

Series 1978

AN ORDINANCE ESTABLISHING A SALES TAX FOR THE TOWN OF MARBLE, COLORADO: ESTABLISHING THE GOODS, PROPERTY AND ITEMS UPON WHICH SAID TAX WILL BE LEVIED; THE AMOUNT OF TAX TO BE IMPOSED AND THE METHOD OF COLLECTION AND DISTRIBUTION THEREOF; AND PROVIDING FOR THE ELECTION TO ESTABLISH THIS ORDINANCE; AND ADOPTING BY REFERENCE PORTIONS OF ARTICLE 2, TITLE 29, C.R.S. 1973, AS AMENDED, AND PORTIONS OF PART 1, ARTICLE 26, TITLE 39, C.R.S. 1973, AS AMENDED, AND PART 1 OF ARTICLE 10 OF TITLE 31, C.R.S. 1973; AND ALSO DIRECTING THAT THE QUESTION OF ADOPTION HEREOF BE SUBMITTED TO A VOTE OF ELECTORS IN THE MUNICIPAL ELECTION SCHEDULED APRIL 4, 1978.

WHEREAS, by Ordinance No. 5, Series 1975, the Trustees of the Town of Marble enacted a sales tax for the purpose of generating revenue to pay a certain indebtedness of \$4,500.00, associated with bridging and road maintenance projects;

AND, WHEREAS, the aforesaid indebtedness will have been paid in its entirety and discharged on or before January 1, 1979, and as a result thereof the aforementioned sales tax automatically will have been terminated pursuant to the aforesaid Ordinance No. 5;

AND WHEREAS, the Town of Marble has a substantial, demonstrated need for a source or sources of additional revenue for its general fund, and whereas a sales tax is a suitable method by which to generate such revenues, and the expiring tax authorized by said Ordinance No. 5 renders especially timely the adoption of a new tax for general fund purposes at the present time,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MARBLE, COLORADO:

Section 1. Purpose. The purpose of this ordinance is to impose a sales tax upon all retail sales and the furnishing of services as hereafter defined, within the Town of Marble, Colorado.

Section 2. Property and Services Taxed. There is levied and imposed hereby, and there shall be collected and paid, a tax in the amount set forth in Section 8 hereof, on the sale of certain tangible personal property at retail and the furnishing of certain services within the Town of Marble, Colorado, which certain property and services are identical to those taxable pursuant to Section 39-26-104, C.R.S. 1973, as amended, and which tangible personal property and services are as defined in Section 39-26-102, C.R.S. 1973, as amended. By way of illustration, the aforesaid levy is and shall be

as follows:

A. On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail;

B. In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding, however, from the consideration or purchase price, the fair market value of the exchanged property, if such exchanged property is to be sold thereafter in the usual course of the retailer's business;

C. Upon telephone and telegraph services, whether furnished by public or private corporations or enterprises for all intrastate telephone and telegraph service;

D. For gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption and not for resale, upon steam when consumed or used by the purchaser and not resold in original form whether furnished or sold by municipal, public or private corporations or enterprises;

E. Upon the amount paid for all meals and cover charges, if any, furnished in any restaurant, eating house, hotel, drug store, club, resort, or other such place at which meals or food are regularly sold to the public;

F. On the entire amount charged to any person for rooms or accommodations furnished by any person, partnership, association, corporation, estate, receiver, trustee, assignee, lessee, or any person acting in a representative capacity or any other combination of individuals by whatever name known to a person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, under any concession, permit, right of access, license to use, or other agreement, or otherwise.

G. On the sale or furnishing of electrical energy, gas, steam, telephone or telegraph services taxable pursuant to Article 26, Title 39 of C.R.S. 1973, as amended.

Section 3. Installment and credit sales, exchanges. "Sale" or "sale and purchase" as used herein includes installment and credit sales

and the exchange of property as well as the sale thereof for money, whether conditional or otherwise, for a consideration. In case of a sale upon credit, or a contract for sale wherein it is provided that the price shall be paid in installments and title does not pass until a future date, or a chattel mortgage or a conditional sale, there shall be paid upon each payment, upon the account of purchase price, that portion of the total tax which the amount paid bears in relation to the total purchase price.

Section 4. Place of sale; delivery charges. For purposes of this ordinance, 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 of Marble or to a common carrier for delivery to a destination outside the limits of the Town of Marble. The gross receipts from such 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. 1973, regardless of the place to which delivery is made. If a retailer has no permanent place of business in the Town of Marble, or if he has more than one place of business, the place at which the retail sales are consummated for the purpose of the sales tax imposed by this ordinance shall be determined by the provisions of Article 26 of Title 39, C.R.S. 1973.

Section 5. State sales and use tax excluded. 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. 1973.

