

ORDINANCE NO. 96

AN ORDINANCE RELATIVE TO THE IMPOSITION OF A SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES AS PROVIDED IN COLORADO REVISED STATUTES 1973, 29-2-101, et. seq., AS AMENDED, AND BY IMPOSING A USE TAX ONLY FOR THE PURPOSE OF THE PRIVILEGE OF STORING, USING, OR CONSUMING IN THE TOWN OF MEAD ANY CONSTRUCTION AND BUILDING MATERIALS AND MOTOR AND OTHER VEHICLES ON WHICH REGISTRATION IS REQUIRED, PURCHASED AT RETAIL, AS PROVIDED IN COLORADO REVISED STATUTES 1972, 29-2-101, et. seq., AS AMENDED, UPON APPROVAL OF REGISTERED ELECTORS OF THE TOWN OF MEAD AT THE REGULAR MUNICIPAL ELECTION, APRIL 6, 1982.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MEAD, WELD COUNTY, COLORADO, AS FOLLOWS:

PART I

Section 1. Purpose. The purpose of Part I of this Ordinance is to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services as provided in paragraph (d) of subsection (1) of Colorado Revised Statutes 1972, 29-2-105, as amended, upon every retailer in the Town of Mead.

Section 2. Definitions. For the purpose of Part I of this Ordinance the definition of words contained herein shall be as defined in Part 102, Article 26, Title 39, Colorado Revised Statutes, 1973, as amended, and are incorporated by reference in this Ordinance.

Section 3. Property and Services Taxed.

(a.) There is hereby imposed and there shall be collected on sales of tangible personal property at retail and the furnishing of services as provided in Colorado Revised Statutes, 1973, 39-26-104, as amended, a tax equal to two percent (2%) of the gross receipts, and subject to the same exemptions as those specified in Colorado Revised Statutes, 1973, 39-26-114, as amended except as otherwise set forth in this Ordinance. The provisions of Colorado Revised Statutes 1973, 39-26-104 and 39-26-114, as amended are incorporated by reference herein except as may be specifically modified.

(b.) The tax defined herein shall be applicable to the purchase of machinery or machine tools and the furnishing of services on sales and purchases of electricity, coal, gas, fuel oil and coke for domestic and commercial consumption as well as other sales of tangible personal property and services. The tax defined herein shall not be applicable to sales of food as defined in Colorado Revised Statutes, 1973, 39-26-102 (4.5), as amended.

(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.

(d.) The gross receipts 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, as amended, regardless of the place to which delivery is made.

(e.) 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 or by separate Ordinance of the Town of Mead.

(f.) Notwithstanding any other provision of this article, the value of construction and building materials on

which a use tax has previously been collected by an incorporated Town, City, or County shall be exempt from the Town, City or County sales tax if the materials are delivered by the retailer or his agent to a site within the limits of such Town, City or County.

Section 4. General Provisions.

(a.) For the purposes of this Article, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his 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 has more than one place of business, for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, Colorado Revised Statutes 1973, as amended, and by rules and regulations promulgated by the Department of Revenue of the State of Colorado.

Section 5. Collection, Administration and Enforcement.

(a.) The collection, administration and enforcement of the sales tax imposed by this Article 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. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, Colorado Revised Statutes, 1973, as amended, 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 Article, every retailer shall be entitled to subtract from the tax so remitted a sum equal to three and one-third percent (3-1/3%) 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, he shall forfeit the three and one-third percent provided in Section 5(b), unless good cause be shown for such delinquent remittance.

Section 6. Disposition of Tax Revenues. All revenues derived from the imposition of the sales tax as set forth in this Ordinance shall be deposited to the General Fund of the Town of Mead.

Section 7. Exemptions. 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:

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

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

Section 8. 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 day of December of the year in which it is issued, unless sooner revoked. Such license shall

be granted or renewed only upon application stating the name and address of the person desiring such license, the name of such business and location, and such other facts as the Town Clerk may require.

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

(c.) For each license issued, a fee of \$5.00 shall be paid which fee shall accompany the application. A further fee of \$5.00 shall be paid for each year or fraction thereof for which said license is renewed, provided that only one-half of the \$5.00 fee shall be charged on licenses issued after July first of any year.

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

(e.) Each license shall be numbered and shall show 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.

(f.) Any license may be revoked for cause as provided in 39-26-103, Colorado Revised Statutes, 1973, as amended, which provision is incorporated herein by this reference.

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

(h.) Any person engaged in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, without having first secured a license therefor as provided in this Ordinance, shall be guilty of a violation of this Ordinance and shall be subject to penalty as set forth in Part III of this Ordinance.

PART II

USE TAX

Section 9. Purpose. The purpose of Part II of this Ordinance is to impose a Use Tax on the privilege of storing, using, or consuming in the Town of Mead any construction and building materials and motor and other vehicles on which registration is required, purchased at retail outside the Town of Mead.

