ORDINANCE NO. 1993-3

AN ORDINANCE REGARDING THE IMPOSITION OF A TOWNWIDE ONE PERCENT (1%) SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES IN THE TOWN OF CRESTONE, COLORADO, AND INCREASING THE REVENUE LIMITS AND SPENDING LIMITS OF THE TOWN OF CRESTONE, COLORADO IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF SALES TAX COLLECTED, UPON APPROVAL OF THE REGISTERED ELECTORS OF THE TOWN OF CRESTONE, COLORADO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 1993.

WHEREAS, the Town of Crestone, Colorado, (the "Town") is authorized by law to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services in the Town of Crestone, Colorado, subject to approval of the registered electors of the Town; and

WHEREAS, the imposition of a one percent (1%) sales tax, if approved and imposed, would not result in the imposition of a total sales and use tax by the State of Colorado, the County of Saguache, and the Town of Crestone in excess of seven percent (7%).

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

Section 1. Sales Tax Imposed. There is hereby imposed and there shall be paid and collected a townwide one percent (1%) sales tax (the "Sales Tax") on the sale of tangible personal property at retail or the furnishing of services, within the Town of Crestone, Colorado.

The tangible personal property and services pursuant to this Ordinance shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S.

Sections 2. For the 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 Crestone, Colorado, or to a common carrier for delivery to a destination outside the limits of the Town of Crestone, Colorado. 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 of Crestone, Colorado, or 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., and by the rules and regulations promulgated by the Colorado Department of Revenue.

Sections 3. The amount subject to Sales Tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

Section 4. Sales Tax Definitions. For the purposes of this Ordinance, the words herein contained shall have the meanings provided in Section 39-26-201, Colorado Revised Statutes, as it currently exists or may hereafter be amended, and said definitions are incorporated herein by this reference.

Section 5. Sales Tax Exemptions. In no event shall the Sales Tax imposed by this Ordinance extend or apply to:

(a) All sales of personal property on which a specific ownership tax has been paid or is payable when such sales meet both of the following conditions:

1. The purchaser is a nonresident of or has his principal place of business outside the Town of Crestone, Colorado; and

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

(b) The sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the Town of Crestone, Colorado, evidencing that a local Sales Tax has been paid or is required to be paid.

(c) The sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, or town equal to or in excess of that sought to be imposed by the subsequent statutory or home rule city and county, city, or town. A credit shall be granted against the Sales Tax imposed by this Ordinance with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city, or town. The amount of credit shall not exceed the sales tax imposed by this Ordinance.

(d) The sale of food purchased with food stamps. For the purposes of this subsection, "food" shall have the same meaning as provided in 7 U.S.C. Section 1786. For the purposes of this subsection, "food" shall have the same meaning as provided in 42 U.S.C. Section 1786, as such Section presently exists, or is hereafter amended.

Section 6. Sales of Revenue. All of the revenues received by the Town and derived from the one percent (1%) Sales Tax shall be deposited to the Town's General Fund and used solely for the purposes for which the Fund may be used.

Section 7. <u>Increase In Revenue Limits and Spending Limits.</u> The Town of Crestone, Colorado, Revenue Limits and Spending Limits shall be increased in an amount up to $10,000.00, but not to exceed the amount of Sales Tax actually collected by the Town of Crestone, Colorado, pursuant to this Ordinance.

Section 8. <u>Election and Amendments.</u>

(a) Before this Ordinance shall become effective, it shall be submitted to and received the approval of a majority of the registered electors of the Town of Crestone, Colorado, voting at the general election to be held on November 2, 1993.

(b) The County Clerk and Recorder is hereby directed and authorized to take all necessary action required by law to submit the question of approving this Ordinance to the registered electors of the Town of Crestone at the elections designated above. The questions to be submitted to the registered electors shall be as follows:

"SHALL THE TOWN OF CRESTONE, COLORADO, TAXES BE INCREASED BY $10,000.00 ANNUALLY BY THE IMPOSITION OF A ONE PERCENT (1%) SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES, WITHIN THE TOWN OF CRESTONE COLORADO, ALL IN ACCORDANCE WITH ORDINANCE NO. 1993-3 PASSED AND ADOPTED ON AUGUST 11, 1993."

"SHALL THE TOWN OF CRESTONE, COLORADO, REVENUE LIMITS AND SPENDING LIMITS BE INCREASED BY $10,000.00 ANNUALLY, BUT NOT TO EXCEED THE AMOUNT OF SALES TAX ACTUALLY COLLECTED BY THE TOWN OF CRESTONE, COLORADO, PURSUANT TO ORDINANCE NO. 1993-3 PASSED AND ADOPTED ON AUGUST 11, 1993.

(c) The rate of Sales Tax imposed herein shall not be amended, altered or changed without being submitted to a vote of the electors of the Town of Crestone, Colorado, for their approval.

Section 8. <u>Effective Date.</u> Upon passage of this Resolution and subsequent referendum, the sales and use tax shall apply to all taxable transactions, unless exempt, made on or after January 1, 1994.

Section 9. <u>Severability.</u> 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 applications of the Ordinance which can be given effect without the invalid provisions or application, and to this end the provision of this Ordinance are declared to be severable.

Section 10. The Board of Trustee in adopting this Ordinance finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health, welfare and safety of the residents of the Town of Crestone for the reason that the Town must certify the ballot content to the Saguache County Clerk and Recorder no later than September 7, 1993, in order for the questions to be included in the Coordinated Election to be held on November 2, 1993.

INTRODUCED, READ AND ORDERED POSTED this 11th day of August, 1993.

PASSED, ADOPTED, SIGNED AND APPROVED AFTER PUBLIC HEARING, this 11th day of August, 1993.

Marlene L Pruitt
Mayor

ATTEST;

Sandra Murray
Town Clerk

TOWN OF CRESTONE INCORPORATED MARCH 29, 1901 COLORADO