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TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 804
(SERIES 2014)**

AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS SUBMITTING TO THE REGISTERED ELECTORS VOTING IN THE REGULAR MUNICIPAL ELECTION TO BE HELD APRIL 8, 2014, A BALLOT ISSUE CONCERNING THE IMPOSITION OF A TOWN-WIDE SALES TAX IMPOSED ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL AND THE FURNISHING OF SERVICES TO BE DEPOSITED INTO A TOWN RECREATION CENTER FUND AND USED SOLELY FOR THE PURPOSE OF CONSTRUCTING, IMPROVING, EQUIPPING, OPERATING AND MAINTAINING A COMMUNITY RECREATION CENTER AND PROVIDING FOR THE REPAYMENT OF REVENUE BONDS ISSUED FOR SUCH PURPOSES; TO PROVIDE FOR THE SUBMISSION OF THIS ORDINANCE FOR APPROVAL AT THE GENERAL MUNICIPAL ELECTION; AND TO AMEND THE PAGOSA SPRINGS MUNICIPAL CODE.

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended on April 3, 2012 and April 23, 2013 (“Charter”); and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution and the Charter, the Town has the full right of self-government in both local and municipal matters, including the imposition of a sales tax; and

WHEREAS, the Town is authorized pursuant to Article XX, Section 6 of the Colorado Constitution and Sections 9.2 and 9.15 of the Charter, to adopt ordinances on local and municipal matters, including municipal taxes, and to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services, subject to approval of the registered electors of the Town;

WHEREAS, due to the need to construct, improve, equip, operate and maintain a recreation center, and the necessity of creating a revenue source therefor, the Town



Council hereby determines that the public interest requires a sales tax be imposed at a rate not to exceed one percent (1%).

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Section 1. Sales Tax Definitions. For the purposes of this Ordinance, the words herein contained shall have the meanings set forth herein and in Section 39-26-102, C.R.S., as it currently exists or may hereafter be amended. The definitions in such statute are incorporated herein by this specific reference.

Section 2. Recreation Center Sales Tax Imposed.

A. Subject to voter approval as provided in Section 7 of this Ordinance, there is hereby imposed on the sale of tangible personal property at retail and the furnishing of services as provided in Section 29-2-105(1)(d), C.R.S., a sales tax not to exceed one percent (1%) of the gross receipts (the "Recreation Center Sales Tax"). The tangible personal property and services taxable under this Ordinance shall be the same as tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., including on mobile telecommunications service when the customer's place of primary use is within the Town pursuant to Section 29-2-105(1.5), C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S., PROVIDED THAT, the exemptions for sales of electricity, coal, wood, gas, fuel oil, or coke sold to occupants of residences pursuant to Section 39-26-114(1)(a)(XXI), C.R.S. and the exemptions for sales of machinery or machine tools pursuant to Section 39-26-114(11), C.R.S. and the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S., and the exemption for sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as specified in Section 39-26-723, C.R.S., and the exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in Section 39-26-724, C.R.S., shall not apply to the Recreation Center Sales Tax, and the sale of such items is expressly made taxable under this Ordinance. The imposition of the Recreation Center Sales Tax on individual sales shall be in accordance with schedules as set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the Recreation Center Sales Tax an amount in excess of the Recreation Center Sales Tax imposed by this Ordinance, he shall remit to the Executive Director the full amount of the Recreation Center Sales Tax herein imposed and also such excess.

B. For the purpose of the Recreation Center Sales Tax, 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 or to a common carrier for delivery to a destination outside the limits of the Town. 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., regardless of the place to which delivery is made. If a retailer has no permanent place of business in the Town, or has more than one place of business, the place at which the retail sales are consummated for the purpose of the Recreation Center Sales Tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue.

C. The amount subject to the Recreation Center Sales Tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

D. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Recreation Center Sales Tax when such sales meet both of the following conditions:

1. The purchaser is a non-resident of, or has his principal place of business outside the limits of the Town; and

2. Such personal property is registered or required to be registered outside the limits of the Town under the laws of the State of Colorado.

E. The applicability of the Recreation Center Sales Tax shall be subject to the provisions of Section 29-2-105(2), (3), (4) through (7) and (9), C.R.S.

Section 3. Sales Tax Collection. The collection, administration, and enforcement of the Recreation Center Sales Tax shall be performed by the Executive Director of the Department of Revenue of the State of Colorado (the "Executive Director") in the same manner as the collection, administration, and enforcement of the Colorado state sales tax. Unless otherwise provided by Article 2 of Title 29, C.R.S., the provisions of Article 26 of Title 39, C.R.S., shall govern the collection, administration, and enforcement of the Recreation Center Sales Tax.

