds of personal representatives of any other person, under either personal appointment or pursuant to law.

**Premises** shall mean all lands, structures, places and also the equipment and appurtenances connected or used therewith, in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business connected on such premises.

**Town license officer or license officer** shall mean the town manager of the town.

**Vendor** shall mean any established business not having an operating location within the town at any time during the calendar year, but which otherwise does business within the town.

(1) A seasonal vendor is a vendor doing business within the town during part of the calendar year, not exceeding four (4) calendar months, which months need not be consecutive.

(2) A regular vendor is a vendor doing business within the town in excess of four (4) calendar months within each calendar year, which months need not be consecutive.

### **Sec. 19-71 Purpose.**

The purpose of this article shall be to require the licensing and regulation of business activities, occupations and enterprises conducted within the town and provide the town with necessary information relating to businesses and professions operating within the town in order to protect the health, welfare and safety of its inhabitants, and to generate and raise additional revenues for the town for the purpose of marketing and promoting the town and its environs as a year-round resort, and to promote and market activities and events beneficial to the business community.

### **Sec. 19-72 Double taxation not intended.**

It is the express intent of this article that there be no double taxation of businesses operating in both the Town of Mt. Crested Butte and the Town of Crested Butte. Toward that end, any applicant under this article who has paid the full applicable fee under this article for such business in the Town of Crested Butte shall upon presentation to the town of a paid receipt for such business and occupational license tax issued by the Town of Crested Butte, and payment of an additional fee to the town of twenty-five dollars (\$25.00) for the payment of reasonable costs incurred in the administration of the application and issuance of the subject license, and full compliance with sections 19-6 through 19-11, be entitled to a full business and occupational license under this article.

### **Sec. 19-73 Exemptions from license requirement.**

(a) The provisions of this article shall not be deemed or construed to require the procurement of a license to conduct, manage or carry on any business, occupation or activity, or require the payment of any license from any institution or organization which is conducted, managed or carried on wholly for the

benefit of charitable, municipal or public purposes from which profit is not derived, either directly or indirectly, by any individual, firm or corporation.

(b) No license shall be required for the conducting of any entertainment, dance, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects, whenever the entire receipts from the same are to be appropriated to, or such projects are conducted under the auspices of, any church or school, or any religious, nonprofit or benevolent organization.

(c) No license shall be required for the conducting of any entertainment, dance, concert, exhibition or lecture, whenever the receipts from the same are to be appropriated for the purposes and objects for which such association or organization was formed and from which profit is not derived, either directly or indirectly, by any individual, firm or corporation.

### **Sec. 19-74 Persons subject to license.**

A license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, and a person shall be subject to the requirement if by him or herself or through an agent, employee or partner he or she holds him or herself forth as being engaged in such business or occupation; or solicits patronage therefor, or performs or attempts to perform any part of such business or occupation in the town, including the delivery of goods or services within the town which are purchased or contracted for outside of the corporate limits of the town. Advertisement of an accommodation unit that is located within the town is considered engaging in a business activity within the town. It shall be unlawful for any person to conduct business within the town without having first obtained a business and occupational license under this article.

### **Sec. 19-75 Application for license.**

(a) Applications for all licenses required by this article shall be made in writing to the town manager or town in the absence of provisions to the contrary. An application shall be made, and a license shall be required, for each separate location within the town at which the applicant conducts a business; provided, however, that any person that operates a group or combination of businesses which support the applicant's primary business or are closely related thereto need only obtain one (1) license under this article, the application for which shall state the primary business and its location, and identify all supporting or related businesses and their locations. In such event, the applicant shall be given duplicate copies of his/her business license, a copy of which shall be prominently displayed at each location.

(b) Each application shall state the full name of the applicant, the type of license desired, the type of business for which the license is to be issued, the state sales tax license number for such applicant for such business or other state license numbers if applicable, the specific location to be used by the applicant for such business, the license period requested to be covered by the license and the fee to be paid. Further, each application shall contain such additional information as may be needed for the proper guidance of the town officials in the issuing of the permit or license applied for.

(c) If the applicant for a license under this article for the operation of a business involving the placement of vending machines, washing machines, video games or other such machines in and about the town leases space for each such machine or machines in various locations throughout the town, with the permission of the owner or lessee thereof, and performs no business at such locations other than servicing such machines, then applicant need obtain only one (1) business license under this article, which application shall specify the locations where such machines are located.

### **Sec. 19-76 Forms for licenses.**

Forms for all licenses and applications therefor shall be prepared and kept on file by the town. All license applications shall be made upon such forms as are prescribed by the town.

### **Sec. 19-77 Signatures on licenses.**

Each license issued shall bear the signatures of the mayor and the town in the absence of any provision to the contrary. The mayor may authorize in writing that his or her signature may be

affixed by the town manager by facsimile, rubber stamp or other method.

