

**RESOLUTION 2025-0211A
BOARD OF DIRECTORS
BERTHOUD FIRE PROTECTION DISTRICT**

A RESOLUTION TO ENACT A SALES TAX IN THE BERTHOUD FIRE PROTECTION DISTRICT FOR THE PURPOSE OF MAINTAINING ADEQUATE LEVELS OF FIRE AND EMERGENCY SERVICES TO THE COMMUNITY

1. **Whereas**, the Berthoud Fire Protection District (“District”) has determined that it requires additional revenue to maintain adequate levels of fire and emergency services to the community it serves;
2. **Whereas**, Section 32-1-1107, C.R.S., authorizes the District to adopt a tax on sales of tangible personal property at retail and services, subject to the approval of the District’s eligible electors;
3. **Whereas**, the District finds that the revenue from a sales tax would significantly assist the District in addressing the need for additional revenue to maintain adequate levels of fire and emergency services to the community, as demands for service increase;
4. **Whereas**, Section 32-1-1107(1)(a), C.R.S., permits the District to submit a ballot issue on the question of adopting a sales tax to its eligible electors at an election to be held on May 6, 2025; and
5. **Whereas**, the District intends that its enactment of a sales tax as set forth herein shall comply and be interpreted to comply with the requirements of section 20, article X of the Constitution of the State of Colorado; article 1, title 32, C.R.S.; those provisions of article 2, title 29, C.R.S., as may be applicable to the District; and all other applicable provisions of law (collectively, "**Applicable Law**").

Now, therefore, be it resolved by the Board of Directors of the Berthoud Fire Protection District that:

Definitions

Section 1 – Definitions. All terms used in this Resolution shall have the same meaning as provided for in Section 39-26-102, C.R.S.

Section 2 – Application of State Sales Tax. Unless otherwise provided in this Resolution and any amendments thereto, or pursuant to Applicable Law, the provisions of article 26, title 39, C.R.S., shall govern the collection, administration, and enforcement of this sales tax.

Sales Tax Imposed

Section 3 – Imposition of Sales Tax. There is hereby imposed and there shall be collected a tax on all sales of tangible personal property and services described in Section 4 and occurring within the District. The tax is imposed as provided for in Section 29-2-105(1)(d), C.R.S. The sales tax shall be set at a rate of one percent (1.0%) of the amount of each sale. The taxable amount of a sale shall not include the amount of any sales or use tax imposed by article 26, title 39, C.R.S.

Section 4 – Property and Services Taxed. The sales of tangible personal property and services taxable under this sales tax shall be the same as the sales of tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S.

Section 5 – Place of Sale. For the purpose of this sales tax, all retail sales are sourced as specified in Section 39-26-104(3), C.R.S.

Exemptions and Exclusions

Section 6 – General Sales Tax Exemptions. Except as otherwise provided herein or in Section 29-2-105(1)(d), C.R.S., the sales of tangible personal property and services taxable under this Resolution shall be subject to the same exemptions as those specified in part 7, article 26, title 39, C.R.S.

Section 7 – Specific Exemptions Required by Section 29-2-105(1)(d), C.R.S. In addition to the exemptions from the District's sales tax provided by part 7, article 26, title 39, C.R.S., the following additional exemptions from the District's sale tax shall apply:

- a. The exemption for sales of machinery or machine tools specified in Section 39-26-709(1), C.R.S., other than machinery or machine tools used in the processing of recovered materials by a business listed in the inventory prepared by the department of public health and environment pursuant to Section 30-20-122(1)(a)(V), C.R.S.;
- b. The exemption for sales of machinery or machine tools specified in Section 39-26-709(1), C.R.S., used in the processing of recovered materials by a business listed in the inventory prepared by the department of public health and environment pursuant to Section 30-20-122(1)(a)(V), C.R.S.;
- c. The exemption for sales of electricity, coal, wood, gas, fuel oil, or coke specified in Section 39-26-715(1)(a)(II), C.R.S.;

