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ORDINANCE NO. 21-78

AN ORDINANCE CONCERNING REVENUE, TO ENACT A SALES TAX ORDINANCE IMPOSING A SALES TAX ON THE SALE OF TANGIBLE PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES AS PROVIDED IN COLORADO REVISED STATUTES 1973, 29-2-105, AS AMENDED, UPON APPROVAL OF THE QUALIFIED ELECTORS OF THE TOWN OF GARDEN CITY AND TO PROVIDE FOR THE SUBMISSION OF THIS ORDINANCE AT THE GENERAL 1978 ELECTION IN THE TOWN OF GARDEN CITY, AND PROVIDING PENALTIES AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GARDEN CITY, COLORADO, AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to impose a sales tax on the sale of tangible personal property at retail, or the furnishing of services as provided in Subpart (1d) of Part 105, Article 2, Title 29, Colorado Revised Statutes, 1973, upon every retailer in the Town of Garden City.

Section 2. Definitions. For the purpose of this Ordinance, the definitions of words herein contained shall be defined in Part 102, Article 26, Title 39, Colorado Revised Statutes 1973, and said definitions are incorporated herein by this reference.

Section 3. Vendor's Fee. The Vendor (Retailer) shall be entitled as Collection Agent for the Town of Garden City to withhold a collection fee in the amount of three and one-third (3 1/3%) percent from the total amount remitted by Vendor to the Town of Garden City each month. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the executive director, the vendor shall not be allowed to retain any amounts to cover his expense in collecting and remitting said tax, and an amount equivalent to the full three and one-third (3 1/3%) percent shall be remitted to the executive director by any such delinquent vendor.

Section 4. General Provisions and Exemptions from Taxation.

4-1. For the purpose of collection, administration and enforcement of the Ordinance by the Director of Revenue,

the provisions of Colorado Revised Statutes 1973, 39-26-114, shall be deemed applicable and incorporated into this Ordinance.

4-2. The amount subject to tax under this Ordinance shall not include the State Sales and Use Tax imposed by Article 26, Title 39, C.R.S. 1973.

4-3. For the purpose of this Ordinance, 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 limits of the Town of Garden City or to a common carrier for delivery to a destination outside the limits of the Town of Garden City.

4-4. 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. 1973, regardless of the places to which delivery is made.

4-5. In the event a retailer has no permanent place of business in the Town of Garden City, 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 Article 26 of Title 39, Colorado Revised Statutes 1973, and by the rules and regulations promulgated by the Department of Revenue.

4-6. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Town 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 Town of Garden City; and,

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

Section 5. Schedules of Sales Tax.

5-1. There is hereby imposed on all sales of tangible personal property at retail or the furnishing of services as provided in Colorado Revised Statutes 1973, 39-26-104, as amended, a tax equal to one percent (1%) of the gross receipts. The tangible personal property and services taxable by this Ordinance shall be the same as the tangible personal property and services taxable pursuant to Colorado Revised Statutes 1973, 39-26-104, as amended. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town of Garden City. If any vendor, during any reporting period, shall collect as a tax an amount in excess of one percent (1%) of his total taxable sales, he shall remit to the Director of Revenue the full amount of the tax herein imposed and also such excess.

5-2. The collection, administration and enforcement of the sales tax shall be performed by the Director of Revenue of the State of Colorado in the same manner as the collection, administration and enforcement of the Colorado State Sales Tax. The provisions of Article 26, Title 39, Colorado Revised Statutes 1973, as amended hereafter, 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 Ordinance.

Section 6. Election and Amendments.

6-1. Before this sales tax ordinance shall become effective, it shall be submitted to and receive the approval of a majority of the qualified electors of the Town of Garden City voting at the 1978 General Election to be held on the 4th day of April, 1978.

6-2. The Board of Trustees may amend, alter or change this Ordinance, except as to the one percent (1%) 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 of Garden City for their approval.

Section 7. 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 both such fine and imprisonment.

Section 8. Effective Date. Upon passage of this Ordinance and subsequent referendum, the sales tax shall apply to all retail sales, unless exempt, made on or after July 1, 1978.

Section 9. Termination. In the event that the County of Weld passes a resolution and subsequent referendum for the imposition of a county wide sales tax after the effective date of the Garden City sales tax, the one percent (1%) sales tax made effective by the within Ordinance shall terminate at the time the county wide sales tax becomes effective.

Section 10. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 11. Reasons for Emergency. In order to provide for the collection of sales tax by the Director of Revenue by July 1, 1978, and because the revenue is necessary to provide needed services and improvements in the Town of Garden City, the Board of Trustees finds that an emergency exists.

Section 12. Emergency. Based on the reasons set out in Section 11, the Town Board 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 five (5) days after final passage and publication as by law provided.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 21st day of February, 1978.

ATTEST:

Town Clerk

Mayor