

**TOWN OF GREEN MOUNTAIN FALLS**

**ORDINANCE NO. 2018-07**

**AN ORDINANCE AMENDING ARTICLE IV, CHAPTER 4, OF THE GREEN MOUNTAIN FALLS MUNICIPAL CODE TO RE-CODIFY THE TOWN'S SALES TAX WITHOUT A TAX POLICY CHANGE**

WHEREAS, as a statutory town, the Town is limited in its local taxing authority as set out in Section 29-2-105, C.R.S.;

WHEREAS, by Ordinance No. 119, Series 1976, the Town enacted a sales tax on tangible property sold at retail and the furnishing of services at a rate of 2% as provided by Section 29-2-105, C.R.S., and this sales tax was approved by voters with a January 1, 1977, effective date (the "1977 Tax");

WHEREAS, on April 15, 1976, the Town provided notice to and authorized the Colorado Department of Revenue to administer, collect and distribute the 1977 Tax;

WHEREAS, since January 1, 1977, the Colorado Department of Revenue has been collecting the Town's sales tax;

WHEREAS, by Ordinance 01-2004, the Town enacted a voter-approved sales tax rate increase of 1% with the additional tax revenue dedicated to maintaining Town services, the repair and replacement of road maintenance and snow-plowing equipment, the purchase of road maintenance materials, and the maintenance, repair and improvement of town parks and recreational facilities (the "2004 Increase");

WHEREAS, the Town provided notice of 2004 Increase to the Colorado Department of Revenue, and the Department updated the Town's sales tax rate accordingly;

WHEREAS, the 2004 Increase did nothing to alter the scope of the Town's sales tax base, and it neither introduced nor eliminated tax exemptions; the 2004 Increase simply increased the Town's sales tax rate from 2% to 3% and applied it to the same tangible property and furnishing of services;

WHEREAS, due to drafting or codification errors, the current Article IV, Chapter 4, of the Green Mountain Municipal Code, last amended to reflect the 2004 Increase, does not contain significant language from the 1977 Tax defining the proper scope of the Town's sales tax;

WHEREAS, notwithstanding these drafting or codification errors or oversights the Colorado Department of Revenue has been collecting the Town's sales tax on the same tangible property and services since 1977;

WHEREAS, the Town wishes to adopt the following revisions to Article IV, Chapter 4, of the Green Mountain Municipal Code to restore compliance with state law and to reflect the 1977 Tax, as amended in rate only by the 2004 Increase; and

WHEREAS, the following revisions have been reviewed and found to be revenue-neutral; they do not reflect a change in tax policy or require voter approval.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO:**

Section 1. Article IV, Chapter 4, of the Green Mountain Falls Municipal Code is revised to read as follows with deleted language shown in ~~striketrough~~ and new language shown in UNDERLINE:

**ARTICLE IV - Sales Tax**

**Sec. 4-61. Purpose.**

The purpose of this Article is to impose a sales tax on the privilege of selling tangible personal property at retail AND ON THE FURNISHING OF SERVICES upon every retailer in the Town.

**Sec. 4-62. Definitions.**

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

**Sec. 4-63. Licenses.**

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail OR IN THE FURNISHING OF SERVICES 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 December 31 of the year in which it is issued unless sooner revoked.

(b) Such license 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.

(c) It shall be the duty of each licensee, on or before January 1 of each year during which this Article 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.

(d) In case business is transacted at one (1) or more separate premises by one (1) person, a separate license for each place of business shall be required.

(e) Any person engaged in the business of selling tangible personal property at retail OR IN THE FURNISHING OF SERVICES in the Town without

having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Article.

(f) Each license shall be numbered, 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 transferrable.

(g) No license shall be required for any person engaged exclusively in the business of selling commodities OR IN THE FURNISHING OF SERVICES THAT which are exempt from taxation under ~~this Article~~ STATE LAW.

#### **Sec. 4-64. General provisions; exemptions.**

(a) For the purpose of collection, administration and enforcement of this Article the provisions of Section 39-26-114, C.R.S., shall be deemed applicable and incorporated into this Article.

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

(c) For the purpose of this Article, all retail sales shall be considered 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.

(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 Chapter 39, C.R.S., regardless of the place to which delivery is made.

(e) In the event a retailer has no permanent place of business or more than one (1) place of business in the Town, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26 of Chapter 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue.

(F) FOR THE PURPOSES OF COLLECTION, ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE, THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE SHALL BE THE SAME AS THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO SECTION 39-26-104, C.R.S., AS AMENDED.

#### **Sec. 4-65. Schedule of sales tax.**

(a) There is hereby imposed, ~~effective July 1, 2004~~, on all sales of tangible personal property AND ON THE FURNISHING OF ALL TAXABLE SERVICES, a tax equal to two percent (2%) of the gross receipts.

(b) There is hereby imposed on all sales of tangible personal property AND ON THE FURNISHING OF ALL TAXABLE SERVICES an additional tax equal to one percent (1%) of the gross receipts. This additional sales tax, by voter approval, is to be used for the purpose of maintaining current services, repair and replacement of Town road maintenance and snowplowing equipment, the purchase of road maintenance materials and the maintenance, repair and improvements of Town parks and recreational facilities.

(c) The imposition of tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue or by separate ordinance of the Town.

(d) 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 of Chapter 39, C.R.S., AS AMENDED, and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of sales tax imposed by this Article.

**~~Sec. 4-66. Election and amendments.~~**

~~(a) Before this Article shall become effective, it shall receive the approval of a majority of the qualified electors of the Town at a special election. Any sales tax presently in effect shall remain in effect until such special election.~~

~~(b) The Board of Trustees may amend, alter or change this Article, except as to the two percent (2%) rate of tax herein imposed, subsequent to adoption by a majority vote of the Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval.~~

**Secs. 4-66 ~~4-67~~ - 4-80. Reserved.**

Section 2. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Green Mountain Falls, that it is promulgated for the health, safety and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective thirty (30) days after passage.

INTRODUCED AND ORDERED PUBLISHED the \_\_\_\_ day of \_\_\_\_\_,

2018, at the Green Mountain Falls Town Hall, 10615 Green Mountain Falls Road, Green Mountain Falls, Colorado.

ADOPTED AND ORDERED PUBLISHED the 7<sup>th</sup> day of August, 2018.

Jane Newberry  
Jane Newberry, Mayor

ATTEST:

Judy Egbert  
Judy Egbert, Interim Town Clerk

APPROVED AS TO FORM:

Jeff Parker  
Jeff Parker, Town Attorney



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