### **Sec. 19-78 Investigations prior to issuance of license.**

Upon receipt of an application for a license, the town may require an investigation or inspection before the issuance of such license and, if so required, the town shall refer such application to the proper officer or person for making such investigation within forty-eight (48) hours of the time of such receipt. The town shall require that an inspection be made by the state health officer in regard to such licenses in the connection of the care and handling of food, for the protection of health, the spread of disease and the preventing of nuisances; the town building official shall make or cause to be made any appropriate inspection relative to the construction of buildings or other structures, and to determine whether the use of the requested premises for the requested business is a proper use for the zoning district in which the building or structure lies. If the operation of such business requires a license from the state or any other governmental entity, an investigation will be made with such entity to assure the town that the applicant has the appropriate licenses in order to carry on such business; and if the town feels that a history or background check should be performed upon the applicant or his or her business, such investigation shall be made by the chief of police, or by some other officer designated by the town manager.

### **Sec. 19-79 Buildings, premises to comply with town requirements prior to issuance of license.**

No license shall be issued for the conduct of any business, and no permit shall be issued for any thing, or act, if the premises and building to be used for the purpose do not fully comply with the requirements of the town. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning provisions of the town.

### **Sec. 19-80 Duty of licensee to permit inspection of premises, books, records; provide samples for analysis.**

(a) Whenever inspection of the premises or of the books and records used for or in connection with the operation of a licensed business or occupation are provided for or required by this article, or are reasonably necessary to secure compliance with any provision of this article or to detect violations of this article, it shall be the duty of the licensee, or the person in charge of the premises or of the books and records to be inspected, to admit or permit access thereto, for the purpose of making the inspection of such premises or to inspect such books and records, any officer or employee of the town who is authorized or directed to make such inspection at any reasonable time that admission or access is requested. Any inspection of books and records shall be limited to that necessary to determine compliance with a licensee's affidavit relating to his/her number of accommodation spaces or employees.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this article or to detect violations of this article, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the town requesting the same sufficient samples of such material or commodity for such analysis upon request.

### **Sec. 19-81 Fees—Levied: amount.**

A business and occupational license tax is hereby levied upon every person doing business within the town according to the following schedule:

(1) Accommodation Unit. Each accommodation unit shall pay ten dollars (\$10.00) per annum for each accommodation unit. Each unit applicant shall advise the town, by affidavit, under oath, at the time of application under this article, of the number of accommodation units applicant had for the prior year and the number of such accommodation units applicant intends to have for the present year. The fees payable under this subsection shall be based upon the number of accommodations set forth for the current year in such affidavit.

(2) Vendors. Each regular vendor shall pay two hundred dollars (\$200.00) per annum. Each seasonal vendor shall pay one hundred dollars (\$100.00) per annum.

(3) Peddlers. Each peddler shall be

charged a fee of five dollars (\$5.00) per day, with a maximum number of ten (10) licensed days per calendar year.

(4) Other business. All other businesses and persons subject to this article shall pay on the basis of the number of employees of such business at each business location within the town, as follows:

Number of employees	Annual license fee
0-2	\$100.00
3-7	275.00
8-15	475.00
16-24	1,000.00
25 and over	1,500.00

The applicant shall advise the town, by affidavit, under oath, at the time of application under this article, of the total number of full-time and part-time employees applicant had for the subject business for the prior year, and the number of such employees applicant intends to have for the present year. The fees payable under this subsection shall be based upon the number of employees set forth for the current year in such affidavit. The affidavit shall be based on the average number of employees employed during the months of operation.

### **Sec. 19-82 Same—Payment; exemption.**

In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the town. Persons subject to this article of the age of seventeen (17) years or less are excluded from the payment of fees.

### **Sec. 19-83 Delinquent charges.**

Pursuant to C.R.S. section 31-20-101, et seq., the town may cause any delinquent charges or fees made or levied under this article to be certified to the county treasurer, to be collected and paid over by the treasurer in the same manner as real or personal property taxes, including the provisions for the creation of a lien upon the subject property.

### **Sec. 19-84 Recovery of costs of enforcement.**

(a) If it is necessary for the town to take action for the enforcement of this article, there shall be added to any fees due under this article all reasonable costs and fees incurred by the town, including reasonable attorneys' fees.

(b) If any action is brought in a court of law by or against the town relating to the enforcement, interpretation or construction of this article, or of any document provided for in this article, or of any proceeding under this article, the prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

### **Sec. 19-85 Use of proceeds.**

It is hereby declared that the proceeds from the levy imposed pursuant to this article shall be used for the payment of reasonable costs incurred in connection with the administration of this article, and for marketing and promotion of the town's principal industry, being tourism, and for payment of expenses related to such marketing and promotion and to promote and market activities and events beneficial to the business community.

### **Sec. 19-86 Display of licenses.**

(a) It shall be the duty of any person conducting a licensed business in the town to keep his/her license posted in a prominent place on the premises used for such business at all times.

(b) It shall be the duty of any licensee under this article who does not have an operating location within the town to keep his/her license, or a copy thereof, on his/her person or in his/her vehicle at times while conducting business within the town, and shall produce such license or copy for inspection upon demand by the town manager.