Section 4. Sales Tax Vendor's Fees. The vendor shall be entitled as collection agent for the Town to withhold an amount equal to three and one-third percent (3 1/3%) of the total amount to be remitted by the vendor to the Executive Director each month to cover the vendor's expenses in the collection and remittance of the Recreation Center Sales Tax. If any vendor is delinquent in remitting the Recreation Center Sales 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 Recreation Center Sales Tax, and an amount equivalent to the full amount of the Recreation Center Sales Tax imposed by this Ordinance shall be remitted to the Executive Director by any such delinquent vendor.

Section 5. Use of Revenues. Unless further restricted by the Town Council, the revenues derived from the Recreation Center Sales Tax shall be deposited into a Town



recreation center fund and used solely for the purpose of constructing, improving, equipping, operating and maintaining a community recreation center, to include but not be limited to a multipurpose gymnasium, an aquatics center, a fitness and training center, and other associated recreation facilities, amenities and expansions, and providing for the payment of revenue bonds issued for such purposes. The use of revenues may be further restricted by the Town Council, which may incorporate such restrictions within the ballot title and question to be presented to the eligible electors of the Town at the election to approve the Recreation Center Sales Tax.

Section 6. Election. Before Sections 2 through 5, and 9 of this Ordinance shall become effective, it shall be submitted to and receive the approval of a majority of the registered electors of the Town voting thereon. Such election shall be held at the Town's regular election to be held on April 8, 2014 pursuant to Ordinance No. 801(Series 2014).

Section 7. Ballot Title. The ballot title for the Recreation Center Sales Tax question shall be in substantially the following form:

TOWN OF PAGOSA SPRINGS BALLOT ISSUE A:

SHALL THE TOWN OF PAGOSA SPRINGS TAXES BE INCREASED \$1,950,000 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND SHALL THE TOWN OF PAGOSA SPRINGS DEBT BE INCREASED BY AN AMOUNT NOT TO EXCEED \$18,000,000, WITH A MAXIMUM REPAYMENT COST OF \$44,895,000; SUCH TAXES TO CONSIST OF ALL REVENUES GENERATED FROM A RATE INCREASE OF 1.0% IN THE TOWN'S SALES TAX (ONE CENT INCREASE ON EACH DOLLAR) COMMENCING JULY 1, 2014 AND CONTINUING FOR UP TO 25 YEARS, TO AND INCLUDING JUNE 30, 2039, WHICH SHALL BE DEPOSITED INTO A TOWN RECREATION CENTER FUND AND USED SOLELY FOR THE PURPOSE OF CONSTRUCTING, IMPROVING, EQUIPPING, OPERATING AND MAINTAINING A COMMUNITY RECREATION CENTER AND PROVIDING FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR SUCH PURPOSES; SUCH DEBT TO CONSIST OF REVENUE BONDS PAYABLE FROM THE TOWN RECREATION CENTER FUND AND ISSUED FOR THE PURPOSE OF:

- CONSTRUCTING AND EQUIPPING A COMMUNITY RECREATION CENTER TO INCLUDE BUT NOT BE LIMITED TO A MULTIPURPOSE GYMNASIUM, AN AQUATICS CENTER, A FITNESS AND TRAINING CENTER, AND OTHER ASSOCIATED RECREATION FACILITIES, AMENITIES AND EXPANSIONS

