

# Riverwalk at Edwards Property Owners Association

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## INSTRUCTION FOR REMITTANCE OF CIVIC ASSESSMENTS TO THE ASSOCIATION

Revised January 12, 2006

The Riverwalk At Edwards Property Owners Association recently amended its governing documents (along with making other amendments) to implement a civic assessment. The sections of the Declaration of Covenants, Conditions and Restrictions relevant to the Civic Assessment are reproduced at the end of this document for your reference (see Section 5.7A below).

The civic assessment will be implemented effective **February 1, 2006** at a rate of one-half of one percent (0.5%) on all sales, leases or rentals of:

(a) tangible personal property made, consummated, conducted, transacted or occurring within the geographical boundaries of The Riverwalk at Edwards PUD which are subject to the Colorado Emergency Retail Sales Tax Act of 1935 (Colorado Revised Statutes, 1973, Title 39, Article 26), as amended (the "Tax Act"); and

(b) other tangible personal property and lodging made, consummated, conducted, transacted or occurring within the geographical boundaries of The Riverwalk at Edwards PUD, including, without limitation, the sales of food normally exempted from net sales on line 3b(1) of the Colorado Sales Tax Return (Colorado Department of Revenue Form DR0100).

In other words, if the sale is conducted in Riverwalk and the merchandise is delivered within the State of Colorado, then the transaction will be subject to the civic assessment. If the merchandise is shipped outside the State of Colorado, the transaction will not be subject to Colorado sales tax nor will it be subject to the civic assessment.

Since all sales transacted in Riverwalk and delivered in the State of Colorado beginning February 1, 2006 are subject to the civic assessment, the amount reported as net sales subject to Colorado sales tax as reported in the Colorado column on your Colorado sales tax return (for your Riverwalk location for retailers that have multiple locations) is the amount you use as the starting point to calculate the civic assessment you will remit to the Association. For merchants that only file sales tax returns on a quarterly basis, for the first quarter of 2006 you will reduce this amount by your January 2006 Colorado taxable sales.

The Colorado Department of Revenue treats the Civic Assessment as a part of your taxable sales so the Colorado and Eagle County sales taxes should be calculated on the sales price of your assessable sales plus the Civic Assessment as follows (taken to three decimals to eliminate rounding errors):

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Assumed Sales Price of assessable sales	\$1,000.000
Riverwalk Civic Assessment (0.5%)	<u>5.000</u>
Total amount subject to Sales Tax	1,005.000
Colorado Sales Tax (2.9%)	29.145
Eagle County Sales Tax (1.5%)	<u>15.075</u>
Total amount to be collected	<u>\$1,049.220</u>

Colorado statutes require retailers to add the sales tax imposed to the sale price or charge, showing the tax as a separate and distinct item. Accordingly, combining the sales tax with the civic assessment on the sales receipt would violate this requirement. However, while it is helpful to provide a subtotal of the amount of the merchandise sold and the civic assessment, there is not an explicit requirement to provide that subtotal. Accordingly, an alternative way to reflect this transaction on a receipt would be as follows:

Price of merchandise	\$1,000.00
Civic Assessment	5.00
Sales Taxes	<u>44.22</u>
Total	<u>\$1,049.22</u>

Mathematically, the Colorado sales tax on merchandise subject to the civic assessment can be calculated as 2.9145% of the price of the merchandise excluding the civic assessment (2.9% of the price of the merchandise plus 2.9% of 0.5% of the price of the merchandise). Similarly, the Eagle County sales tax can be calculated as 1.5075% of the price of the merchandise excluding the civic assessment (1.5% of the price of the merchandise plus 1.5% of 0.5% of the price of the merchandise). Accordingly, a cash register or point of sale system could be programmed to calculate the civic assessment as 0.5% of the price of the merchandise and the sales tax can be calculated as a total of 4.422% of the price of the merchandise excluding the civic assessment or if your system needs a separate rate for Colorado and Eagle County sales taxes, you can use 2.9145% for the Colorado rate and 1.5075% for the Eagle County rate.

Our understanding from the Colorado Department of Revenue is that as long as the sales tax is reflected as a separate and distinct item on the sales receipt (i.e. not combined with the civic assessment), then you will have fulfilled your responsibility to collect and report the sales tax.

As a further example, assume that a business sells an item of tangible personal property for one price that includes the cost of the merchandise, the civic assessment and Colorado and Eagle County sales taxes for a total price of \$10.00. Pricing of this nature that includes the sales taxes in the total price is permitted for sales of alcoholic beverages at a bar and for vending machine sales. The breakout of the sales taxes, civic assessment and price of the merchandise in this example can be calculated as follows:

Price of merchandise including sales taxes & civic assessment	\$10.00
Divide by 1.044 to calculate the cost of merchandise and civic assessment	9.58
Divide the cost of merchandise and civic assessment by 1.005 to calculate the cost of the merchandise	9.53

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**The Civic Assessment is reported to the Association by completing a Riverwalk Civic Assessment Return, a copy of which is attached. This return is due at the same time that your Colorado Sales Tax return is due.**

The Association has engaged Haycock, Sigler and Tapp, LLC, CPAs to collect the Civic Assessments on behalf of the Association. Don Tapp is the representative from HST that will be responsible for the collection of the Civic Assessment. Their mailing address is:

Haycock, Sigler and Tapp, LLC, CPAs  
P.O. Box 1088  
Glenwood Springs, CO 81602

Don Tapp can be reached at the following phone number and e-mail address:

Phone (970) 945-9156  
e-mail: [dtapp@hstcpa.com](mailto:dtapp@hstcpa.com)

The specific sales information you report to Haycock, Sigler and Tapp will be maintained confidential by them and will not be disclosed to anyone (including the Riverwalk Association Board of Directors) except potentially to other independent Certified Public Accountants performing an audit of Haycock, Sigler and Tapp. You will be mailing your Civic Assessment Return directly to them at the address above.

