

**TOWN OF SILVERTHORNE, COLORADO**

**ORDINANCE NO. 2022 - 21**

**AN ORDINANCE OF THE TOWN OF SILVERTHORNE, COLORADO, AMENDING CHAPTER 1, ARTICLE X, DIVISION 8 OF THE SILVERTHORNE MUNICIPAL CODE TO ESTABLISH AN EXEMPTION FROM THE TOWN'S SALES TAX FOR CERTAIN RETAIL DELIVERY FEES AND CARRYOUT BAG FEES ENACTED BY THE STATE OF COLORADO AS WELL AS DIAPERS AND INCONTINENCE PRODUCTS AND TO CLARIFY REMITTANCE OF THE BAG FEE.**

**WHEREAS**, the Town of Silverthorne ("Silverthorne" or the "Town") is a home rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Silverthorne Home Rule Charter; and

**WHEREAS**, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales 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 a Sales Tax Code (the "Code"), under which Town sales tax is levied; 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 or for diapers and incontinence products that would otherwise be taxable under the Code; and

**WHEREAS**, the Town adopts this ordinance with the intent to exempt such fees and products from local sales tax.; and

**WHEREAS**, the Town Council finds and declares that the amendments to Chapter 1, Article X, Division 8 as set forth in this Ordinance are in the best interest of the Town.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SILVERTHORNE, COLORADO, ORDAINS:**

**Section 1.** The foregoing recitals are incorporated herein as if set forth in full.

**Section 2.** Chapter 1, Article X, Division 8 of the Silverthorne Municipal Code is hereby amended as set forth below with double underline text added and ~~strikethrough-text~~ deleted.

\* \* \*

**Sec. 1-10-44. - Exemptions from sales tax.**

(a) The tax levied by Section 1-10-39 shall not apply to the following:

\* \* \*

(32) 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. § 43-4-1303(8), as such sections existed on June 17, 2021.

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

(34) Incontinence and diaper products.

**Sec. 1-10-7. - Filing returns; due date.**

(c) Every retailer or vendor shall be liable and responsible for the payment of the bag fee assessed in C.R.S. § 25-17-505(1)(a) commencing on January 1, 2023 as provided in C.R.S. § 25-17-505(3)(d)(l) and shall remit the fee on the 20th of the month after the quarter end.

**Sec. 1-10-1. - Words and phrases defined<sup>1</sup>**

“Incontinence Products and Diapers” means absorbent cloth or disposable products worn by humans who are incapable of, or have difficulty controlling their bladder or bowel movements.

\* \* \*

**Section 3.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is held to be unconstitutional, then the remainder of this ordinance, and the application of the provisions of such to any person or circumstance, shall not be affected thereby.

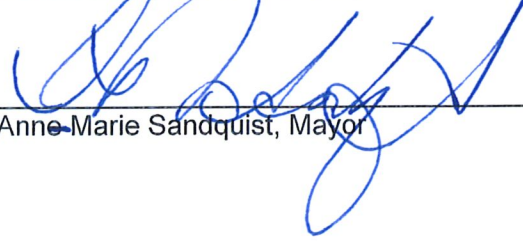
**Section 4.** This ordinance shall be effective upon adoption at second reading, pursuant to Sections 4.5 and 4.7 of the Silverthorne Home Rule Charter.

READ AND PASSED ON FIRST READING THIS 26th DAY OF OCTOBER 2022.

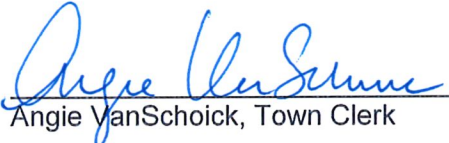
ADOPTED ON SECOND AND FINAL READING THIS 14th DAY OF December, 2022.



TOWN OF SILVERTHORNE, COLORADO

  
\_\_\_\_\_  
Anne-Marie Sandquist, Mayor

ATTEST:

  
\_\_\_\_\_  
Angie VanSchoick, Town Clerk

Approved on the first reading:  
Published by title only:  
Approved on the second reading:  
Published by title only:  
(with amendments, if amended on second reading):

October 26, 2022  
November 4, 2022  
December 14, 2022  
December 23, 2022  
December 14, 2022