### **Sec. 19-87 Expiration of license; notice.**

(a) All licenses shall terminate on December 31 at 12:00 midnight of the license year of the town where no provision to the contrary is made.

(b) The town shall mail to all licensees of the town a statement of the time of expiration of the license held by the licensee no later than three (3) weeks prior to the date of such expiration. Provided, that a failure to send out such notice or the failure of the licensee to receive it shall not excuse the licensee from a failure to obtain a new license, or a renewal thereof, nor shall it be a defense in an action for operation without a license.

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# Legals

continued from previous page

## **Sec. 19-88 Revocation of license— Notice: hearing.**

Any license or permit may be revoked by the town at any time during the life of such license or permit for any violation by the licensee or permittee of the article provisions relating to the license or permit, or to the premises occupied, upon not less than five (5) days' notice to the licensee or permittee, and a hearing thereon before the council no less than ten (10) days after the date of such notice. The notice shall set forth the reasons for such revocation, and, at such hearing, the licensee or permittee shall be asked to show cause why such license or permit should not be revoked. Upon conclusion of such hearing, the council shall forthwith render its decision, which decision shall be final, and shall be further transmitted in writing to the licensee or permittee within seven (7) days following such hearing. Any revocation may be in addition to any fine imposed for violation of this article.

## **Sec. 19-89 Same—Method of notification.**

A notice of revocation is required before such revocation shall take effect. Notice may be accomplished by service upon the licensee, his/her agents or employees; or by posting such notice in a conspicuous place upon the licensed premises; or by mailing such notice to the address of the licensee as it appears on the license application.

## **Sec. 19-90 Same—Summons and complaint.**

The town manager shall cause to be issued against the appropriate licensee or permittee a summons and complaint for violation of this article; and may cause such summons and complaint to be issued against such licensee or permittee following a revocation hearing at which hearing the subject license or permit was revoked.

## **Sec. 19-91 Frontage consents.**

(a) Whenever the consent of adjoining or neighboring owners is required as a prerequisite to the conduct of any business or occupation, or the location of any establishment, such consents must be obtained by securing the necessary signatures to a written consent petition. Such petition shall be filed with the town when signed.

(b) Consents once given and filed shall not be withdrawn; and such petitions need not be renewed for the continuous conduct of the same business, whether by the same proprietor or not.

(c) It shall be unlawful to forge any name to such a petition or to falsely represent that the names thereon have been properly placed thereon is such is not the fact.

(d) Each consent when filed shall be accompanied by the affidavit of the person securing the signatures that each signature appearing therein was properly secured and written on; and that the petition contains the necessary number of signatures required by ordinance.

(e) The frontage consent requirements contained in this section shall not be construed to amend or change any zoning provision of the town; and no such provision shall be construed as permitting the erection of a structure or building, or the conduct of a business or the commission of any act in any location where such structure, building, business or act is or are prohibited by any zoning provision of the town.

## **Sec. 19-92 Location change: notice.**

The location of any licensed business or occupation, or of any permitted act, may be changed, provided ten (10) days' notice thereof is given to the town, in the absence of any provision to the contrary; provided, that the building, zoning and frontage consent requirements are complied with.

## **Sec. 19-93 Nuisances.**

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance; or so as to permit the premises to become unsanitary or a fire menace by allowing any offensive or unsafe matter to grow, accumulate or otherwise occupy and remain upon such premises; by permitting pools of water to accumulate and remain upon the premises and become stagnant and foul; by allowing junk, disabled cars and trucks, trash, waste and old lumber to accumulate and remain upon the premises; by the keeping upon such premises of a deleterious or septic material unless such material is retained in containers or vessels which

deny access to humans, flies, insects, rodents and animals; or by permitting refuse from drifting or blowing onto adjoining premises or public rights-of-way.

## **ARTICLE IV. USE TAX Sec. 19-100 Definitions.**

For the purposes of this article, the definitions of the words contained in this article shall be as defined in C.R.S. section 39-26-201, as amended, which definitions are incorporated in this article by this reference. In addition, the term *completion of work* shall mean the issuance of a certificate of occupancy, or in the event no certificate of occupancy is required, the date of the approval of the final inspection as noted on the permit record card and in the building official's permit file.

## **Sec. 19-102 Purpose.**

The purpose of this article is to impose a use tax within the town for the privilege of storing, using or consuming within the town any construction or building materials purchased at retail. It is hereby intended that this article shall supersede the provisions of C.R.S. section 29-26-201, et seq., as amended.

## **Sec. 19-103 Levy: amount.**

There is hereby levied and there shall be collected from every person in the town a tax of three (3) percent of the retail cost thereof, for the privilege of storing, using or consuming in the town any construction or building materials purchased at retail. Such tax shall be payable to and shall be collected by the town.

## **Sec. 19-104 Collection.**

The collection of the use tax for construction and building materials shall be administered by the building official of the town or such other official designated by the town manager.

