

**ORDINANCE NO. 23
SERIES 2022**

**AN ORDINANCE OF THE TOWN OF CRESTED BUTTE, COLORADO,
AMENDING CHAPTER 4, ARTICLE 2, OF THE CRESTED BUTTE
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.**

WHEREAS, the Town of Crested Butte ("Crested Butte" or the "Town") is a home rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Crested Butte Home Rule Charter; 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 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 that would otherwise be taxable under the Code; and

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

WHEREAS, the Town Council finds and declares that the amendments to Chapter 4, Article 2, as set forth in this Ordinance are in the best interest of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF CRESTED BUTTE, COLORADO:**

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

Section 2. Chapter 4, Article 2, of the Crested Butte Municipal Code is hereby amended as set forth below with double underline text added and ~~strike through text~~ deleted.

Sec. 4-2-70. - Exemptions from sales tax.

The tax levied by Section 4-2-40 above shall not apply to the following:

(25) 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.

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

Sec. 4-2-150 Reporting Period Taxes and Bag Fee.

(e) The bag fee imposed pursuant to C.R.S. § 25-17-505 shall be reported and paid on the same schedule as the taxpayers tax returns and payments are made commencing January 1, 2023.

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. Any ordinances or resolutions or parts thereof, which are in conflict with this ordinance, are hereby repealed to the extent of such conflict only.

Section 5. With the exception of the provisions of the Municipal Code of the Town of Crested Butte which are modified as provided herein, all remaining provisions of the Municipal Code of the Town of Crested Butte shall remain in full force and effect.

Section 6. This ordinance shall be effective upon adoption at second reading, pursuant to Sections 4.9 and 4.11 of the Crested Butte Home Rule Charter.


READ AND PASSED ON FIRST READING THIS 21st DAY OF NOVEMBER 2022.

ADOPTED ON SECOND AND FINAL READING THIS 5th DAY OF December 2022.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Ian Billick, Mayor

ATTEST:


Lynelle Stanford, Town Clerk

