

ORDINANCE NO. 144

AN ORDINANCE OF THE TOWN OF MEAD, WELD COUNTY, COLORADO, PROVIDING: FOR IMPLEMENTATION OF A SALES AND USE TAX IN THE TOWN OF MEAD ON TANGIBLE PERSONAL PROPERTY SALES AT RETAIL AND THE FURNISHING OF SERVICES; FOR EXEMPTIONS; FOR COLLECTION AND ENFORCEMENT; FOR PENALTIES FOR NON-COMPLIANCE; FOR HEARING PROCEDURES ON TAXPAYER CONTESTS; FOR SUBMISSION OF THE ORDINANCE TO THE VOTERS FOR APPROVAL OR DISAPPROVAL; FOR AN EFFECTIVE DATE OF JULY 1, 1986.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MEAD, WELD COUNTY, COLORADO.

Section 1. Purpose. The purpose of this Ordinance shall be to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services in the Town of Mead as provided herein and to impose a use tax for the privilege of using or consuming in the Town of Mead any construction and building materials purchased at retail or for the privilege of storing, using or consuming in the Town of Mead any motor and other vehicle purchased at retail on which registration is required or both, all as provided in C.R.S. 29-2-101, et. sequiter.

Section 2. Definitions. For purposes of this Ordinance, the definitions of words contained herein shall be as defined in Colorado Revised Statutes, Section 102, Article 26 of Title 39, and such definitions are incorporated into this Ordinance.

Section 3. Applicability. This Ordinance shall take effect July 1, 1986, and shall apply to:

A. A sales tax on the sales of tangible personal property, and services in the Town of Mead that are taxable pursuant to Section 39-26-114, C.R.S., together with amendments thereto and subject to the same exemptions as those specified in Section 39-26-114, C.R.S., including:

- 1) the exemption of machinery or machine tools as provided in C.R.S. 39-26-114(11); and
- 2) the exemption of sales and purchases of electricity, coal, wood, gas, fuel oil, or coke, sold but not for resale as set forth in C.R.S. 39-26-114(1)(a)(XXI); and
- 3) the exemption for all sales of food as set forth in C.R.S. 39-26-114(1)(a)(XX) and as defined in C.R.S. 39-26-102(4.5); and

- 4) all sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from said sales tax when such sales meet both of the following conditions:
 - (a) The purchaser is a nonresident of or has his principal place of business outside of the local taxing entity; and
 - (b) Such personal property is registered or required to be registered outside the limits of the local taxing entity under the laws of this state.
- 5) In addition, no sales tax shall apply to the sale of construction and building materials, as the term is used in C.R.S. 29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid.
- 6) No sales tax shall apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city, or town. A credit shall be granted against the sales tax imposed by the subsequent statutory or home rule city and county, city, or town 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 city and county, city, or town. The amount of the credit shall not exceed the sales tax imposed by the subsequent statutory or home rule city and county, city or town.

B. A use tax on the use or consumption in the Town of Mead of any construction and building materials purchased at retail or for the privilege of storing, using, or consuming in Mead any motor or other vehicles, purchased at retail on which registration is required except the use tax shall not apply:

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

- 2) To the storage, use, or consumption of any tangible personal property purchased for resale in Mead, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;
- 3) To the storage, use, or consumption of tangible personal property brought into Mead by a nonresident thereof for his own storage, use, or consumption while temporarily within Mead; 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;
- 4) To the storage, use, or consumption of tangible personal property by the United States government, or the state of Colorado, or its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;
- 5) To the storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label, or the furnished shipping case thereof;
- 6) With respect to the use tax of Mead 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 legally imposed sales or use tax of another statutory or home rule town, city, or city and 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 or city of tangible personal property purchased by him in a previous statutory or home rule town, city, or city and county. 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 the previous statutory or home rule town, city, or city and county of

his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Ordinance.

- 7) To the storage, use, or consumption of tangible personal property and household effects acquired outside of Mead and brought into it by a nonresident acquiring residency;
- 8) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of Mead and he purchased the vehicle outside of Mead for use outside Mead 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 Mead;
- 9) To the storage, use, or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of such use tax;
- 10) To the storage, use, or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to the effective date of such use tax ordinance, resolution, or proposal;
- 11) To the storage of construction and building materials.

Section 4. Amount of Tax.

A. There is imposed on all sales of tangible personal property at retail or furnishing of services in the Town of Mead except as provided herein, a tax equal to two percent (2%) of the gross receipts of:

- 1) 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 Mead or to a common carrier for delivery to a destination outside the limits of Mead. The gross receipt from such sales shall include delivery charges when such charges are subject to the state

sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business in Mead or has more than one place of business, the place at which the retail sales are consummated for the purpose of a sales tax imposed by this Ordinance shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue.