## **Sec. 19-105 Payment based on estimate: adjustment.**

(a) The tax shall be paid by estimate through the payment of the tax at the time permits are issued for building and construction.

(b) The applicant for such a permit shall provide an estimated value of the construction and building materials for the work for which the permit is being sought. If in the opinion of the building official, the valuation provided by the applicant is under-estimated, the permit shall be denied, unless the applicant can provide additional information supporting the detailed estimates of value which meet the approval of the building official. The final permit estimated value of materials shall be determined by the building official. The building official reserves the right to require a financial audit and to request any and all applicable records related to the actual value of materials for which the permit was issued. In the event the building official determines the actual value of materials is greater than estimated on the permit application, the applicant shall pay use tax on the additional value of materials. Use tax on the actual cost of materials may be subsequently determined through final reconciliation of the actual use tax paid to the amount of the estimate of use tax paid. The permit applicant shall have ninety (90) days beginning with the date of issuance of certificate of occupancy or the date of approval of the final inspection, if the issuance of a certificate of occupancy is not required, to file a final use tax return seeking such reconciliation. The permit applicant's right to final reconciliation under this section shall be deemed waived if a final use tax return is not so filed.

## **Sec. 19-106 Refunds for overpayment.**

Upon completion of the subject property, the taxpayer may apply to the town for a refund for any overpayment of the taxes, the tax having been computed upon an estimation of value, such application to be supported by a documented and notarized itemization of the actual purchase 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.

## **Sec. 19-107 Payment prerequisite to issuance of certificate of occupancy.**

No certificate of occupancy shall be issued until all use taxes shall have been paid as provided in this article.

## **Sec. 19-108 Exemption: credit.**

(a) The storage, use or consumption in the town of any construction or building materials upon the sale of which any state or any other subdivision thereof has imposed and collected a retail sales tax at a rate equal to

or greater than seven (7) percent is exempt from the levy of the town use tax. If the rate of retail sales tax paid to such state and/or its political subdivisions is four (4) percent or less, then the full three (3) percent town use tax is due. If the rate of retail sales tax paid the state and/or its political subdivisions is more than four (4) percent but less than seven (7) percent, then the town use tax will be due on the net difference between the tax paid in excess of four (4) percent and the combined town and state tax rate of seven (7) percent. In no instance will the town tax credit exceed three (3) percent.

(b) This exemption/credit will be denied if the tax paid the state and/or its subdivisions was not legally due under the laws of such state and/or its subdivisions, or the laws of that state and/or its subdivisions are not compatible with those of the town as to specific taxation and exemption as applied to the transaction in question.

(c) Any taxpayer desiring a credit against the use tax paid under this article due to the provisions of paragraph (a) above, shall apply to the town for a refund based upon such exemption or credit upon completion of the subject property, 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 town's use tax was paid, along with proper documentation supporting the taxpayer's claim that other taxes were paid upon the same construction or building materials.

## **Sec. 19-109 Enforcement.**

The council may adopt such uniform rules and regulations as may be necessary for the administration and enforcement of this article; and the council is hereby empowered to enter into and execute on behalf of the town any agreements necessary for the administration and enforcement of this article.

## **Secs. 19-110—130 - Reserved. ARTICLE V. ADMISSIONS TAX DIVISION 1. GENERALLY.**

### **Sec. 19-131 Short title.**

This article shall be known and cited as the "Town of Mt. Crested Butte Admissions Tax Ordinance."

### **Sec. 19-132 Purpose and intent.**

The town council determines and declares that considering the nature of the business of operating a major tourist destination resort and the relation of such business to the welfare of the town, as well as the relation of such business to the expenditures required of the town, and a proper, just, and equitable distribution of tax burdens within the town, the imposition of an admissions tax is reasonable, proper, and nondiscriminatory, and that the amount of the tax imposed by this article for exercising the taxable privilege of purchasing admission to any place or event in the town that is open to the public is reasonable, proper, uniform, and non-discriminatory and necessary for the just, proper, and equitable distribution of tax burdens within the town. The town council intends that any person who pays to gain admission to any place or event in the town that is open to the public shall pay, and every person, whether owner, lessee, or operator, who charges or causes to be charged admission to any such place or event shall collect the tax imposed by this article.

### **Sec. 19-133 Words and phrases defined.**

The words and phrases used in this article shall have the meanings contained in section 19-17 of this title, or as follows:

*Place or event open to the public* means any place or event, the admission or access to which is open to members of the public upon payment of a charge or fee. This term includes, without limitation, the following places and events when a charge or fee for admission to such places and events is imposed upon members of the public:

(1) Any performance of a motion picture, stage show, play, concert, or other manifestation of the performing arts;

(2) Any sporting or athletic contest, exhibition, or event, whether amateur or professional;

(3) Any lecture, rally, speech, or dissertation;

(4) Any showing, display, or exhibition of any type, such as an art exhibition;

(5) Any restaurant, tavern, lounge,

bar, or club, whether the admission is called a "cover charge," "door charge," or any other such term;

(6) The use of a ski lift or ski tow, or ski facility; and

(7) Any ski instruction.