The information provided in these instructions is not intended to provide legal or tax advice to you and it is recommended that you consult with your accountant or lawyer to confirm that your specific system and procedures fulfill all legal requirements.

Any questions related to the civic assessment should be directed to one of the following:

Don Tapp at Haycock, Sigler and Tapp, LLC 970-945-9156  
Bill MacFarlane, President of the Riverwalk Association (970) 926-0606  
Ken Marchetti, Treasurer of the Association (970) 926-6060, x8

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## Excerpt from the Riverwalk at Edwards Property Owners Association Amended and Restated Declaration of Covenants, Conditions and Restrictions

Section 5.7A. Civic Assessments. The Board of Directors shall regularly levy upon and collect from each Owner of a Lot (if the Lot has not been improved with a Building containing Condominium Units) and each Condominium Unit Owner (each such Owner and Condominium Unit Owner is hereinafter referred to as a "Civic Assessment Payee") an assessment (the "Civic Assessment") in regard to all sales, leases or rentals, commencing ten (10) days after recording this Amendment in the Office of the Clerk and Recorder of Eagle County, Colorado, of (a) tangible personal property made by such Civic Assessment Payee or such Civic Assessment Payee's Lessee or made, consummated, conducted, transacted or occurring within the geographical boundaries of The Riverwalk at Edwards PUD which are subject to the Colorado Emergency Retail Sales Tax Act of 1935 (Colorado Revised Statutes, 1973, Title 39, Article 26), as amended (the "Tax Act"); and (b) other tangible personal property and lodging made, consummated, conducted, transacted or occurring within the geographical boundaries of The Riverwalk at Edwards PUD, including, without limitation, the sales of food normally exempted from net sales on line 3b(1) of the Colorado Sales Tax Return (Colorado Department of Revenue Form DR0100), as amended. However, the Civic Assessment shall not apply to any gross receipts from sales in connection with (i) any event sponsored by the Master Association, or (ii) any event sponsored by an organization exempt from the provisions of the Tax Act, but only to the extent such gross receipts relate to purchases by the organization for official organization business that are therefore exempt from the provisions of the Tax Act. All sales which are subject to Civic Assessment shall be referred to herein as "Local Sales". All taxes payable on Local Sales pursuant to the Tax Act shall be referred to hereinafter as the "Colorado Sales Tax". Each such Civic Assessment Payee's Civic Assessment shall be determined by multiplying (a) such Civic Assessment Payee's Local Sales that are included within such Civic Assessment Payee's or such Civic Assessment Payee's Lessee's Net Taxable Sales (as defined for purposes of the computation of the Colorado Sales Tax) plus such Civic Assessment Payee's or such Civic Assessment Payee's Lessee's gross receipts from the sale of tangible personal property not covered by the Colorado Sales Tax, including sales of food as described above, times (b) the Civic Assessment Rate determined by the Board of Directors from time to time, but not to exceed one percent (1.0%). As of the date of this Amendment, the Civic Assessment Rate shall be one-half of one percent (0.5%). Each such Civic Assessment Payee's Civic Assessment shall be due and payable without notice to the Master Association each time and at such time as such Civic Assessment Payee or such Civic Assessment Payee's Lessee is required to remit or pay Colorado Sales Tax to the State of Colorado. Each such Civic Assessment Payee shall also deliver to the Master Association without notice true and complete copies of all written reports, returns, statements, records and declarations, including any supplements or amendments thereto (all of which are referred to herein as "Reports") made or provided to the state of Colorado by such Civic Assessment Payee or such Civic Assessment Payee's Lessee's in connection with any Local Sales under the provisions of the Tax Act at such time as such Reports are required to be made to the State of Colorado. If any subsequent adjustments, additions or modifications are made to any Colorado Sales Tax remitted or paid or Report made by any Civic Assessment Payee or such Civic Assessment Payee's Lessee to the State of Colorado, such Civic Assessment Payee shall within 30 days thereafter so notify the Master Association and provide it with true and complete copies of all Reports or other written material issued or received by such Civic Assessment Payee or such Civic Assessment Payee's Lessee in regard thereto. If any adjustment increases the amount of Colorado Sales Tax a Civic Assessment Payee or such Civic Assessment Payee's Lessee is required to remit or results in a refund of such tax, such Civic Assessment Payee shall accordingly pay an appropriate Civic Assessment or receive an appropriate refund from the Master Association of any excess Civic Assessments previously paid.