

**TOWN OF MOFFAT**

**ORDINANCE NUMBER 5-1-10**

An ordinance concerning revenue and imposing a sales tax on the sale of tangible personal property at retail and the furnishing of taxable services in the Town of Moffat, Colorado.

Be it ordained by the Board of Trustees of the Town of Moffat, Colorado:

This ordinance may be known and cited to as the Town of Moffat Sales Tax ordinance.

**ARTICLE ONE – SALES TAX**

**SECTION 1. 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 Moffat, 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, Colorado Revised Statutes, as amended.

**SECTION 2. DEFINITIONS.**

For the purpose of this Article, the definitions of words herein contained shall be as said words are defined in Section 39-26-102, Colorado Revised Statutes, as amended, and said definitions are incorporated herein.

**SECTION 3. LICENSES.**

- (A) 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 or renewed only upon application stating the name of such business and location and such other facts as the Town Clerk may require.
- (B) It shall be the duty of each such licensee on or before January first of each year during which this Article remains in affect 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.
- (C) For each license issued, a fee of \$25.00 (twenty-five dollars) shall be paid, which fee shall accompany the application together with an additional \$0.50 (fifty cents) for filing fee. A year or fraction thereof for which said license is renewed, together with an additional fee of \$0.50 (fifty cents) for filing fee; provided that only one-half of said \$25.00 (twenty-five dollars) fee shall be charged on licenses issued after July first of any year, together with an additional \$0.50 (fifty cents) for filing fee.
- (D) 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.
- (E) 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 transferred

- (F) 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.
- (G) 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.
- (H) Any person convicted of violating any of the provisions of this Ordinance shall be punished by a fine of not to exceed \$300.00. or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

#### **SECTION 4. PROPERTY AND SERVICES TAXED.**

- (A) 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.
- (B) 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.
- (C) 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.
- (D) 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.
- (E) No sales or use tax shall apply to the sale of food purchased with funds provided by the special supplemental food programs 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.
- (F) 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 equal to or in excess of that sought to be imposed by Moffat, Colorado. A credit shall be granted against the sales tax imposed by Moffat, 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 Moffat, Colorado.
- (G) Notwithstanding any other provisions of this Article, the value of construction and building materials on which a use tax has previously been collected by an incorporated town, city, or county shall be exempt from the town, city, or county sales tax if the materials are delivered by the retailer or his agent to a site within the limits of such town, city, or county.

#### **SECTION 5. EXEMPTIONS.**

- (A) 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; PROVIDED THAT the exemption for sales of food pursuant to Section 39-26-114 (1) (a) (XX) C.R.S., and the exemption for sales of machinery or machine tools pursuant to Section 39-26-114 (11) C.R.S., shall not Apply, and the sale of such items is expressly made taxable under this ordinance.



- (B) 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.
- (C) 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:
  - (1) The purchaser is a nonresident of, or has its principal place of business outside the Town; and
  - (2) 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.

#### **SECTION 6. AMOUNT OF TAX.**

- (A) There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in Property and Services Taxed Section of this Article, a two percent (2%) sales tax upon the sale at retail of tangible personal property and the furnishing of certain services as provided herein.

#### **SECTION 7. GENERAL PROVISIONS.**

- (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 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 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, State of Colorado.

#### **SECTION 8. COLLECTION, ADMINISTRATION AND ENFORCEMENT**

- (A) 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 Article 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.
- (B) All licensed Vendors (Retailer) shall be entitled, as Collection Agent for the Town of Moffat, to withhold a collection fee in the amount of three and one-third percent (3 1/3 %) from the total amount due by vendor to the Town of Moffat each month. If any Vendor is delinquent in remitting the sales tax, other than in unusual circumstances shown to the satisfaction of the Executive Director of the Department of Revenue, the vendor shall not be allowed to retain any amounts to cover his expense in collecting and remitting said sales tax and an amount equivalent to the full amount of the sales tax imposed by this Ordinance shall be remitted to the Executive Director by any such delinquent vendor.

#### **SECTION 9. REVENUES DERIVED AND DISPOSITION.**

The revenues derived by the Sales Tax of the Town of Moffat shall be used for the delivery of services and payments of goods and services through the General Fund of the Town of Moffat.

**SECTION 10. AMENDMENTS.**

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

**ARTICLE TWO – ELECTION**

This ordinance is intended to officially adopt and implement the sales tax approved by the electorate of Moffat in November 1999, which was conducted in the manner provided in "The Colorado Municipal Election Code of 1965".

**ARTICLE THREE – 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 AM on the first day of July, 2000. As soon as practical after said approval, the Board of Trustees of the Town shall request the Executive Director of the Department 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 FOUR – SEVERABILITY.**

If any provision of this Ordinance or the application thereof to any person or circumstance 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.

**ARTICLE FIVE – EMERGENCY.**

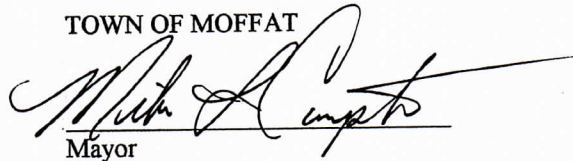
The Board of Trustees hereby finds, determines and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public health or safety and the same shall be in full force and effect after publication and final passage as by law provided.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED THIS 2<sup>nd</sup> DAY OF MAY, 2000.

ATTEST:

TOWN OF MOFFAT

  
Town Clerk

  
Mayor

I hereby certify that this copy is a true and accurate copy of Ordinance Number 15-1-10 as recorded in the records of the Town of Moffat.

(Seal)

  
Town Clerk and Recorder