### **Sec. 19-134 Rate: imposition: distribution.**

(a) Rate. On and after June 1, 2003, there is levied, and shall be paid and collected, an excise tax of four (4) percent on the price paid to gain admission to any place or event in the town that is open to the public. Such tax shall continue through May 31, 2010, and not thereafter unless the qualified electors of the town shall authorize an extension.

(b) Imposition. The tax specified in this section is imposed upon the purchaser. Any seller engaged in business in the town shall collect the tax and remit it to the town as set forth in this article.

(c) Distribution. The town shall distribute all tax receipts for the tax imposed by this article first for the costs of administration and collection of the tax. The remaining proceeds of said tax shall be used twenty-five (25) percent for transportation and seventy-five (75) percent for marketing, as determined by the town council.

### **Sec. 19-135 Liability for tax.**

(a) No person who pays to gain admission to any place or event in the town that is open to the public shall fail to pay and no person, whether owner, lessee, or operator, who charges or causes to be charged admission to any place or event in the town that is open to the public shall fail to collect the tax levied by this article. If an owner or operator of a facility leases or rents such facility to another party who conducts an event open to the public in such facility, such owner or operator is not liable for collecting and remitting the tax if the party to whom the facility is leased or rented, is at the time of the leasing or rental, licensed to collect and remit the tax.

(b) The burden of providing that any transaction is not subject to the tax imposed by this article is upon the person upon whom the duty to collect the tax is imposed.

### **Sec. 19-136 Taxes collected are held in trust.**

All sums of money paid by a person to gain admission to any place or event in the town that is open to the public as the admissions tax imposed by this article are public monies that are the property of the town. The person required to collect and remit the admissions tax shall hold such monies in trust for the sole use and benefit of the town until paying them to the finance director.

### **Sec. 19-137 Exempt transactions.**

The following entities and transactions are exempt from the duty to pay the tax imposed by this article but not the duty to collect and remit the tax levied hereby:

(1) United States Government and the State of Colorado, its departments and institutions, and the political subdivisions thereof including the town, when acting in their governmental capacities and performing governmental functions and activities, and when the government's obligation is paid for directly to the licensee by a purchase card or a draft or warrant drawn on the government's account;

(2) A charitable organization, but only in the conduct of its regular charitable capacity and only if the organization's obligations have been paid for directly by it to the admissions tax licensee without reimbursement therefor;

(3) Any person who refunds an admission price for any reason, either before or after an event has taken place, and refunds the admission tax along with the admission price;

(4) Any person who provides free "passes" or complimentary admission tickets or otherwise fails to charge an admission price for admission to a place or event open to the public, but if such person imposes a reduced admission charge for any such "pass," complimentary admission, or otherwise, the tax imposed by this article applies to the actual amount of such reduced admission charge;

(5) Any admission fee paid or charged to gain entry into any event sponsored entirely by or conducted by the town.

## **DIVISION 2. ADMINISTRATION**

### **Sec. 19-138 Licensing and reporting procedure.**

(a) Every owner, operator, or person who has the duty to collect tax imposed by this article shall obtain a license to

collect the tax and shall report such taxes on forms prescribed by the finance director and remit such taxes to the town within the following time periods:

(1) For regularly continuing or recurring events, including, without limitation, showing films in motion picture theaters and the sale of ski lift tickets, on or before the twentieth day of the month for the preceding month or months under report; and

(2) For single, non-continuing or non-recurring events, including, without limitation, a single performance of a concert, within five (5) calendar days of the performance or event, unless the finance director after specific, advance request allows a longer time.

(b) The finance director shall issue an admissions tax license to persons who complete an application therefor stating the name and address of the person and the business and such other information as the finance director may require. The license shall show the name, residence, place, and character of the business of the licensee, and be conspicuously posted in the place of business for which it is issued. No admissions tax license is transferable. The license is effective until the thirty-first day of December of the year of issue, unless sooner revoked.

(c) There shall be no fee for such license.

(d) Whenever a business entity that is required to be licensed under this article is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new admissions tax license.

(e) The license may be revoked as provided in section 19-33, License cancellation or revocation, of this article.

(f) The finance director may require a deposit from persons applying for an admissions tax license for a single, non-continuing or nonrecurring event.

### **Sec. 19-139 Maintenance and preservation of tax returns, reports, and records.**

(a) The finance director may require any person to make such return, render such statement, or keep and furnish such records as the finance director may deem sufficient and reasonable to demonstrate whether or not such person is liable under this article for the payment or collection of the tax imposed by this article.

(b) Any person required to make a return or file a report under this article shall preserve such reports as provided in section 19-30, Duty to keep books and records, of this article.

### **Sec. 19-140 Administration, tax overpayments, tax deficiencies, taxpayer remedies, and enforcement.**

The administration, tax overpayments, tax deficiencies, taxpayer remedies, and enforcement are as provided in sections 19-34 through 19-59 of this article.