- d. The exemption for sales of food specified in Section 39-26-707(1)(e), C.R.S. For the purposes of this subsection, “food” is defined in Section 39-26-102(4.5), C.R.S.;
- e. The exemption for vending machine sales of food specified in Section 39-26-714(2), C.R.S.;
- f. The exemption for sales by a charitable organization specified in Section 39-26-718(1)(b), C.R.S.;
- g. The exemption for sales of farm equipment and farm equipment under lease or contract specified in Section 39-26-716(4)(e) and (4)(f), C.R.S.;
- h. The exemption for sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as specified in Section 39-26-723, C.R.S.;
- i. The exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in Section 39-26-724, C.R.S.;
- j. The exemption for sales that benefit a Colorado school specified in Section 39-26-725, C.R.S.;
- k. The exemption for sales by an association or organization of parents and teachers of public school students that is a charitable organization as specified in Section 39-26-718(1)(c), C.R.S.;
- l. The exemption for sales of property for use in space flight specified in Section 39-26-728, C.R.S.;
- m. The exemption for retail sales of marijuana upon which the retail marijuana sales tax is imposed pursuant to Section 39-28.8-202, C.R.S., as specified in Section 39-26-729, C.R.S.;
- n. The exemption for manufactured homes, modular homes, tiny homes, and any closed panel system utilized in construction of a factory-built residential structure set forth in Section 39-26-721(3), C.R.S.;
- o. The exemption for sales of period products as specified in Section 39-26-717(2)(m), C.R.S.;
- p. The exemption for sales of incontinence products and diapers as specified in Section 39-26-717(2)(n), C.R.S.;

- q. The exemption for sales of eligible decarbonization building materials set forth in Section 39-26-731, C.R.S.; and
- r. The exemption for sales of energy storage systems set forth in Section 39-26-733, C.R.S.

Section 8 – Food. Notwithstanding any other provision of this sales tax regarding the taxation of food, this sales tax shall not apply to the following:

- a. Sales of food purchased with funds provided by the supplemental nutrition assistance program. For the purposes of this subsection (a), “food” has the same meaning as provided in 7 U.S.C. § 2012, as currently in effect and subsequently amended; and
- b. Sales of food purchased with funds provided by the special supplemental food program for women, infants, and children, as provided in 42 U.S.C. § 1786. For the purposes of this subsection (b), “food” has the same meaning as “supplemental food” provided in 42 U.S.C. § 1786, as currently in effect and subsequently amended.

Section 9 – Certain Construction and Building Materials. This sales tax shall not apply to the sale of “construction and building materials,” as the term is used in Section 29-2-109, C.R.S., if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the District evidencing that a local use tax has been paid or is required to be paid on the materials.

Section 10 – Cigarettes. This sales tax shall not apply to sales of cigarettes, as provided in C.R.S. § 29-2-105(9).

Section 11 – Sales to a Telecommunications Provider. This sales tax shall not apply to sales to a telecommunications provider of equipment used directly in the provision of telephone service, cable television service, broadband communications service, or mobile telecommunications service. It is the policy of this District that this exemption be applied in a uniform and nondiscriminatory manner to the telecommunications providers of telephone service, cable television service, broadband communications service, and mobile telecommunications service.

Section 12 – Sales Subject to Specific Ownership Tax. Sales of personal property on which a specific ownership tax has been paid or is payable are exempt from this sales tax when the sale meets both of the following conditions: (i) the purchaser is a nonresident of the District or has his/her/its principal place of business outside the District and (ii) the personal property sold is registered or required to be registered outside the District's jurisdictional boundaries under Colorado law.

Election

Section 13 – Submission to Registered Electors. This Resolution shall be submitted to a vote of the District’s eligible electors on May 6, 2025, as provided by Section 32-1-1107(1)(a), C.R.S. The election shall be conducted in accordance with all Applicable Law.

Section 14 – Designation of Election Official. Jill Wilson shall serve as the Designated Election Official ("**DEO**") for the conduct of the election on behalf of the District. Additionally, the District may, in its discretion, retain a special districts elections consultant to assist the DEO in conducting the election. The DEO and, if applicable, elections consultant, shall have full authority to take any and all actions necessary and appropriate to conduct the election in accordance with the requirements of Applicable Law.

Section 15 – Ballot Title. The ballot title for the sales tax question shall be in substantially the following form:

SHALL THE BERTHOUD FIRE PROTECTION DISTRICT’S TAXES BE INCREASED BY 363,984.06 THE FIRST FULL FISCAL YEAR 2026, AND BY WHATEVER AMOUNTS ARE COLLECTED ANNUALLY THEREAFTER, FROM A 1.0 PERCENT SALES TAX COMMENCING ON JULY 1, 2025, FOR THE PURPOSE OF REDUCING THE FINANCIAL IMPACTS OF GROWTH ON EXISTING PROPERTY OWNERS BY SHARING THE COST OF FIRE AND EMERGENCY SERVICES WITH BUSINESS PATRONS WHO RESIDE OUTSIDE THE DISTRICT BOUNDARIES AND OFFSETTING LOST REVENUE DUE TO THE LIMIT ON PROPERTY ASSESSMENT RATES, IN ORDER TO MAINTAIN EMERGENCY RESPONDER STAFFING FOR THE DISTRICT’S FIRE STATIONS, MAINTAIN FIRE AND EMERGENCY SERVICES OPERATIONS AND ADMINISTRATION, AND FUND SCHEDULED CAPITAL REPLACEMENTS, SUCH SALES TAX TO BE IN ADDITION TO ALL OTHER TAXES LEVIED BY THE DISTRICT, AND SHALL THE DISTRICT BE AUTHORIZED TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITATIONS SET FORTH IN SECTION 29-1-301 OF THE COLORADO REVISED STATUTES, AND ANY OTHER LAW?

