

ORDINANCE NO. ST 1-86

AN ORDINANCE PROVIDING FOR THE IMPOSITION OF AN INCREASED SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES AS PROVIDED IN C.R.S. 1973, 29-2-105, AS AMENDED, ESTABLISHING A SALES TAX CAPITAL IMPROVEMENT FUND, PROVIDING THAT ONE-HALF PERCENT (1/2%) OF THE TOWN OF HUDSON'S SALES TAX REVENUES BE ALLOCATED TO THE SALES TAX CAPITAL IMPROVEMENT FUND, AND PROVIDING FOR AN ELECTION, COLLECTION AND ADMINISTRATION THEREOF.

WHEREAS, the Town of Hudson is in need of additional revenue for the purpose of providing services and capital improvements; and

WHEREAS, it appears to the Board of Trustees of the Town of Hudson, Colorado, to be in the best interest of the present and future inhabitants and citizens of the Town of Hudson to impose an additional one percent (1%) sales tax, making the total sales tax imposed in the Town of Hudson equal to two percent (2%), in order to provide necessary revenues to pay for capital improvements and to operate municipal services; and

WHEREAS, the imposition of this sales tax must be approved by the registered electors of the Town of Hudson, Colorado;

NOW THEREFORE BE IT ORDAINED by the Board of Trustees of the Town of Hudson, Colorado:

Section 1. Purpose.

The purpose of this Ordinance is to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services in the Town of Hudson, Colorado (hereinafter referred to as "the Town"), pursuant to the authority granted to incorporated towns of the State of Colorado by Article 2 of Title 29, Colorado Revised Statutes, 1973, as amended. This ordinance shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State of Colorado, levied by Article 26 of Title 39, Colorado Revised Statutes, 1973, as amended.

Section 2. Definitions.

For the purpose of this Ordinance, the definition of words contained shall be as the words are defined in 39-27-102 of C.R.S., 1973, as amended, and those definitions are incorporated herein by reference.

Section 3. Collection, Administration, and Enforcement.

(a) The collection, administration, and enforcement of this sales tax shall be performed by the Director of Revenue of the State of Colorado in the same manner as the collection,

administration, and enforcement of the Colorado state sales tax. The provisions of C.R.S. 1973, 29-2-106 and C.R.S. 1973, Article 26, Title 39, as amended hereafter, and all rules and regulations promulgated by the Director of Revenue pertaining to such collection, administration, and enforcement, are incorporated herein by this reference.

(b) At the time of making his monthly return of the tax, as required by this ordinance and by state statute, every retailer shall be entitled to subtract from the tax so remitted a sum equal to three and one-third percent (3 1/3%) vendor's fee of said tax as his fee, said fee to be known as the "vendor's fee".

(c) If said retailer shall be delinquent in remitting said tax, unless good cause be shown for such delinquent remittance as determined by the Executive Director, he shall forfeit the three and one-third percent (3 1/3%) vendor's fee and instead, such amount shall be remitted to the Executive Director.

Section 4. Licenses.

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail, or to furnish certain services as herein specified, without first having obtained a license therefor, which license shall be granted and issued by the Town Clerk, and shall be in force and effect until the thirty-first (31st) day of December of the year in which it is issued, unless sooner revoked.

(b) Such license shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name and the location of the business of the applicant, and such other facts as the Town Clerk may require.

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

(d) In case business is transacted at one or more separate premises by one person, a separate license for each place of business shall be required.

(e) For each license issued under this ordinance, a fee of Five Dollars (\$5.00) shall be paid, which fee shall accompany the application. A further fee of Five Dollars (\$5.00) shall be paid for each year or fraction thereof for which said license is renewed; provided that only Two Dollars and Fifty Cents (\$2.50) shall be charged on licenses issued on or after July 1st of any year.

(f) Each license shall be numbered and shall show the name, residence, place, and character of business of the licensee

and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

(g) No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this ordinance.

(h) Any license may be revoked for cause as provided in C.R.S. 1973, 39-26-103, as amended, which provision is incorporated herein by this reference.

(i) Any person engaged in the business of selling personal property at retail or of furnishing services which are subject to taxation as provided in this ordinance within the Town, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this ordinance.

Section 5. Property and Services Taxed.

(a) There is hereby levied and there shall be collected and paid a sales tax equal to two percent (2%) of the gross receipts from the sale at retail of tangible personal property and the furnishing of certain services, as provided in Article 26 of Title 39, Colorado Revised Statutes, 1973, as amended, which provisions are incorporated herein by this reference. Tax revenues generated by one-half percent (1/2%) of the two percent (2%) sales tax shall be allocated to the Sales Tax Capital Improvement Fund and shall be used for the purpose of paying the cost of capital improvements in the Town of Hudson.