### **Sec. 19-141 Administration fee.**

Any person required to collect and remit to the town the tax imposed by this article may deduct therefrom an administration fee equal to three and one-third (3 1/3) percent of the sum of the tax computed and paid if paid on or before the due date. Such administration fee shall be forfeited for the amount of the tax not reported and paid by the due date.

**Section 2. Severability.** Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby declared the intent of the Town Council of the Town of Mt. Crested Butte, Colorado, that the remaining provisions of this ordinance be given full force and effect if it is possible to do so.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED on first reading at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, this 6th day of November, 2019.

PASSED, ADOPTED, AND APPROVED ON SECOND READING at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, held the 3rd day of December, 2019.

TOWN OF MT. CRESTED BUTTE, COLORADO

*S/:* Janet R. Farmer

By: Janet R. Farmer, Mayor

ATTEST:

*S/:* Tiffany O'Connell

Tiffany O'Connell, Town Clerk

Published in the *Crested Butte News*.

Issue of December 13, 2019. #121303

# Legals

—TOWN OF MT. CRESTED BUTTE—  
ORDINANCE NO. 9  
SERIES 2019

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REPEALING AND REENACTING CHAPTER 11 LICENSES AND BUSINESS REGULATIONS, ARTICLE I. IN GENERAL**

WHEREAS, the Town of Mt. Crested Butte, Colorado is a home-rule municipality organized under Article XX of the Colorado Constitution; and WHEREAS the Town is authorized to enact land use and licensing regulations; and WHEREAS, the Town Council of the Town of Mt. Crested Butte, Colorado has determined that the short-term rental of accommodation units has impacts upon adjacent properties, public services and the public health, safety, and welfare generally, and

WHEREAS, the Council has determined that licensing and regulation of short-term rentals is necessary to address those impacts.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AS FOLLOWS:

**Section 1.** Chapter 11 Licenses and Business Regulations, Article I. In General, is hereby repealed in its entirety and is reenacted to state as follows:  
**Chapter 11 LICENSES AND BUSINESS REGULATIONS**  
**ARTICLE I. IN GENERAL**

**Sec. 11-1 Definitions.**

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

**Accommodation unit** shall mean any room or group of rooms with or without full kitchen facilities designed for or adapted to occupancy by guests, available for short-term rental by an individual or group of individuals which is intended to be rented on a short-term basis. Included within this definition are hotels, bed and breakfast establishments, condominiums, duplexes and single or multi-family residences.

**Advertisement** shall mean a non-personal marketing communication to promote the rental of an accommodation unit. This includes paid and non-paid forms of marketing, including print (e.g., mailings, brochures) and electronic means (e.g., internet listings, blogs, e-mail, social media sites).

**Building Code** means the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Property Maintenance Code, International Existing Buildings Code, and International Fire Code, as such are adopted by the Town.

**Peddler** shall mean a person who engages in a temporary business of selling and/or delivering wares or merchandise.

**Short-Term Rental License** means a license granted under the terms of this Article.

**Short-Term Rental** means any accommodation unit or portion thereof rented for a period of less than thirty (30) consecutive days. Rentals of entire dwelling units, individual rooms, or portions of rooms shall each be considered short-term rentals.

**Vendor** shall mean any established business not having an operating location within the town at any time during the calendar year, but which otherwise does business within the town.

(1) A seasonal vendor is a vendor doing business within the town during part of the calendar year, not exceeding four (4) calendar months, which months need not be consecutive.

(2) A regular vendor is a vendor doing business within the town in excess of four (4) calendar months within each calendar year, which months need not be consecutive.

**Zoning Administrator** shall mean the town manager or designee whose duty it is to enforce the regulations of this chapter.

**Sec. 11-2 Applicability and Purpose.**

The purpose of this Article is to establish comprehensive licensing provisions to safeguard the public health, safety and welfare, by regulating the use, occupancy, and maintenance of Short-Term Rental properties. This Article shall apply to Short-Term Rental properties only, as defined herein. This Article shall not supersede or affect any private conditions, covenants or restrictions applicable to a particular property.

**Sec. 11-3 Short-Term Rental License Requirements.**

a) License required. All Short-Term Rentals shall be licensed under the terms and provisions of this Article prior to renting a property or listing it as a Short-Term Rental in any fashion, whether individually, or through a broker or other advertising site. A Short-Term Rental License may be issued in all zoning districts.

b) Sales Tax and Business and Occupational License Tax. Prior to the issuance of a Short-Term Rental License, the owner of the property shall provide to the Town proof of current sales tax and business and occupational license tax (BOLT) licenses.

c) Proof of Ownership/Right to Possession. The property owner or lessee shall provide evidence of ownership or right to possession of the proposed Short-Term Rental property.

