

ORDINANCE NO. 335

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO AMENDING AND FURTHER DEFINING THE METHOD FOR COLLECTING THE 2% USE TAX; REPEALING RESOLUTION NO. 130; AND REPEALING AND REPLACING ORDINANCE NO. 313.

WHEREAS, the Board of Trustees has the authority pursuant to Sections 29-2-101 et seq., of the Colorado Revised Statutes to enact and impose a sales and use tax by passage of an ordinance referring the question to the electorate at a regular municipal election; and

WHEREAS, the Board adopted Ordinance No. 313, which imposed a 4% sales tax on the retail sale of tangible personal property and the furnishing of certain services, and further imposed a 2% tax on the privilege of using or consuming in the Town of Rico any construction and building materials purchased at retail; and

WHEREAS, the Ordinance No. 313 was referred to and approved by the electorate at a regular municipal election; and

WHEREAS, subsequently, the Board adopted Resolution No. 130 to establish the method of collection of the use tax; and

WHEREAS, the Board wishes to further define the method of the collection of the use tax and consolidate all of its ordinances and resolutions regarding sales and use taxes into a single ordinance to facilitate compliance with and administration of such regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO, AS FOLLOWS:

Section 1

Resolution No. 130 is hereby repealed. Ordinance No. 313 is hereby repealed and replaced as follows:

ARTICLE I. APPROVAL OF THE ELECTORATE

The sales and use taxes authorized herein were referred to, and approved by, the registered voters of the town at an election held on April 2, 1996.

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 incorporate towns of the State of Colorado by Article 2 of Title 29, Colorado Revised Statutes, as amended. This Article shall be so construed and

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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.

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.

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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.

X 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 purpose 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 of another statutory or home rule town, city and county, city, or town, equal to or in excess of that sought to be imposed by the Town. A credit shall be granted against the sales tax imposed by the 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 Town.

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 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.

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E. Exemption.

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 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 purposes 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 specific ownership tax has been paid, or is payable, shall be exempt from sales tax when such sales meet both 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.

There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services described in section D of this Article, a four per cent (4%) sales tax 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 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 designation 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.

H. Collection, Administration and Enforcement.

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

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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.
2. To the storage, use, or consumption of any tangible personal property purchased for resale in the Town 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 the Town 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,

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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 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 this 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 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 or 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;

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. No building permit shall be issued by the Town Building Official, or other officer or staff personnel authorized by the Board of Trustees, to any person requesting a permit for construction within the Town until the owner has paid to the Town a use tax in the amount of two percent (2%) of forty percent (40%) of the estimated valuation of the construction project. The estimated valuation shall be determined by multiplying the square footage of the project as set forth in the building permit by an amount per square foot, which shall be established, and from time to time amended, administratively. The amount per square foot established by the Town shall, to the extent practicable, reflect actual costs for local construction on a per square foot basis.

2. No final plat of any subdivision requiring infrastructure improvements shall be signed by the mayor or other authorized agent of the Town until the owner has paid to the Town a use tax in the amount of two percent (2%) of one hundred percent (100%) of the estimated cost of the infrastructure materials. Final acceptance of any subdivision improvements shall not be granted until the owner has verified the actual cost of the required infrastructure improvement

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materials and has paid to the Town a use tax in the amount of two percent (2%) of one hundred percent (100%) of the required infrastructure improvement materials. The Town may request satisfactory proof of the actual cost of required infrastructure improvement materials.

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.

Section 2

The officers of the town are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 3

If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 4

This ordinance is necessary to protect the public health, safety and welfare of the residents of the town, and covers matters of local concern.

Section 5

The Board of Trustees deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available at the office of the town clerk for public inspection and copying.

INTRODUCED, READ, ORDERED PUBLISHED BY TITLE ONLY, AND REFERRED to public hearing before the Board of Trustees of the Town of Rico, Colorado on the 15th day of July, 1998.

TOWN OF RICO

By:


Joe Croke
Mayor

ATTEST


Linda Yellowman
Town Clerk

