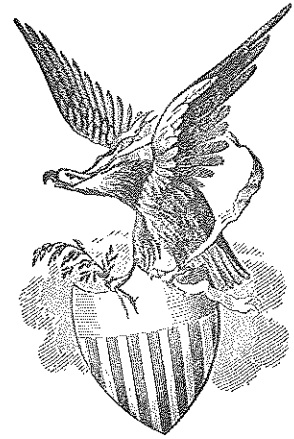


Town of Silverton

Post Office Box 250 Silverton, Colorado 81433-0250

TELEPHONE (970) 387-5522 FAX (970) 387-5583

E-MAIL: townhall@ekiva.net



Ordinance 2008- 03

An Ordinance to amend Article VII of the Code of the Town of Silverton, Colorado

WHEREAS, the Board of Trustees of the Town of Silverton desires to institute a 1% sales tax increase; and

WHEREAS, the Board of Trustees held public hearings on September 8, 2008 and September 22, 2008 to receive public comment relative to the proposed sales tax increase and this ordinance; and

WHEREAS, approval of this ordinance shall authorize the Town of Silverton to forward to authorized voters of the Town of Silverton a ballot question to increase the sales tax for the Town of Silverton by 1%; and

WHEREAS, nothing in this ordinance shall affect or be deemed to affect the existing sales tax collection by San Juan County, recognized in the 1994 Memorandum of Understanding; and

WHEREAS, this ordinance, if approved by voters, shall replace Article VII in the Silverton Town Code.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF THE TOWN OF SILVERTON THAT:

Article VII of the Silverton Code be replaced with the following:

ARTICLE VII Sales Tax

Sec. 3-7-1. Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail within the Town as authorized and provided in Section 29-2-105(l)(d), C.R.S., and any successor statute thereto. This sales tax is in addition to the current sales tax imposed within the Town of Silverton jointly by the Town and San Juan County, Colorado pursuant to the terms of Ordinance _____, adopted by the Town of Silverton on November 14, 1994, the Memorandum of Agreement between San Juan County and the Town of Silverton dated August 8, 1994 and San Juan County Resolution 94-10, all as are re-codified in Section 3-7-9 below.

Sec. 3-7-2. Definitions.

For purposes of this Article, the definitions of words herein contained shall be as said words are defined in Section 39-26-102, C.R.S., or any successor statute, and said definitions are incorporated herein by reference.

Sec. 3-7-3. Licenses for Retailers.

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property or providing taxable services without first having obtained a license therefore. Such license shall be granted and issued without fee by the Town Clerk and shall be in force and effect until revoked.

(b) Such licenses shall be granted only on application stating the name and address of the person desiring such a license, the name of such business location, including the street and number of such business, and such other facts as may be reasonably required by the Town Clerk.

(c) In case business is transacted at one or more separate premises by one person, corporation or firm, a separate license for each place of business shall be required, unless such places of business are contiguous with each other and operated as a unit.

(d) 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.

(e) Any person engaged in the business of selling at retail or providing taxable services in the Town of Silverton, Colorado, without having secured a license therefore, shall be guilty of a violation of this ordinance.

(f) No license shall be required for any person engaged exclusively in selling commodities which are exempt from taxation under this section.

(g) It shall be the duty of each licensee on or before January 1 of each year during which this ordinance remains in effect, to obtain a renewal thereof if the licensee remains in the 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 the licensee's prior license.

Sec. 3-7-4. Levy and schedule of sales tax; collection and administration.

(a) There is hereby imposed on all sales of tangible personal property at retail and the furnishing of taxable services as provided in Section 39-26-104, C.R.S., a tax equal to one percent (1%) of the gross receipts. The tangible personal property and services taxable by this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and any successor statute thereto, subject to the exemptions specified Section 29-2-105(1)(d), C.R.S. The imposition of the tax on individual sales shall be in accordance with the schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town. If any vendor, during any reporting period, shall collect as a tax an amount in excess of one percent (1%) of the vendor's total taxable sales, the vendor shall remit to the Director of Revenue the full amount of the tax herein imposed and also such excess.

(b) The amounts subject to tax under this Article shall not include the state sales and use tax imposed by Article 26, Title 39, C.R.S.

(c) The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26, Title 39, C.R.S., and all rules and regulations promulgated by the Director of Revenue shall govern the collections, administration and enforcement of the sales tax imposed by this Article.

(d) 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., regardless of the place to which delivery is made.

Sec. 3-7-5. Consummation of sales.

(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 or her 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 (1) 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., and by the rules and regulations promulgated by the State Department of Revenue.

Sec. 3-7-6. Exemptions; credits.

There shall be exempt from taxation under the provisions of this Article all of the following retail sales of tangible personal property and services:

(1) All sales exempted under Section 29-2-105(l)(d), C.R.S., and any successor statute.

(2) Food purchased with food stamps or funds provided by the special supplemental food program for women, infants and children. For purposes of this Subsection, *food* shall have the same meaning as provided in Section 39-26-102(4.5), C.R.S.

(3) 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.

(4) The sale of construction and building materials 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 acceptable documentation evidencing that a local use tax has been paid or is required to be paid. For purposes of this Subsection, the term *construction and building materials* shall have the same meaning as provided in Section 29-2-105(2), C.R.S.

(5) 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 municipality equal to or in excess of the rate provided in this Article. 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 the rate provided in this Article.

Sec. 3-7-7. Violations and penalty.

(a) It shall be unlawful for any person, business, organization or other entity subject to the terms of this Article to fail to collect or submit to the State Department of Revenue the sales tax levied in Section 3-7-4, or to violate any of the provisions of this Article.

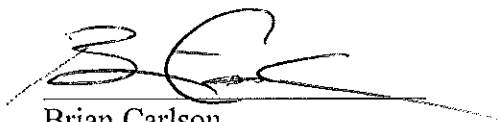
(b) Violations of this Article shall be punished by a fine up to one thousand dollars (\$1,000.00) or by a term of imprisonment up to one (1) year, or by both such fine and imprisonment.

Sec. 3-7-8. Effective Date. This Ordinance shall only become effective if it is approved by a majority of the qualified electors voting at the Regular Election of the Town of Silverton on November 4, 2008. If approved by the qualified electors, the effective date of this Ordinance shall be January 1, 2009.

Sec. 3-7-9. Pre-existing 4% Sales Tax Not Affected. Pursuant to the Memorandum of Agreement between the Town of Silverton and San Juan County, dated August 8, 1994, and by ordinance adopted by the Town of Silverton on November 14, 1994, the Town has in place a 3% sales tax that is suspended and not applied provided the 4% County Sales tax is applied in its stead to residents of the Town of Silverton. This 4% sales tax was approved by the qualified electors on the 1st day of November, 1994. This Ordinance hereby ratifies and continues in effect the existing 4% sales tax as outlined in this section.

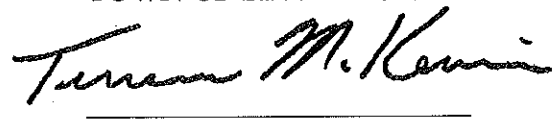
PASSED AND ADOPTED THIS 22nd DAY OF SEPTEMBER, 2008.

ATTEST:



Brian Carlson
Town Clerk

TOWN OF SILVERTON:



Terrence Kerwin
Mayor