d) Homeowner Association Approval. Any property governed by a homeowners' association must provide written approval from the association prior to receiving a Short-Term Rental License from the Town. This provision shall not apply to short term rentals in the Single-Family Residential District and single family lots in Planned Unit Developments:

e) Any property owned by someone other than the applicant for a Short-Term Rental License must provide written authorization by the owner of the property to allow Short-Term Rental.

f) Short-Term Rental Licenses are valid only for the property for which the License is issued and are not transferrable upon conveyance of the property. Upon any conveyance of a licensed property, the new owner shall have thirty (30) days to receive a new License from the Town without being in violation of this chapter.

g) Fee. A fee in the amount set by the Town Council by Resolution shall be paid to the Town annually for a Short-Term Rental license. The initial inspection and one follow-up inspection are included in the fee. Any further inspections necessary to obtain compliance with the Town Code shall be at an additional cost set by Town Council by Resolution.

h) Self-Compliance Affidavit. No license shall be issued without a notarized affidavit, signed by the owner under penalty of perjury, certifying that the short-term rental property is in habitable condition and complies with the health and safety standards identified in the Self-Compliance Affidavit form, and certifying that no additions of square footage, bedrooms, bathrooms, or pillow counts have been made to the property.

i) Parking Plan. The owner of the property shall provide to the Town a site plan for the property showing the number of on-site parking spaces. If the property is governed by a homeowners' association, the parking plan must be approved by the association. This provision shall not apply to short term rentals in the Single-Family Residential District and single family lots in Planned Unit Developments, except for the Pitchfork Subdivision.

j) Bedroom Count. The number of bedrooms, or sleeping rooms and pillows, shall be confirmed

by the Zoning Administrator. Any increase in bedrooms or pillows shall require a new inspection.

k) Local Representative. The owner must identify and provide contact information for a local representative located within a forty-five (45) minute drive of the property. The local representative shall be on call full time (24/7), shall have physical access to the accommodation unit, and shall be authorized to make decisions regarding the accommodation unit on behalf of the licensee. The local representative may be a property management company. It is the owner's responsibility to update this information throughout the term of the License.

l) Initial Inspection. Upon filing a complete application, the property owner shall schedule an inspection of the property with the Zoning Administrator. The inspection shall include Building Code Compliance related to life safety issues, as well as compliance with the approved parking plan. No property shall be granted a Short-Term Rental License unless determined to be in compliance with applicable provisions of the Town of Mt. Crested Butte Municipal Code. A property that has been issued a certificate of occupancy for improvements permitted by the Town and to which modifications cannot be reasonably made as to life safety Building Code provisions, shall be deemed to be in compliance with Town Code, subject to written acknowledgement by the owner or lessee of the property accepting liability and agreeing to indemnify the Town against any claim for any injury occurring on the property due to such issues. The Town may require modifications to any property seeking a License including, but not limited to the addition of fire extinguishers, ladders, handrails, or other life/safety equipment.

For the first 180 days of the effective date of this Ordinance only: a property owner submitting a complete application, including the notarized Self-Compliance Affidavit form, and meeting all other requirements, shall be issued a Provisional Short-Term Rental License. The owner shall then have until 12/31/2021 to complete the initial inspection of the property.

m) Periodic Life-Safety Inspections. Because Short-Term Rentals are, by their nature, intended to be occupied by numerous guests for short periods of occupancy, it is determined that the Town's ability to inspect Short-Term Rentals is in the interest of public safety. Therefore, whenever it is necessary or desirable to make an inspection to enforce the requirements of this ordinance, the Zoning Administrator or designee may enter such accommodation unit at all reasonable times to inspect the same for the purpose of enforcing such special conditions. Provided, that if such Short-Term Rental is occupied, the Zoning Administrator shall first present the proper credentials and request entry, and if such Short-Term Rental is unoccupied, shall first make a reasonable effort to locate the owner, the Local Representative, or other person having charge or control of the Short-Term Rental and request entry. If such entry is refused, or if the Short-Term Rental is locked, the Zoning Administrator shall have recourse to every remedy provided by law to secure entry. When the Zoning Administrator has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or any other persons having charge, care, or control of any Short-Term Rental shall fail or refuse, after proper request is made herein provided, to promptly permit entry therein by the Zoning Administrator for the purpose of inspection of the Short-Term Rental. No inspection warrant or permission shall be required for the Zoning Administrator to enter and inspect a Short-Term Rental in the case of an emergency

involving the potential loss of property or human life.

n) Posting of License and Self-Compliance Affidavit. Each Short-Term Rental property shall post the Short-Term Rental License number and any license conditions (i.e., maximum pillow count, approved parking plan, local representative contact information) inside the property, and on any advertisement of the property. Each Short-Term Rental property shall also post a copy of the Self-Compliance Affidavit in a conspicuous location inside the property.

**Sec. 11-4 Duration and Renewal.**

A Short-Term Rental License is valid for the duration or remainder of the calendar year. A license holder shall submit an application for License renewal sixty (60) days prior to expiration of the current license.