- 2) 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.

B. There is imposed a use tax on the use or consumption of any construction and building materials purchased at retail or for the privilege of storing, using, or consuming in Mead any motor or other vehicles, purchased at retail on which registration is required, of two percent (2%) except as otherwise provided herein, but 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.

Section 5. Sales Tax Collection-Administration-Enforcement. The collection, administration, and enforcement of the Mead sales tax shall be performed by the Executive Director of the Department of Revenue in the same manner as the collection, administration, and enforcement of the Colorado State sales tax. Unless otherwise provided in this Ordinance or by state law, the provisions of C.R.S. Article 26 of Title 39, shall govern the collection, administration, and enforcement of sales taxes authorized under this Ordinance.

Section 6. Use Tax-Collection-Administration-Enforcement. The collection, administration, and enforcement of the use tax imposed by this Ordinance shall be performed by the Town Clerk, an authorized agent of the Department of Revenue, or by such intergovernmental agreements as the Mayor, on behalf of the Town of Mead, may enter into when approved by the Board of Trustees. Such collection, administration, and enforcement shall be in compliance with any applicable state law.

Section 7. Appeal of Deficiency Notice. The taxpayer receiving a deficiency notice or claim for refund-final decision from the Town of Mead, may elect a state hearing on such decision within 30 days after the making of such final decision pursuant to the procedures set forth in C.R.S. 29-2-106.1.

Section 8. Relationship to Other Sales and Use Tax. In the event the seven percent limitation on total sales tax or total use tax provided in C.R.S. 29-2-108 is to be exceeded in Mead, it shall not exceed the limitation by more than one percent.

Section 9. Retail License--Required--Issuance--Term. It shall be unlawful for any person to engage in the business of selling tangible personal property at retail without first having obtained a license therefor. Such 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.

Section 10. Retail License--Required--For Separate Places of Business. In case business is transacted at more than one premise by one person, a separate license for each separate place of business shall be required.

Section 11. Retail License--Application Required--Contents. Such licenses shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business, and the location and such other facts as the Town Clerk may require.

Section 12. Retail License--Renewal--Licensee's Duties. It shall be the duty of each licensee, on or before January 1st of each year during which this chapter remains in effect, to obtain a renewal of such license if the licensee remains in the retail business or liable to account for the tax provided in this Ordinance, but nothing contained in this Ordinance shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of licensee's prior license.

Section 13. Retail License--Fee. For each license issued under this Ordinance, a fee of Two Dollars (\$2.00) shall be paid, which fee shall accompany the application. A further fee of Two Dollars (\$2.00) shall be paid for each year or fraction thereof for which the license is renewed.

Section 14. Unlicensed Sale Prohibited. Any person engaged in the business of selling tangible personal property at retail in the city, without having secured a license therefore, except as specifically provided herein, shall be guilty of a violation of this chapter.

Section 15. Regulations--Amendment Procedure. The Board of Trustees may amend, alter or change this chapter, except as to the two percent (2%) rate of tax herein imposed and except as to the funds allocated to the capital improvement street fund subsequent to adoption by a majority of the Board of Trustees. Such

abatement, alteration or change need not be submitted to the electors of the Town for their approval.

Section 16. Allocation. One-half of the total sales and use tax generated by this Ordinance shall be specifically allocated to a sales and use tax capital improvement fund for the purpose of construction, maintenance, and servicing of streets in the Town of Mead for a period of ten (10) years from the implementation of the tax. Thereafter, all funds generated by the sales and use tax shall be deposited to the general fund.

Section 17. Voter Approval. Final passage and adoption of this Ordinance shall be subject to the approval of a majority of the voters of the Town of Mead casting ballots in the regular Town election on April 1, 1986.

Section 18. Violation. Any person, firm or corporation violating this Code or any provision of applicable state law, is guilty of a violation of this Ordinance and, upon conviction thereof, shall be punished by a fine of not more than Three Hundred and No/100ths (\$300.00) Dollars, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

Section 19. All Ordinances, Resolutions, and Motions of the Board of Trustees of the Town of Mead or parts thereof, in conflict with the provisions of this Ordinance, are to the extent of such conflict hereby superseded and repealed.

Section 20. The Sections of this Ordinance are hereby declared to be severable, and if any section, provision, or part thereof shall be held unconstitutional or invalid, the remainder of this Ordinance shall continue in full force and effect, it being the legislative intent that this Ordinance would have been adopted even if such unconstitutional or invalid matter had not been included therein. It is further declared that if any provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of this Ordinance and the application thereof to other persons shall not be effected thereby.

Approved, adopted, and ordered published by the Board of Trustees of the Town of Mead on this 18th day of February, 1986.

MAYOR:

Harvey O. Potts

ATTEST:

Diane Hodge
Town Clerk