YES _____

NO _____

Collection, Administration, and Enforcement

Section 16 – Delivery and Notice to Colorado Department of Revenue of Approval of New or Changed Tax. If a new sales tax, or change to an existing sales tax as defined in Section 29-2-205(3), C.R.S., is approved by the District's eligible electors pursuant to this Resolution, the District's Fire Chief (Chief Executive Officer), DEO, or legal counsel shall provide a copy of this Resolution and notice of its adoption and approval to the executive director of the Colorado Department of Revenue at least 45 days prior to the effective date of the sales tax created or changed herein.

If the District subsequently makes any change to this sales tax that is permitted to be made without an election, and that will affect the Colorado Department of Revenue's collection of the tax, the District's Fire Chief (Chief Executive Officer) or legal counsel shall also provide a copy of the change and notice of its adoption and approval to the executive director of the Colorado Department of Revenue at least 45 days prior to the effective date of the sales tax changed herein.

Section 17 – Delivery and Notice to the Colorado Department of Revenue of Proposal for New or Changed Tax. In addition to the notice required by section 16 of this Resolution, if the District will submit a question to its eligible electors at a general or special election that would impose a new sales tax that the Colorado Department of Revenue will collect, or make any change to an existing sales tax that will affect the Department's collection, as defined in Section 29-2-205(3), C.R.S., the District's Fire Chief (Chief Executive Officer), DEO, or legal counsel must also provide written notice of the proposed sales tax question to the Colorado Department of Revenue prior to such election or implementation of such change, as applicable.

The District's Fire Chief (Chief Executive Officer), DEO, or legal counsel shall provide a copy of this Resolution submitting the question to the eligible electors and a copy of the measure that will appear on the ballot to the executive director of the Colorado Department of Revenue no later than 14 days after the adoption of this Resolution.

Section 18 – Colorado Department of Revenue to Enforce. The collection, administration, and enforcement of this sales tax shall be performed by the executive director of the Colorado Department of Revenue in the same manner as the collection, administration, and enforcement of the Colorado state sales tax, as supplemented by those provisions of article 2, title 29, C.R.S., as may be applicable to the District.

Section 19 – Liaison. Pursuant to Section 29-2-213, C.R.S., the District's Chief of Staff, Jill Wilson, is designated as the District's liaison to the Colorado Department of Revenue. The District's Chief of Staff is authorized and directed to make agreements with the executive director of the Department, receive distributions, share information, and take any other actions necessary for the proper administration of the tax imposed by this Resolution. The District's Fire Chief or

Chief of Staff is authorized to delegate these duties to additional or alternate liaisons upon written notice to the executive director of the Department.

Section 20 – Vendor Fee. To defray the retailer’s expenses in collecting and remitting this sales tax, every retailer is permitted to retain 3.33% percent of the tax collected for the District. If the retailer is delinquent in remitting the tax, other than in unusual circumstances shown to the satisfaction of the executive director of the Colorado Department of Revenue, the retailer is not allowed to retain any amount under this section, and the executive director shall deposit the local vendor fee remitted in the state general fund in accordance with Section 39-26-105(1)(c)(III), C.R.S.

General Provisions

Section 21 – Effective Date. If approved by the registered electors, this sales tax shall become effective on July 1, 2025.

Section 22 – Duration. If approved by the District’s registered electors, this sales tax shall continue until repealed.

Section 23 – Amendment. This Resolution and the sales tax adopted herein may be amended by subsequent Resolution, unless otherwise prohibited by Applicable Law.

Section 24 – Severability. If any portion of this Resolution or the sales tax adopted herein is declared to be void or ineffective by a court of competent jurisdiction, it shall be deemed severed from this Resolution. The remaining portions shall remain valid and in full force and effect.

Section 25 – Authority Vested in District Officials. The District’s DEO and staff are authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Resolution and the sales tax adopted herein.

Section 26 – References to Colorado Law. References to Colorado law are to the versions of those laws in effect at the time this Resolution was adopted as well as any subsequent amendments thereto.

Adopted this 11 day of February, 2025 by the Board of Directors of the Berthoud Fire Protection District.


President


Secretary