

ORDINANCE 7.01

AN ORDINANCE CONCERNING REVENUE, TO ENACT A SALES TAX ORDINANCE IMPOSING A SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES, IN THE TOWN OF LARKSPUR, UPON APPROVAL OF THE QUALIFIED ELECTORS OF THE TOWN OF LARKSPUR AND TO PROVIDE FOR THE SUBMISSION OF THIS ORDINANCE AT THE REGULAR 1980 ELECTION OF QUALIFIED ELECTORS IN THE TOWN OF LARKSPUR, AND PROVIDING PENALTIES.

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

SALES TAX

Section 1. Title. This Ordinance shall be known as the "Town of Larkspur Sales Tax Ordinance."

Section 2. 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 within the corporate limits of the Town of Larkspur in accordance with Article 2, Title 29, Colorado Revised Statutes 1973, as amended, and Article 26, Title 39, Colorado Revised Statutes 1973, as amended.

Section 3. Definitions. Except as otherwise expressly provided the definitions of words used in this Ordinance shall be the same as those definitions found in Part 102, Article 26, Title 39, Colorado Revised Statutes 1973, as amended, and said definitions are incorporated herein by this reference; except that the term "retail sales" as used in this Ordinance shall mean all sales, except wholesale sales, made within the corporate limits of the Town of Larkspur; and, except that, references to the state where such reference are to the geographic extent of the taxing authority, the same shall mean the Town of Larkspur.

Section 4. Sales Tax.

4.1. There is hereby imposed on all sales of tangible personal property at retail or the furnishing of services as provided in support (1d) of Part 105, Article 2, Title 29, Colorado Revised Statutes 1973, as amended, a tax of two percent (2%) of the gross receipts.

4.2. The imposition of the tax on individual sales shall be in accordance with the schedules set forth in the rules and regulations promulgated by the Department of Revenue.

Section 5. General Provisions and Exemptions from Taxation.

5.1. The tangible personal property and services taxable pursuant to this Ordinance shall be the same as the tangible personal property and services taxable pursuant to 39-26-104 C.R.S. 1973, as amended, and shall be subject to the same exemptions as those specified in Section 39-26-114, C.R.S. 1973, as amended, except the exemption allowed by 29-26-114(1), C.R.S. 1973, as amended, for purchases of machinery or machine tools, the exemption of sales and purchases of electricity, coal, gas, fuel oil, or coke as provided in Section 39-26-114(1)(a)(XXI), C.R.S. 1973, as amended, and the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S. 1973, as amended. Sales of food, as defined in Section 39-26-102(4.5), C.R.S. 1973, as amended, exempted from the state sales tax pursuant to Section 39-26-114(1)(a)(XX), C.R.S. 1973, as amended, sales and purchases of electricity, coal, gas, fuel oil, or coke, exempted from the state sales tax pursuant to Section 39-26-114(1)(a)(XXI), C.R.S. 1973, as amended,

or purchases of machinery or machine tools as provided in Section 39-26-114(11), C.R.S. 1973, as amended, may be exempted from this municipal sales tax only by the express inclusion of such exemption by amendment to this sales tax ordinance. Any such amendment shall be adopted in the same manner as the initial ordinance. In the absence of an express amendment for the exemption for sales of food, as defined by Section 39-26-102(4.5), C.R.S. 1973, as amended, or purchases of machinery or machine tools as provided in Section 39-26-114(11), C.R.S. 1973, as amended, or exemption of sales and purchases of electricity, coal, gas, fuel oil, or coke as provided in Section 39-26-114(1)(a)(XXI), C.R.S. 1973, as amended, this sales tax ordinance shall be construed as imposing the municipal sales tax on food, as defined in Section 39-26-102(4.5), C.R.S. 1973, as amended, purchases of machinery and tools as described in Section 39-26-114(11), C.R.S. 1973, as amended, and sales or purchases of electricity, coal, gas, fuel oil, or coke as described in Section 39-26-114(1)(a) (XXI), C.R.S. 1973, as amended.

5.2. The amount subject to tax under this Ordinance shall not include the State Sales and Use Tax imposed by Article 26, Title 39, Colorado Revised Statutes 1973, as amended.

5.3. 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 Town of Larkspur or to a common carrier for delivery to a destination outside the limits of the Town of Larkspur.

5.3.1. 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, Colorado Revised Statutes 1973, as amended, regardless of the place to which delivery is made.

5.3.2. In the event a retailer has no permanent place of business in the Town of Larkspur, 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, as amended, and by the rules and regulations promulgated by the Department of Revenue, State of Colorado. Notwithstanding any other provision of this Ordinance, the value of construction in building materials on which a use tax has previously been collected by an incorporated town, city or county shall be exempt from the Town of Larkspur's sales tax, if the materials are delivered by the retailer or his agent to a site within the limits of the Town of Larkspur, Colorado.

5.3.3 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 this sales tax if such materials are delivered by the retailer or his agent to a site within the limits of the Town of Larkspur.

5.4. 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 place of business outside the Town of Larkspur; and,

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

Section 6. Collection, Administration and Enforcement.

6.1. The collection, administration and enforcement of this sales tax 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. The provisions of Article 26, Title 39, Colorado Revised Statutes 1973, as amended hereafter, and all rules and regulations promulgated by the Executive Director of the Department of Revenue of the State of Colorado shall govern the collections, administration and enforcement of the sales tax imposed by this Ordinance.

6.2. If any vendor, during any reporting period, shall collect as a tax an amount in excess of two percent (2%) of his total taxable sales, he shall remit to the Executive Director of the Department of Revenue, of the State of Colorado the full amount of the tax herein imposed and also such excess.

Section 7. Vendor's Fee. The Vendor (Retailer) shall be entitled as Collection Agent for the Town of Larkspur to withhold a collection fee in the amount of three and one-third percent (3-1/3%) from the total amount remitted by Vendor to the Town of Larkspur 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 percent (3-1/3%) shall be remitted to the Executive Director by any such delinquent vendor.

Section 8. Election and Amendments.

8.1. 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 Larkspur voting at the regular municipal election to be held on the 1st day of April, 1980.

8.2. The Board of Trustees may amend, alter or change this Ordinance, except as hereinafter described, 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 Larkspur for their approval.

8.3. Any tax collected under authority of this Ordinance may not be increased except with authority by a vote of the electors of the Town of Larkspur.

Section 9. Penalty. Any person convicted of violating any of the provisions of this Ordinance shall be punished pursuant to the provisions of C.R.S. 1973, 39-26-121.

Section 10. Effective Date. Upon passage of this Ordinance and subsequent referendum, the sales tax shall apply to all retail sales of all personal property subject hereto, and to all furnishings of services unless exempted herefrom, within the corporate limits of the Town of Larkspur, Colorado, from July 1, 1980.

Section 11. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions or applications of the 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.

Section 12. The Board of Trustees of the Town of Larkspur finds, determines and declares that the Ordinance is necessary for the preservation of the public health and safety of the residents of the Town of Larkspur.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED THIS 16th DAY OF April, 1980.

TOWN OF LARKSPUR

By: *Anna Trueblood*  
Anna Trueblood  
Mayor - Town of Larkspur

ATTEST:

*Maria Bryant*  
Town Clerk