(b) The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue.

(c) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, Colorado Revised Statutes, 1973, as amended.

Section 6. General Provisions and Exemptions from Taxation.

(a) For the purposes of this ordinance, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the Town, or to a common carrier for delivery to a destination outside the limits of the Town.

(b) In the event a retailer has no permanent place of business in the Town, or more than one place of business, the place or places at which the retail sales are consummated for purposes of this ordinance shall be determined by the provisions of Article 26 of Title 39, Colorado Revised Statutes, 1973, as amended, and by the rules and regulations promulgated by the Department of Revenue of the State of Colorado.

(c) The gross receipts from sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, Colorado Revised Statutes, 1973, as amended, regardless of the places to which delivery is made.

(d) There shall be exempt from taxation under the provisions of this ordinance all of the tangible personal property and services which are exempt from state sales tax under the provisions of Article 26 of Title 39, Colorado Revised Statutes, 1973, as amended, which exemptions are incorporated hereby by this reference. In addition, there is specifically exempted from sales tax under this ordinance the sale of machinery or machine tools, electricity, coal, gas, fuel oil, and coke, and food as defined in C.R.S. 1973, 39-26-102 (4.5).

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

(i) the purchaser is a nonresident of, or has its principal place of business outside of the Town; and

(ii) such tangible personal property is registered or required to be registered outside the limits of the Town under the laws of the State of Colorado.

(f) For transactions consummated on or after January 1, 1986, the tax imposed by this article shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed upon the Purchaser or User by another statutory or home rule municipality equal to or in excess of two percent (2%). A credit shall be granted against the Town's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the Purchaser or User to the previous statutory or home rule municipality. The amount of the credit shall not exceed two percent (2%).

Section 7. Sales Tax Capital Improvement Fund.

There is hereby established a special fund to be known as the Sales Tax Capital Improvement Fund for the purpose of paying the cost of capital improvements in the Town of Hudson. Tax revenues generated by one-half percent (1/2%) of the total two percent (2%) tax imposed on the sale of tangible personal property at retail or the furnishing of services where such personal property and services are taxable pursuant to Section 4, Article 5, Chapter 138, C.R.S. 1973, as amended, shall be allocated to the Sales Tax Capital Improvement Fund and shall be used solely for the purpose of paying the cost of capital improvements.

Section 8. Election.

(a) Upon adoption of this Ordinance by the Board of Trustees of the Town of Hudson, this Ordinance shall be submitted to an election by the registered electors of the Town of Hudson for their approval or rejection, at the next regular election, which is scheduled for the first day of April, 1986.

(b) The votes for and against this Ordinance shall be tabulated and totaled as provided for in "The Colorado Municipal Election Code of 1965", and should a majority of electors vote for this Ordinance, it shall become effective as herein provided; should majority of the electors voting be against the adoption of this ordinance, then it shall be ineffective and repealed.

(c) The form of the ballot submitted to the registered electors of the Town of Hudson shall be as follows:

For the Tax

Against the Tax

Shall the Town of Hudson increase the tax imposed by the Town of Hudson upon retail sales within the Town from one (1) percent to two (2) percent, with the proceeds to be used to defray general fund expenditures and to be used for the purpose of paying the cost of capital improvements in the Town of Hudson?

Section 9. Amendments.

The Board of Trustees, by a majority vote, may amend, alter or change this Ordinance, except as to the two percent (2%) rate of tax herein imposed.

Section 10. Penalties.

Any person violating any provision of this Ordinance shall be punished by a fine of not more than Three Hundred Dollars (\$300.00). Each day that a violation of this Ordinance continues shall be deemed a separate offense.

Section 11. Effective Date.

Upon approval of this Ordinance by the registered electors as herein provided, this Ordinance shall become effective and in force at 12:01 a.m. on the first day of July, 1986. As soon as practical after approval of this Ordinance, the Board of Trustees of the Town shall request the Director of Revenue of the State of Colorado to collect, administer, and enforce this Ordinance as herein provided and shall at the time of the request, submit a true and complete certified copy of this Ordinance and all necessary proceedings in connection herewith to the Director of Revenue.

Section 12. Severability.

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

PASSED AND ADOPTED, SIGNED AND APPROVED, this twenty-third day of January, 1986.

TOWN OF HUDSON, COLORADO

By *L. M. Porteus*
Mayor *Pro Tem*

ATTEST:

Shirley E. Robertson
Town Clerk