SUCH BONDS TO BE DATED AND SOLD AT SUCH TIME, AND AT SUCH PRICES (AT, ABOVE OR BELOW PAR), AND CONTAINING SUCH TERMS,



NOT INCONSISTENT HERewith, AS THE TOWN COUNCIL MAY DETERMINE, PROVIDED THAT NOT MORE THAN 10% OF THE AGGREGATE PRINCIPAL AMOUNT OF THE BONDS MAY BE USED TO FUND A RESERVE OR RESERVES TO SECURE THE PAYMENT OF THE BONDS; SHALL SUCH BONDS BE REPAID FROM THE REVENUES FROM SUCH TAX AND, TO THE EXTENT REVENUES FROM SUCH TAX ARE NOT SUFFICIENT FOR THE REPAYMENT OF SUCH BONDS, FROM AMOUNTS DISTRIBUTED TO THE TOWN BY ARCHULETA COUNTY FROM THE REVENUES FROM THE COUNTY'S 2% SALES TAX; SHALL THE TOWN BE AUTHORIZED, IN ORDER TO PROVIDE FOR THE PAYMENT OF SUCH BONDS, TO ENTER INTO A MULTIPLE-FISCAL YEAR OBLIGATION TO TRANSFER THE AMOUNTS RECEIVED BY THE TOWN FROM SUCH COUNTY TAX TO THE TOWN RECREATION CENTER FUND IN AN AMOUNT SUFFICIENT TO PAY THE DEBT SERVICE ON SUCH BONDS AND TO OTHERWISE COMPLY WITH THE COVENANTS OF THE ORDINANCE OR OTHER INSTRUMENTS GOVERNING SUCH BONDS; AND SHALL THE AMOUNTS DEPOSITED IN THE TOWN RECREATION CENTER FUND AND ALL EARNINGS THEREON (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION; ALL IN ACCORDANCE WITH AND AS FURTHER SET FORTH IN ORDINANCE 804 (SERIES 2014) OF THE TOWN COUNCIL?

Section 8. Sales Tax Effective Date, Duration, and Amendment. Subject to Section 6 above, this Ordinance shall become effective immediately upon adoption by the Town Council. Upon approval by the registered electors at the Election this Ordinance shall impose the Recreation Center Sales Tax on sales beginning July 1, 2014 and the Recreation Center Sales Tax shall remain in effect until June 30, 2039, or upon repayment of any bonds issued for construction of the recreation center, if earlier. Except as may be provided by state law, the provisions of this Ordinance may be amended by subsequent ordinance, except that no amendment may increase the amount of the Recreation Center Sales Tax, increase the types of sales or services subject to the Recreation Center Sales Tax, or extend the duration of the Recreation Center Sales Tax without voter approval.

Section 9. Codification. To implement the Recreation Center Sales Tax, the Pagosa Springs Municipal Code is amended with the adoption of the provisions of Exhibit A, attached hereto and incorporated herein, contingent upon approval of the Recreation Center Sales Tax by the eligible electors of the Town.



Section 10. Authorization. The officers of the Town are authorized and directed to take all actions necessary and appropriate to effectuate the provisions of this Ordinance.

Section 11. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

Section 12. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY
PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE
CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS,
COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS
SPECIAL MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE
23 DAY OF JANUARY, 2014.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: Ross Aragón
Ross Aragón, Mayor

Attest:
April Hessman
April Hessman, Town Clerk





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June Madrid
Archuleta County

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED BY TITLE ONLY PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 4 DAY OF Feb 2014.



TOWN OF PAGOSA SPRINGS,
COLORADO

By: Ross Aragón
Ross Aragón, Mayor

Attest:

April Hessman
April Hessman, Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 604 (Series 2014) was approved by the Town Council of the Town of Pagosa Springs on first reading at its ~~special~~ meeting held on the 23 day of January, 2014, and was published by title only, along with a statement indicating that a violation of the Ordinance is subject to enforcement and punishment pursuant to Article 3, Chapter 1 of the Pagosa Springs Municipal Code, and specifically Section 1.3.3 which provides for a fine not exceeding \$1,000 or incarceration not to exceed one year, or both, and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on Jan 24, 2014, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 6 day of Feb, 2014.

April Hessman
April Hessman, Town Clerk

(S E A L)





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June Madrid
Archuleta County

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 004 (Series 2014) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the 4 day of February, 2014, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on February 5, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 6 day of Feb, 2014.

April Hessman, Town Clerk

(SEAL)





EXHIBIT A

CHAPTER 16 – REVENUE AND TAXATION

ARTICLE V. RECREATION CENTER SALES TAX

- Section 16.5.1. Recreation Center Sales Tax Definitions.**
- Section 16.5.2. Recreation Center Sales Tax Imposed.**
- Section 16.5.3. Recreation Center Sales Tax Collection.**
- Section 16.5.4. Recreation Center Sales Tax Vendor’s Fees.**
- Section 16.5.5. Use of Revenues.**
- Section 16.5.6. Effective Date and Duration of Recreation Center Sales Tax.**
- Section 16.5.7. Authorization.**

ARTICLE V. RECREATION CENTER SALES TAX

Section 16.5.1 Recreation Center Sales Tax Definitions.

For the purposes of this Article, the words herein contained shall have the meaning set forth herein and in Section 39-26-102, C.R.S. as it currently exists or may hereafter be amended. The definitions in such statute are incorporate herein by this specific reference.

Section 16.5.2 Recreation Center Sales Tax Imposed.