Section 10. Definitions. For the purpose of Part II of this Ordinance the definition of words contained herein shall be as defined in Part 102, Article 26, Title 39, Colorado Revised Statutes, 1973, as amended, and said definitions are incorporated by reference in this Ordinance.

Section 11. Disposition of Tax Revenues. All revenues derived from the imposition of the Use Tax as set forth in this Part II shall be deposited to the General Fund of the Town of Mead.

Section 12. Exemptions. The Use Tax imposed by this Ordinance shall not apply:

(a.) To the storage, use, or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the Town of Mead.

(b.) To the storage, use, or consumption of any tangible personal property purchased for resale in the Town of Mead,

either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

(c.) To the storage, use, or consumption of tangible personal property brought into the Town of Mead by a nonresident thereof for his own storage, use, or consumption while temporarily within the Town; however, this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this state by a nonresident to be used in the conduct of a business in this state.

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

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

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

(g.) To the storage, use, or consumption of tangible personal property and household effects acquired outside of the Town of Mead and brought into it by a nonresident acquiring residency.

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

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

(j.) To the storage, use, or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to the effective date of such use tax Ordinance, resolution, or proposal.

Section 13. Application of Use Tax.

(a.) Building and Construction. There is imposed on the privilege of storing, using or consuming any construction and building materials of every kind and form purchased outside the Town for use, storage or consumption within the Town a use tax of two percent of the retail purchase price of the construction or building materials.

(b.) Payment Requirements. The use tax imposed by Section 13(a) shall be paid by estimate through payment to the Town Clerk of an amount equal to fifty percent of the total cost of the project as indicated on the application for the Town building permit and shall be evidenced by the issuance of a building permit by the Town building inspector. Provided, however, the Town shall, when necessary, issue a certificate of exemption from payment of any further sales or use tax for the materials to be used, stored or consumed pursuant to such building permit.

(c.) Collection and Administration. The collection and administration of the use tax imposed by this Section 13 shall be performed by the Town Clerk in substantially the same manner as the collection, administration and enforcement of the Colorado Sales and Use Tax as provided in Article 2, Title 39, C.R.S. 1973, as amended. The Board of Trustees is authorized to promulgate such additional rules and regulations as may be necessary for the proper administration or enforcement of this Ordinance.

(d.) Applicability. The use tax imposed by Section 13(a) shall be applicable to every motor vehicle for which registration is required by the laws of the State of Colorado.

(e.) Payment Prerequisite to Registration and Issuance of Title. No registration shall be made of any motor vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents, until any tax due upon the use, storage or consumption thereof pursuant to the Ordinance codified in this chapter has been paid.

(f.) Collection. The use tax imposed by Section 13(a) shall be collected by the authorized agent of the Department of Revenue in the County in which the purchaser resides.

(g.) Proceeds--Payment by County to Town--Agreement. The proceeds of the use tax imposed by Section 13(a) shall be paid to the Town periodically in accordance with an agreement entered by and between the Town and the authorized County agent of the Department of Revenue.

(h.) Administration and Enforcement Agreements Authorized. The Town Clerk and the Mayor are empowered to enter into and execute on behalf of the Town any agreements necessary for the administration and enforcement of this Ordinance.

PART III

Section 14. Applicability. The provisions of this Part III shall be applicable to both Part I and Part II of this Ordinance.

Section 15. Violation - Penalty. Any person, corporation, partnership or other legal entity that violates or fails to comply with the provisions of this Ordinance shall be guilty of a violation of the Ordinance and such violation shall be punishable by a fine of up to \$300.00.

Section 16. Amendments. The Board of Trustees, by a majority vote, may amend this Ordinance without submission of the amendment to the voters only if the amendment does not violate the provisions of Article 2, Title 29, C.R.S. 1973, as amended.

Section 17. Election.

(a.) Upon adoption of this Ordinance by the Board of Trustees of the Town, this Ordinance shall be submitted to a regular election by the qualified and registered electors of the Town of Mead for their approval or rejection on April 6, 1982, said election to be conducted in accordance with the Colorado Municipal Election Code of 1965, as amended.

(b.) The voters for and against this Ordinance shall be tabulated and totaled as provided by said Election Law, and should a majority of the electors voting be for the adoption of this Ordinance, it shall become effective as in this Ordinance provided; should a majority of the electors voting be against adoption of this Ordinance, then it shall be forthwith ineffective and repealed.

Section 18. Effective Date. Upon approval of this Ordinance by the qualified electors as herein provided, this Ordinance shall become effective and in force at 12:01 a.m. on the 1st day of July, 1982. As soon as practical after said approval, 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 said request submit a true and complete certified copy of this Ordinance and all necessary proceeding in connection herewith to the Director of Revenue.

Section 19. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application 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.

READ, PASSED, ADOPTED, ORDERED PUBLISHED AND ELECTION ORDERED,
THE 1st DAY OF February, 1982.

TOWN OF MEAD, COLORADO:

Robert A. Clark
Mayor

ATTEST:

Anna J. McDaniel
Town Clerk

(S E A L)