

REPEALED  
ORD. #33!

# **ORDINANCE NO. 313**

## **TOWN OF RICO**

**AN ORDINANCE CONCERNING REVENUE, AND IMPOSING A 4% SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL AND THE FURNISHING OF TAXABLE SERVICES IN THE TOWN OF RICO, COLORADO, AND IMPOSING A 2% USE TAX FOR THE PRIVILEGE OF USING OR CONSUMING IN RICO, COLORADO, ANY CONSTRUCTION AND BUILDING MATERIALS, AND PROVIDING FOR AN ELECTION ON THE PROPOSALS HEREIN CONTAINED.**

WHEREAS, Colorado Revised Statutes section 29-2-101 *et. seq.* authorizes statutory towns to enact a sales and use tax by the passage of an ordinance referring the question to a regular election;

WHEREAS, the Town of Rico desires to enhance its revenues in order to provide government services and fulfill other municipal purposes; and,

WHEREAS, the Board of Trustees of the Town of Rico has determined that the imposition of a sales and Use Tax in the Town of Rico will provide revenues for municipal purposes;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO, the following:

This Ordinance may be known and cited as the "Town of Rico Sales and Use Tax Ordinance".

### **ARTICLE I.**

### **REPEAL OF ORDINANCE NO. 235**

Upon the approval of this Ordinance No. 313 by the registered voters of the Town of Rico voting at the April 2<sup>nd</sup>, 1996, election, Ordinance No. 235, Town of Rico, shall be repealed in its entirety effective on the date that the Sales and Use Tax imposed by

**- ORDINANCE No. 313, SALES AND USE TAX, TOWN OF RICO -**

this Ordinance takes effect. In the event that this Ordinance No. 313 is not approved by the registered voters of the Town of Rico voting at the April 2<sup>nd</sup>, 1996, election, then Ordinance No. 235 shall remain in full force and effect.

**ARTICLE II. SALES TAX**

A. Purpose. The purpose of this Article is to impose a Sales Tax upon the sale at retail of tangible personal property and the furnishing of certain services in the Town of Rico, Colorado, pursuant to the authority granted to incorporated towns of the State of Colorado by Article 2 of Title 29, Colorado Revised Statutes, as amended. This Article 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, C.R.S. as amended.

B. Definitions. For the purposes of this Article, the definition of words herein contained shall be as said words are defined in Section 39-26-102, C.R.S., as amended, and the definitions are incorporated herein.

C. Licenses

(1) 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 therefore, 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 to or renewed on 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.

(2) 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 is 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.

**- ORDINANCE NO. 313, SALES AND USE TAX, TOWN OF RICO -**

(3) For each license issued, a fee shall be paid according to the following schedule:

Annual License (for calendar year)	\$50.00
6 Month License	\$25.00
Monthly License	\$10.00

(4) 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.

(5) Each license shall be numbered and shall show the name and place 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.

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

(7) 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 therefore as provided in this Article, shall be guilty of a violation of this Article.

**D. Property and Services Taxed**

(1) There is hereby levied and there shall be collected and paid a Sales Tax in the amount as in this Article provided, upon the sale at retail of tangible personal property and the furnishing of certain services, as provided in Section 39-26-104, C.R.S., as amended.

(2) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S., as amended.

(3) 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, C.R.S., as amended, regardless of the place to which delivery is made.

**- ORDINANCE No. 313, SALES AND USE TAX, TOWN OF RICO -**

(4) No Sales Tax shall apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., as amended, 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.

(5) No Sales or Use Tax shall apply to the sale of food purchased with food stamps. For the purposes of this paragraph, "food" shall have the same meaning as provided in 7 U.S.C. Section 2012(g), as such section exists on October 1, 1987, or is thereafter amended.

(6) No Sales or Use Tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C. Section 1786. For the purposes of this paragraph, "food" shall have the same meaning as provided in 42 U.S.C. Section 1786, as such section exists on October 1, 1987, or is thereafter amended.

(7) 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 town, city and county, city, or town, equal to or in excess of that sought to be imposed by Rico, Colorado. A credit shall be granted against the Sales Tax imposed by Rico, Colorado 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 Rico, Colorado.

(8) Notwithstanding any other provision of this Article, the value of construction and building materials on which a Use Tax has previously been collected by the Town of Rico shall be exempt from the Sales Tax if the materials are delivered by the retailer or his agent to a site within the limits of the Town of Rico.

**E. Exemptions**

(1) There shall be exempt from taxation under the provisions of this Article, all of the tangible personal property and services which are exempt under the provisions set

**- ORDINANCE NO. 313, SALES AND USE TAX, TOWN OF RICO -**

forth in Article 26, Title 39, C.R.S., as amended, which exemptions are incorporated herein by this reference, except the exemption allowed by Section 39-26-114(11), C.R.S., as amended, for the purchases of machinery or machine tools, and except the exemption of sales and purchases of electricity, coal, gas, fuel oil and coke as provided in Section 39-26-114(1)(a)(XXI), C.R.S., as amended.

(2) All sales of tangible personal property on which a specific ownership tax has been paid, or is payable, shall be exempt from 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 of, the Town; and

(b) 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. Amount of Tax**

(1) There is hereby imposed upon all sales of tangible personal property and the Property and Services Taxed Section D. of this Article, a four per cent (4%) Sales Tax upon the sale at retail of tangible personal property and the furnishing of certain services as provided herein.

**G. General Provisions**

(1) 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.