(1) There is hereby imposed on the sale of tangible personal property at retail and the furnishing of services as provided in Section 29-2-105(1)(d), C.R.S., a sales tax not to exceed one percent (1%) of the gross receipts (the “Recreation Center Sales Tax”). The tangible personal property and services taxable under this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., including on mobile telecommunications service when the customer’s place of primary use is within the Town pursuant to Section 29-2-105(1.5), C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S., with the exception of the following items, which shall be subject to the Recreation Center Sales Tax:

- (a) Sales of electricity, coal, wood, gas, fuel oil, or coke sold to occupants of residences pursuant to Section 39-26-114(1)(a)(XXI), C.R.S.;
- (b) Sales of machinery or machine tools pursuant to Section 39-26-114(11), C.R.S.;



- (c) Sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S.;
- (d) Sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as specified in Section 39-26-723, C.R.S.; and
- (e) Sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in Section 39-26-724, C.R.S.

(2) The imposition of the Recreation Center Sales Tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the Recreation Center Sales Tax an amount in excess of the amount of the Recreation Center Sales Tax imposed by this Article, he or she shall remit to the Executive Director the full amount of the Recreation Center Sales Tax here imposed and also such excess.

(3) For purposes of the Recreation Center Sales Tax, 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 or her 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. 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., regardless of the place to which delivery is made. If a retailer has no permanent place of business in the Town, or has more than one place of business, the place at which the retail sales are consummated for the purpose of the Recreation Center Sales Tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Department of Revenue.

(4) The amount subject to the Recreation Center Sales Tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

(5) All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Recreation Center Sales Tax when such sales meet both of the following conditions:

- (a) The purchaser is a non-resident of, or has his or her principal place of business outside the limits of the Town; and
- (b) Such personal property is registered, or required to be registered, outside the limits of the Town pursuant to the laws of the State of Colorado.



(6) The applicability of the Recreation Center Sales Tax shall be subject to the provisions of Section 29-2-105(2), (3), (4) through (7) and (9), C.R.S.

Section 16.5.3 Recreation Center Sales Tax Collection.

The collection, administration, and enforcement of the Recreation Center Sales Tax shall be performed by the Executive Director of the Department of Revenue of the State of Colorado (the “Executive Director”) in the same manner as the collection, administration, and enforcement of the Colorado state sales tax. Unless otherwise provided by Article 2 of Title 29, C.R.S., the provisions of Article 26 of Title 39, C.R.S. shall govern the collection, administration, and enforcement of the Recreation Center Sales Tax.

Section 16.5.4. Recreation Center Sales Tax Vendor’s Fees.

A Vendor shall be entitled as collection agent for the Town to withhold an amount equal to three and one-third percent (3 1/3%) of the total amount to be remitted by the vendor to the Executive Director each month to cover the vendor’s expenses in the collection and remittance of the Recreation Center Sales Tax. If any vendor is delinquent in remitting the Recreation Center Sale 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 Recreation Center Sales Tax, and an amount equal to the full amount of the Recreation Center Sales Tax imposed by this Article shall be remitted to the Executive Director by any such delinquent vendor.

Section 16.5.5 Use of Revenues.

Unless further restricted by the Town Council, the revenues derived from the Recreation Center Sales Tax shall be deposited into a Town recreation center fund and used solely for the purpose of constructing, improving, equipping, operating and maintaining a community recreation center, to include but not be limited to a multipurpose gymnasium, an aquatics center, a fitness and training center, and other associated recreation facilities, amenities and expansions, and providing for the payment of revenue bonds issued for such purposes. The use of revenues may be further restricted by the Town Council, which may incorporate such restrictions within the ballot title and question to be presented to the eligible electors of the Town at the election to approve the Recreation Center Sales Tax.

Section 16.5.6. Effective Date, Duration, and Amendment of Recreation Center Sales Tax.

This Recreation Center Sales Tax shall be imposed on sales beginning July 1, 2014 and shall remain in effect until June 30, 2039, or until repayment of any bonds issued for construction of the recreation center, if earlier. Except as may be provided by



state law, the provisions of this Article may be amended by subsequent ordinance, except that no amendment may increase the amount of the Recreation Center Sales Tax, increase the types of sales or services subject to the Recreation Center Sales Tax, or extend the duration of the Recreation Center Sales Tax without voter approval.

Section 16.5.7. Authorization.

The officers of the Town are authorized and directed to take all actions necessary and appropriate to effectuate the provisions of this Article.

**Town of Pagosa Springs
P.O. Box 1859
Pagosa Springs, CO 81147**