

ORDINANCE NO. 1-B

AN ORDINANCE CONCERNING REVENUE; TO LEVY A SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL AND THE FURNISHING OF SERVICES WITHIN THE TOWN OF STRATTON, COLORADO, AS PROVIDED IN THE COLORADO REVISED STATUTES, TITLE 29, ARTICLE 2, AS AMENDED, UPON APPROVAL OF THE REGISTERED ELECTORS OF THE TOWN OF STRATTON, COLORADO; TO CREATE A SPECIAL FUND, TO BE KNOWN AS A SALES TAX FUND; TO PROVIDE FOR THE SUBMISSION OF THIS ORDINANCE TO A SPECIAL ELECTION OF REGISTERED ELECTORS FO THE TOWN OF STRATTON, COLORADO; AND TO PROVIDE PENALTIES.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF STRATTON, COLORADO:

Section 1. PURPOSE. The purpose of this ordinance is to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services within the Town of Stratton, Colorado (hereinafter the "Town"). This ordinance also amends Ordinance 99A, the original sales tax ordinance, by removing the last sentence of paragraph 5.1, and adding language to make it clear that sales of food for domestic home consumption shall be exempt from this sales tax.

Section 2. DEFINITIONS. For the purpose of this ordinance, the meanings of words herein contained shall be as defined in Section 39-26-102 of the Colorado Revised Statutes, as amended, and said definitions are incorporated herein.

Section 3. SALES TAX LEVIED. There is hereby levied and there shall be collected and paid a tax equal to two percent (2%) of gross receipts from all sales of tangible personal property at retail and the furnishing of services within Stratton. The sales of tangible personal property and the furnishing of services taxable under this ordinance shall be the same as those taxable pursuant to Section 39-26-104 of the Colorado Revised Statutes, as amended.

Section 4. SALES TAX COLLECTION AND SCHEDULES.

4.1 The collection, administration and enforcement of this sales tax shall be performed be the Executive Director of the Department of Revenue of the State of Colorado (hereinafter the "Executive Director") In the same manner as the collection, administration and enforcement of the Colorado State sales tax. The provisions of Title 39, Article 26, of the Colorado Revised Statutes, as amended, and all rules and

regulations promulgated thereunder by the Executive Director shall govern the collection, administration and enforcement of this sales tax.

4.2 The sales tax on individual sales levied by this ordinance shall be collected in accordance with schedules set forth in the rules and regulations promulgated by the Executive Director under the Colorado Revised Statutes, Title 29, Article 2, or Title 39, Article 26, as amended. If any vendor, during any reporting period, shall collect as a sales tax under this ordinance an amount in excess of two percent (2%) of his total taxable sales for that period, he shall remit to the Executive Director the full amount of this sales tax and also such excess.

Section 5. SALES TAX EXEMPTIONS.

5.1. The sales of tangible personal property and the furnishing of services taxable under this ordinance shall be subject to the exemptions from taxation specified in the Colorado Revised Statutes, Section 39-26-114, as amended and in effect on the effective date of this ordinance, including the exemptions for residential light, heat and power; purchases of machinery; or machine tools or parts thereof, in excess of five hundred dollars, by a person engaged in manufacturing; occasional sales by a charitable organization as defined by statute; and sales of food for domestic home consumption.

5.2. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from this 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 the corporate limits of the Town; and

(b) Such personal property is registered or required to be registered outside the corporate limits of the Town under the laws of the State of Colorado.

5.3. The value of construction and building materials on which a use tax has previously been collected by an incorporated town shall be exempt from this sales tax if the materials are delivered by the retailer or his agent to a site within the corporate limits of the Town.

Section 6. SALES TAX GENERAL PROVISIONS.

6.1. 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 agent to a destination outside the corporate limits of the Town or to a common carrier for delivery to a destination outside the corporate limits of the Town.

6.2. Gross receipts from sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by the Colorado Revised Statutes, Title 39, Article 26, as amended, regardless of the place to which delivery is made.

6.3. In the event a retailer has no permanent place of business in the Town, or more than one place of business, 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 Colorado Revised Statutes, title 39, Article 26, as amended, and by the rules and regulations promulgated thereunder by the Executive Directors.

6.4. Gross receipts shall not include the state sales and use tax imposed by Colorado Revised Statutes, title 39, Article 26, as amended.

6.5. Every tax payer or other person liable to the Town of Stratton for sales tax under this title shall keep in reserve for a period of three years such books, accounts, and records, including without limitation, original sales and purchase records, as may be necessary to determine the amount of tax that the tax payer is liable to pay or collect. All such books, accounts, and records shall be open for examination at all reasonable times by the Town of Stratton, or a duly authorized agent thereof.

6.6. The sales tax imposed by the ordinance, together with all penalties and interest pertaining thereto, is a first and prior lien on tangible personal property other than the goods, stock and trade, and business fixtures in which the tax payer has an ownership interest, subject only to valid mortgages and other liens of record at the time of and prior to the recording of a notice of tax lien. The Town of Stratton may enforce tax liens in accordance with the provisions of the Colorado Revised Statutes. The town attorney is hereby authorized, upon request by the Board of Trustees of the Town of Stratton, to commence any legal action or suit necessary for the recovery of tax due under this ordinance.

Section 7. SALES TAX VENDOR'S FEE. The vendor shall be entitled, as collection agent for the Town, to withhold a collection fee in the amount of three and one-third percent (3-1/3%) from the total amount of the sales tax remitted by the vendor to the Executive Director. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction fo the Executive Director, this vendor shall not be allowed to retain any amounts to cover his expenses in collecting and remitting said tax, and an amount equivalent to the full three and one-third percent (3-1/3%) shall be remitted to the Executive Director by any such delinquent vendor.

Section 8. ELECTION. Before the sales tax levied by this ordinance shall become effective, it shall be submitted to and receive the approval of the registered electors of the Town voting at special election, which shall be held on November 6, 2001.


Section 9. AMENDMENTS. The Board of Trustees of the Town shall not increase the sales tax imposed by this ordinance except by submission of the proposed increase to the election of the qualified electors of the Town of Stratton for their approval or rejection, in accordance with Section 29-2-102 of the Colorado Revised Statutes, as amended. The Board of Trustees of the Town reserves the power, however, to make any other amendments of this ordinance, or to repeal this ordinance in its entirety, without submission of such amendment or such repeal to an election of a qualified electors of the town.

Section 10. PENALTY. 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 such fine and imprisonment. Such fine shall be in addition to such tax, penalties and interest imposed on the taxpayer.

Section 11. EFFECTIVE DATE OF SALES TAX. Upon adoption of this ordinance and subsequent approval of the sales tax by the registered electors of the Town, the sales tax shall apply to all retail sales, unless exempt, made on or after January 1, 2002.

Section 12. 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 provisions of application, and to this end the provisions of this Ordinance are declared to be severable.

INTRODUCED , READ, ADOPTED AND ORDERED PUBLISHED this 26 day of July, 2001.



Mayor





Town Clerk

STATE OF COLORADO)
County of Kit Carson)ss.
Town of Stratton)

CLERK'S CERTIFICATE OF PUBLICATION

I, Paulette Thompson, the official Town Clerk of the Town of Stratton, do by these presents say that the foregoing Ordinance No. 1-B attached thereto was published in the Stratton Spotlight, a weekly newspaper of general circulation in Stratton, Kit Carson County, Colorado on July 31, 2001, and the "Proof of Publication" is filed therewith.



Paulette Thompson
Town Clerk