

**TOWN OF BERTHOUD
ORDINANCE NO. 1243**

**AN ORDINANCE OF THE TOWN OF BERTHOUD IMPOSING AN EXCISE
TAX IN THE FORM OF A TRANSACTION FEE ON THE RETAIL SALE OF
MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO VOTER APPROVAL OF
SUCH TAXES AT THE NOVEMBER 7, 2017 GENERAL ELECTION AND PROVIDING
FOR SPECIFIC PURPOSES FOR REVENUE GENERATED**

WHEREAS, voters of the **TOWN OF BERTHOUD** (the “Town”) in the November, 2017 coordinated election, approved Ballot Issue 2A, authorizing an excise tax in the form of a transaction fee for any future retail sales of marijuana and marijuana products, excluding medical marijuana sales; and

WHEREAS, the Town Board of Trustees (the “Board”) has, following voter approval in April 2018 initiated the process for authorizing and regulating retail sales of marijuana and marijuana products; and

WHEREAS, Ballot Issue 2A as presented in November 2017, pursuant to Board Resolution 2017-08 (the “Authorizing Resolution”) relieved the Town of all requirements of Article X, Section 20, of the Colorado Constitution ("TABOR Amendment") regarding the collection, retention, and expenditure of the revenues from such tax; and

WHEREAS, the Authorizing Resolution required implementation by Ordinance after voter approval; and

WHEREAS, the Authorizing Resolution and the approved ballot question both required that all revenues so generated be expended to promote youth activities and services, streets and sidewalk improvements, law enforcement, and parks and recreation within the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF BERTHOUD, COLORADO THAT THE BERTHOUD MUNICIPAL CODE BE AMENDED BY THE ADDITION OF A NEW SECTION 23.9 to read as follows:

CHAPTER 23

MARIJUANA EXCISE TAX

SECTION:

23.9-1: Definitions

23.9-2: Tax Imposed

23.9-3: Collection and Enforcement Procedures

23.9-4: Use of Collected Tax Revenues

23.9-5: Rules and Regulations

23.9-1: DEFINITIONS:

A. The definitions contained in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the state administrative regulations adopted pursuant to such statutes, and the Town's medical marijuana and retail marijuana licensing ordinances, each as amended from time to time, are incorporated into this Chapter by reference.

B. As used in this Chapter the following words shall have the following meanings:

CODE: The Berthoud Municipal Code, as amended from time to time.

COLORADO MEDICAL MARIJUANA CODE: Article 43.3 of Title 12, C.R.S., as amended from time to time.

COLORADO RETAIL MARIJUANA CODE: Article 43.4 of Title 12, C.R.S., as amended from time to time.

DESIGNATED REVENUES: All of the revenues received by the Town from the collection of the Town's marijuana excise tax imposed by Section 3-9-2.

LAWFUL SALE OF RETAIL MARIJUANA: Includes all sales within the Town of: (1) retail marijuana and retail marijuana products by persons licensed pursuant to the Colorado Retail Marijuana Code and applicable Town ordinances; and (3) retail marijuana, and retail marijuana products by persons concurrently licensed pursuant to the Colorado Retail Marijuana Code, and applicable Town ordinances.

MEDICAL MARIJUANA: Has the meaning provided in Section 12-43.3-104, C.R.S., which is part of the Colorado Medical Marijuana Code.

RETAIL MARIJUANA: Has the meaning provided in Section 12-43.4-103, C.R.S., which is part of the Colorado Retail Marijuana Code.

RETAIL MARIJUANA PRODUCT: Has the meaning provided in Section 12-43.4-103, C.R.S., which is part of the Colorado Retail Marijuana Code.

23.9-2: TAX IMPOSED: A tax is levied and shall be collected upon the lawful sale of marijuana within the Town at the rate of seven percent (7.0%) of the price paid by the purchaser thereof rounded off to the nearest penny. The tax shall be collected by the licensed person and paid to the Town. The tax imposed by this section is in addition to, and not in lieu of, the sales tax owed to the Town in connection with the sale of medical marijuana and retail marijuana.

23.9-3: COLLECTION AND ENFORCEMENT PROCEDURES: Except for those provisions that by their terms cannot apply, the procedures for the collection and enforcement of the Town's sales tax shall apply to the collection and enforcement of the marijuana excise tax imposed by this Chapter.

23.9-4: USE OF COLLECTED TAX REVENUES: The Designated Revenues shall be segregated to a fund which is to be used solely for youth activities and services, streets and sidewalk improvements, law enforcement, and parks and recreation.

23.9-5: RULES AND REGULATIONS: The Town Administrator shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as may be necessary for the proper administration of this Chapter.

The Town Board finds and concludes that this Ordinance is necessary for the immediate preservation of the peace, health, welfare, safety and economic well-being of the citizens of the Town of Berthoud, and shall therefore take effect immediately upon passage by the Board of Trustees.

INTRODUCED, READ and PASSED unanimously this May , 2018.

Will Karspeck, Mayor

ATTEST:

Christian Samora, Town Clerk