(2) In the event a retailer has no permanent place of business in the Town, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the Sales Tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., as amended, and by rules and regulations promulgated by the Department of Revenue of the State of Colorado.

**- ORDINANCE NO. 313, SALES AND USE TAX, TOWN OF RICO -**

**H. Collection, Administration and Enforcement**

(1) The collection, administration, and enforcement of the Sales Tax imposed by this Article shall be performed by the Executive Director of the Department 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, C.R.S., as amended, and all rules and regulations promulgated by the Executive Director of the Department of Revenue pertaining to such collection, administration, and enforcement, are incorporated herein by this reference.

**I. Revenues Derived - Disposition**

All revenues derived from the Sales Tax imposed by this Ordinance shall be allocated to the General Fund and may be appropriated for any lawful expenditure or transferred to any other fund.

**ARTICLE III. USE TAX**

**A. Purpose**

The purpose of this Article is to impose a Use Tax of two percent (2%) thereof, for the privilege of using, or consuming in the Town of Rico, Colorado, any construction and building materials, purchased at retail.

**B. Limitations**

In no event shall the Use Tax imposed by this ordinance extend or 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 the Town of Rico.
- (2) To the storage, use, or consumption of any tangible personal property purchased for resale in the Town of Rico either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

**- ORDINANCE No. 313, SALES AND USE TAX, TOWN OF RICO -**

(3) To the storage, use or consumption of tangible personal property brought into the Town of Rico by a non-resident 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 non-resident 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 organizations 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 manufactured, compounded or furnished and the container, label, or the furnished shipping case thereof;

(6) 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 on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by the article;

(7) To the storage, use, or consumption of tangible personal property and household effects acquired outside of the Town of Rico and brought into it by a non-resident acquiring residency;

(8) 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;

**- ORDINANCE No. 313, SALES AND USE TAX, TOWN OF RICO -**

(9) 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 this Use Tax ordinance;

**C. Construction and Building Materials Use Tax Collection**

(1) The collection of the Use Tax for construction and building materials shall be administered by the Board of Trustees of the Town of Rico, Colorado.

(2) The collection and administration of the Use Tax imposed by this ordinance shall be performed by the Board of Trustees of the Town of Rico in substantially the same manner as the collection, administration and enforcement of the Colorado Sales and Use Tax.

**D. Revenues Derived - Disposition**

All revenues derived from the Use Tax imposed by this Ordinance shall be allocated to the General Fund and may be appropriated for any lawful expenditure or transferred to any other fund.

**ARTICLE IV. ELECTION**

Upon adoption of this Ordinance by the Board of Trustees of the Town, this Ordinance shall be submitted to an election by the registered electors of the Town of Rico for their approval or rejection. Such election shall be held on the 2<sup>nd</sup> day of April, 1996, and shall be conducted in the manner provided in "The Colorado Municipal Election Code of 1965." The ballot questions shall be, "Shall the Town of Rico raise taxes \$15,000 annually, commencing in 1996, and by whatever amounts are raised thereafter, by the increase in the existing sales tax to a 4% sales tax and by the imposition of a 2% use tax on the consumption of construction and building material in the Town of Rico, to be spent as a voter approved revenue change and an exception to the limits which would otherwise apply without limiting or affecting the collection or spending of other revenues?"



**- ORDINANCE No. 313, SALES AND USE TAX, TOWN OF RICO -**

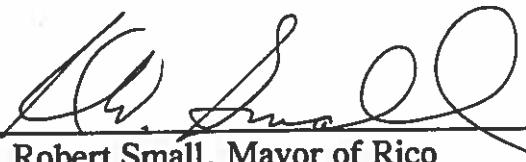
**ARTICLE IV. EFFECTIVE DATE**

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, 1996. As soon as practical after said approval, the Board of Trustees of the Town shall request the Executive 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 proceedings in connection herewith to the Executive Director of the Department of Revenue.

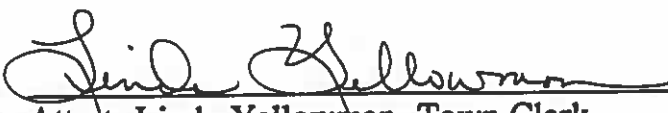
**ARTICLE V. SEVERABILITY**

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, ADOPTED AND REFERRED TO AN ELECTION THIS 20<sup>th</sup> DAY OF FEBRUARY, 1996, by the Board of Trustees of the Town of Rico.**

  
\_\_\_\_\_  
By: Robert Small, Mayor of Rico

3 114 196  
Date

  
\_\_\_\_\_  
Attest: Linda Yellowman, Town Clerk

3 114 196  
Date {Town Seal}

  
\_\_\_\_\_  
Approved as to Form: Eric James Heil, Esq.  
Town Attorney


3 114 196  
Date

**CERTIFICATION**

STATE OF COLORADO  
COUNTY OF DOLORES    SS  
TOWN OF RICO

I, Linda Yellowman, Town Clerk of the Town of Rico, Colorado do hereby certify that the foregoing Ordinance No. 313 is a true and correct copy of the original ordinance read, adopted and referred to an election this 20th day of February, 1996 by the Board of Trustees of the Town of Rico. Ordinance No 313 passed with 24 yes votes and 15 no votes on April 2, 1996.

WITNESS my hand and seal of said Town of Rico, Colorado this 14th day of March 1996.

  
Rico Town Clerk  
Town of Rico, Colorado