Section 6. Exemptions. There shall be exempt from taxation under the provisions of this ordinance all property and services which are exempted pursuant to provisions of 39-26-114, C.R.S. 1973, as amended, which exemptions, by way of illustration, include but are not limited to:

A. All sales to the United States government and to the State of Colorado, its departments and institutions, and the political subdivisions thereof in their governmental capacities only;

B. All sales made to religious, charitable, and eleemosynary corporations, in the conduct of the regular religious, charitable, or eleemosynary functions and activities;

C. All sales of cigarettes;

D. All sales of drugs dispensed in accordance with a prescription and all sales of prosthetic devices.

Section 7. Specific ownership tax exemption. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the sales tax imposed by this ordinance when such sales meet both of the following conditions:

(I) The purchaser is not a resident of the Town of Marble or has his principal place of business outside of said town; and

(II) Such personal property is registered or required to be registered outside the limits of the Town of Marble, pursuant to the laws of the State of Colorado.

Section 8. Schedule of sales tax. There is imposed hereby a two per cent (2%) tax upon the sale of all tangible personal property at retail or the furnishing of services as set forth in Section 2 above.

Section 9. Collection, administration, enforcement. Collection, administration, and enforcement of the sales tax adopted pursuant to this ordinance, shall be performed by the executive director of the Colorado Department of Revenue, in the same manner as the collection, administration, and enforcement of the Colorado state sales tax, pursuant to Article 26 of Title 39, C.R.S. 1973.

Section 10. Distribution. The executive director of the Colorado Department of Revenue shall, at no charge, make monthly distributions of sales taxes collected pursuant hereto, to the treasurer of the Town of Marble.

Section 11. Licenses. Provisions governing licenses are as follows:

A. It shall be unlawful for any person to engage in the business of selling at retail, or the furnishing of personal services as the same are defined in this ordinance, without first having obtained a license therefor, which license shall be granted and issued by the Clerk of the Town of Marble.

B. Such license shall be effective from July 1 to June 30 of the following year, unless sooner revoked.

C. Such license shall be granted or renewed only upon application stating the name and address of the person desiring such license, the name of the business and location including the street number of such

business, if available, and such other facts as the clerk reasonably may require.

D. It shall be the duty of each licensee on or before July 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 is liable to account for the tax herein provided; but nothing herein shall be construed to empower the clerk to refuse such renewal except revocation for cause of the licensee's prior license.

E. For each license issued, a fee of \$ 2.00 shall be paid for each year or fraction thereof, for which said license is renewed, together with an additional fee of \$ 1.00 for a filing fee.

F. In the event a business is transacted at two or more separate places by one person, a separate license for each such place of business shall be required.

G. Each license shall be numbered and shall show the name, address, 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.

H. The revocation of any license by the State of Colorado pursuant to Section 39-26-103, C.R.S. 1973, shall be cause for the immediate revocation, without notice, of the license issued hereunder.

Section 12. General fund. The entirety of all receipts collected pursuant hereto shall be deposited in and credited to the General Fund of the Town of Marble.

Section 13. Election. This ordinance shall be submitted to the qualified electors of the Town of Marble at the regular municipal election on April 4, 1978 and, to become effective, must receive the approval of a majority of the qualified electors voting at such election. Said election shall be conducted in accordance with and pursuant to Part 1 of Article 10 of Title 31 of C.R.S. 1973.

Section 14. Effective date. The Board of Trustees of the Town of Marble ordains that this ordinance shall be in full force and effect on April 5, 1978, provided that it receives the majority vote of the qualified electors as provided in Section 13 hereof.

Section 15. Vendor's fee. The vendor (retailer) shall be entitled

as collecting agent of the Town of Marble, to withhold a collection fee, in the amount of three and one-third per cent (3-1/3 %) from the total amount due by the vendor to said town each month. In the event that the vendor is delinquent in remitting the tax to the Town, he shall not be entitled to the collection fee.

Section 16. Penalty. Any person violating this ordinance or any section hereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not more than \$300.00.

Section 17. Amendment. The Board of Trustees may amend, alter, or change this ordinance at any time, except as to the two per cent rate of tax herein imposed, and such amendment, alteration or change relating to matters other than rate, need not be submitted to the qualified electors of the Town of Marble for their approval.

Section 18. Severability. If any section, subsection, paragraph, clause or other provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions.

PASSED, ADOPTED AND APPROVED this 17 day of Feb, 1978:

THE TOWN OF MARBLE

By *Samuel A. ...*
its Mayor.

(SEAL)

ATTEST:

Lois Ann McCollum
Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

I, Lois Ann McCollum, Clerk of the Town of Marble, County of Gunnison, State of Colorado, hereby do certify that the above is a true and correct copy of an ordinance, introduced, read in full, passed on first reading and ordered published in the *Rising Fork Valley Journal* at a regular special meeting of the Town Council held on the 17th day of February, 1978.

PUBLISHED IN THE:

Rising Fork Valley Journal
on 23 February 1978

Lois Ann McCollum
Lois Ann McCollum, Clerk of the
Town of Marble. My Commission expires Sept. 20, 1980