**Sec. 11-5 Taxes.**

A Short-Term Rental License holder shall collect and submit all taxes in compliance with state, county, and local law, and remit the same to the proper taxing authority.

**Sec. 11-6 Enforcement.**

The property owner of any property licensed as a Short-Term Rental shall be liable for any violations of the Town of Mt. Crested Butte Town Code. The Town may enforce the requirements of this Article by any or all of the following means:

a) The Town may issue a warning letter pursuant to Section 11-7 to any person or entity renting a property as a Short-Term Rental without a License, or for any other violations of the Town Code, and providing a date for cessation or compliance.

b) The Town may suspend, revoke or refuse to renew a Short-Term Rental License.

The Town may prosecute a civil action pursuant to Town Code provisions applicable to the violation.

c) The Town shall not accept an application for a new License for the same property for a period of twelve (12) months from the date a License is revoked, unless ownership of the property has transferred to a new owner with no legal or other affiliation to the current ownership.

**Sec. 11-7 Notices.**

Any notice required by this Article is sufficient if mailed by first-class mail to the address provided by the owner of the property on the most recent License application, provided that notice to the local representative shall also be sufficient to satisfy notice requirements.

**Secs. 11-8—11-39 Reserved.**

**Section 2. Severability.** Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby declared the intent of the Town Council of the Town of Mt. Crested Butte, Colorado, that the remaining provisions of this ordinance be given full force and effect if it is possible to do so.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED on first reading at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, this 6th day of November, 2019.

PASSED, ADOPTED, AND APPROVED ON SECOND READING at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, held the 3rd day of December, 2019.

TOWN OF MT. CRESTED BUTTE, COLORADO  
S/ Janet R. Farmer  
By: Janet R. Farmer, Mayor  
ATTEST:  
S/ Tiffany O'Connell  
Tiffany O'Connell, Town Clerk

Published in the *Crested Butte News*. Issue of December 13, 2019. #121304

# Classifieds

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## FOR RENT

ENJOY THE SPARKLING RIVER and its sound in this River Front 2500 square foot furnished cedar home with hot tub on the river. Private, spacious, quiet with views of the river and mountains throughout 3 bedroom, two bath, den/parlor, large living room, dining room, mud room and breakfast nook. Available now through May 30th (possible year lease option), dog negotiable. \$2500/month, some utilities included. 505-670-3588 Monika. (12/13/68).

CLIFFHANGER RENTAL: 2000 sq.ft., 3BD/2 bath, nestled on bluff overlooking East River on quiet cul-de-sac, furnished, fishing access. Available in February. No smoking. Txt 970-209-7058. (12/13/26).

## FOR RENT

2 BEDROOM/1 BATH in CB South, available beginning February. \$1350, gas heat included. 900 sq.ft. New floors, new windows, new stove, new kitchen. In unit washer/dryer, dishwasher. New deck and slider. Next to bus stop. No Smoking. 1 dog is permitted. Ground level. 2 off-street parking spots. 847-302-8947. (12/13/50).

## FOR RENT

FOR RENT: A very nice one bedroom, furnished house in town. \$1600/month plus utilities, available first part of Oct. No pets. Please call CB Lodging 970-349-2449. (12/13/27).

PRIVATE ROOM/PRIVATE BATH: \$1000 includes all utilities. NS/NP. Call William 720-576-5673. (12/13/13).

## FOR RENT

2 BEDROOM/1 BATH ABOVE GARAGE APT: Meridian Lake. Includes heat, satellite, W/D. Unfurnished. NS/NP. 2 person max. Mature, quiet people; 1st, last, sec. dep. \$1600. 970-209-9940. (12/13/29).

FOR RENT IN TOWN: Fully furnished 2B/2B + loft. Granite countertops and stainless steel appliances. South facing, bright and sunny with lots of windows and views. Efficient heat. \$2300/mo. plus utilities. Available Jan 6-June 15. Call 303-809-5595. (12/13/38).

2 BEDROOM/1 BATH AVAILABLE: First, last, deposit, \$1900/month plus electric. 1 parking space. Great spot downtown CB. 970-349-2773. (12/13/20).

## FOR RENT

YEAR ROUND HOUSE for rent at Three Rivers Resort in Almont: Brand new 3BR/2BA home, backs up to National Forest, 1 dog negotiable, \$1650/mo.+util. One year lease. Can be furnished or unfurnished, short walk to FREE bus. For application and info call 970-641-1303. Or stop by the resort office between 7:30 am and 4:30 pm. (12/13/58).

**EARLY HOLIDAY DEADLINES:**  
**Friday, 12/20 @ Noon (12/27 paper)**  
**Monday, 12/30 @ Noon (1/3 paper)**

2 BEDROOM/1 BATH in CB South, available beginning January. \$1350, internet & gas heat included. 900 sq.ft. Hardwood floors, new stainless steel appliances. In unit washer/dryer, dishwasher. Private storage area. Bus stop behind building. No smoking. No pets. 847-302-8947. (12/13/40).