

**CERTIFICATE OF PUBLICATION**

I, Becky Close, the duly qualified Town Clerk of the Town of Gypsum, Colorado, do hereby certify the foregoing Ordinance No. 8 (Series 2022) was approved by the Town Council on first reading on the 27 day of September, 2022, and was published on the Town's official website September 23, 2022, with notice specifying that a public hearing on the ordinance would be held on September 27, 2022, at 7:00 p.m. at the Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado, which is not less than four (4) days after first publication.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Gypsum, Colorado, this 27 day of Sept., 2022



Becky Close, Town Clerk

(S E A L)



I, Becky Close, the duly qualified Town Clerk of the Town of Gypsum, Colorado, do hereby certify the foregoing Ordinance No. 8 (Series 2022) was approved by the Town Council on second reading at its meeting held on the 11 day of October, 2022 and thereafter was published on the Town's official website on October 20, 2022

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Gypsum, Colorado, this 20 day of October, 2022



Becky Close, Town Clerk

(S E A L)



**TOWN OF GYPSUM, COLORADO**

**ORDINANCE NO. 08 (SERIES 2022)**

**AN ORDINANCE AMENDING CHAPTER 3.02 OF THE MUNICIPAL CODE OF THE TOWN OF GYPSUM, COLORADO TO ESTABLISH AN EXEMPTION FROM THE TOWN'S SALES AND USE TAX FOR CERTAIN RETAIL DELIVERY FEES AND CARRYOUT BAG FEES ENACTED BY THE STATE OF COLORADO**

WHEREAS, the Town of Gypsum ("Town") is a home rule municipality duly organized and existing under Articles XX of the Colorado Constitution and the Town's Home Rule Charter effective October 21, 1982; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales and use taxes is clearly within the constitutional grant of power to the Town and is necessary to raise revenue with which to conduct the affairs and render the services performed by the Town; and

WHEREAS, pursuant to such authority, the Town has adopted and enacted Chapter 3.02 of the Gypsum Municipal Code (the "Tax Code"), under which the Town imposes sales and use tax; and

WHEREAS, the Town does not wish to impose local sales tax on retail delivery fees and carryout bag fees enacted by the State of Colorado that would otherwise be taxable under the Tax Code; and

WHEREAS, the town adopts this ordinance with the intent to exempt such fees from local sales and use tax.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Gypsum, Colorado that:

**Section 1.** Amendment of Section 3.02.080, Sales Tax Imposed. Section 3.02.080 of the Gypsum Municipal Code is amended by the addition of the capitalized and underlined words as follows:

Pursuant to Article XX of the Colorado Constitution and the Town's Home Rule Charter effective October 21, 1982, including section 1.3 and Article VI of the Charter, there is hereby imposed on the sale of tangible personal property at retail, the furnishing of services, and sale of food items, a sales tax equal to three percent (3%) of the gross receipts ("sales tax"). The tangible personal property and services taxable under this

Chapter shall be the same as the tangible personal property, services, and food 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., provided that the exemption 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., shall apply to the sales tax and the sale of such items shall not be taxable, and provided further that the exemption 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., shall not apply to the sales tax, and the sale of such items is expressly made taxable under this Chapter; AND PROVIDED THAT THE SALE TAX SHALL NOT APPLY TO THE FOLLOWING: THE RETAIL DELIVERY FEE CONSISTING OF THE COMMUNITY ACCESS RETAIL DELIVERY FEE IMPOSED IN C.R.S. § 24-38.5-303(7), THE CLEAN FLEET RETAIL DELIVERY FEE IMPOSED IN C.R.S. § 25-7.5-103(8), THE CLEAN TRANSIT RETAIL DELIVERY FEE IMPOSED IN C.R.S. § 43-4-1203(7), THE RETAIL DELIVERY FEE IMPOSED IN C.R.S. § 43-4-218(3), THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE IMPOSED IN C.R.S. § 43-4-805 (5)(G.7), AND THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE IMPOSED IN C.R.S. § 43-1-1303(8), AS SUCH SECTIONS EXISTED ON JUNE 17, 2021, AND THE CARRYOUT BAG FEE IMPOSED IN C.R.S. § 25-17-505, AS SUCH SECTION EXISTED ON JULY 6, 2021. The imposition of the 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 sales tax an amount in excess of the amount of the sales tax imposed by this Chapter, he shall remit to the Sales Tax Auditor the full amount of the sales tax herein imposed and also such excess.

**Section 2.** Amendment of Section 3.02.170, Excepted From Use Tax. Section 3.02.170 of the Gypsum Municipal Code is amended by the addition of a new subsection (10) and (11) to read as follows:

- (10) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-1-1303(8), as such sections existed on June 17, 2021; and

- (11) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

**Section 3. Public Inspection.** Copies of this ordinance and the Gypsum Municipal Code are available for public inspection at the office of the Gypsum Town Clerk.

**Section 4. Public Hearing.** A public hearing on this Ordinance shall be held on the 27<sup>th</sup> day of September, 2022, at 7:00 p.m. at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

**Section 5. Effective Date.** This Ordinance shall become effective as a permanent Ordinance five (5) days after publication, following final adoption after a public hearing held on the 27<sup>th</sup> day of September, 2022, at 7:00 p.m., at the Gypsum Town Hall, 50 Lundgren Blvd., Gypsum, Colorado.

**Section 6. 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 THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF GYPSUM ON THE 13<sup>TH</sup> DAY OF SEPTEMBER, 2022.

27<sup>th</sup> RC

TOWN OF GYPSUM

By: \_\_\_\_\_

Stephen M. Carver, Mayor

Tom Edwards, Mayor Pro Tem

Attest:


\_\_\_\_\_  
Becky Close, Town Clerk

Becky Close, Town Clerk



INTRODUCED ON SECOND READING, READ, CONSIDERED AT A PUBLIC HEARING AND FINALLY ADOPTED, PASSED AND APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED POSTED AND PUBLISHED, BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE AND PASSED AT ITS MEETING HELD ON THE 27<sup>TH</sup> DAY OF ~~SEPTEMBER~~ 11<sup>th</sup> October, 2022, BY A VOTE OF 6 IN FAVOR AND 0 AGAINST.

TOWN OF GYPSUM

By:   
Stephen M. Carver, Mayor

Attest:

  
Becky Close, Town Clerk



(S E A L)