

**TOWN OF MOFFAT, COLORADO  
ORDINANCE NO. 1-2010**

**AN ORDINANCE LEVYING A RETAIL SALES TAX WITHIN THE TOWN  
OF MOFFAT, COLORADO, AND ESTABLISHING A METHOD FOR  
COLLECTION OF THE TAX AND PENALTY FOR VIOLATION**

**WHEREAS**, the Board of Trustees submitted a sales tax question to the electors of the Town of Moffat at its regular municipal election on April 6, 2010; and

**WHEREAS**, the electors approved the sales tax by a vote of 17 yeas and 13 nays; and

**WHEREAS**, the Board of Trustees finds it now necessary to enact an ordinance pursuant to the election;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MOFFAT, COLORADO:**

**Section 1. Title; Declaration of purpose; Uniformity of interpretation.** The Board of Trustees declares that its intent by the enactment of this Ordinance is to levy within the Town a retail sales tax on all food items as authorized by Emergency Retail Sales Tax Act of 1935 (Sales Tax Act) at C.R.S. § 39-26-101 *et seq.*, as may from time to time be amended. This Ordinance shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the State of Colorado's sales tax levied pursuant to C.R.S. § 39-26-101, *et seq.*, as may from time to time be amended.

**Section 2. Definitions.** For the purposes of this Ordinance, the definitions and words herein contained shall be defined in the Sales Tax Act, as may from time to time be amended, and said definitions are hereby incorporated herein by this reference.

**Section 3. Property taxed.**

A. There is hereby levied and there shall be collected and paid a tax equal to two percent (2%) of gross receipts from all sales of all food items at retail within Moffat, except as provided herein. The sales of all food items at retail taxable pursuant to this Ordinance shall be the same as those taxable pursuant to C.R.S. § 39-26-104, as may from time to time be amended. Nothing in this Ordinance shall be construed to amend or in any way affect any other sales tax that was previously collected within the Town of Moffat.

B. The imposition of the tax in individual sales shall be in accordance with schedules promulgated by the Colorado Department of Revenue. If any vendor, during any reporting period, shall collect as a tax an amount in excess of two percent (2%) of his total taxable sales, he shall remit to the Director of Revenue the full amount of the tax herein imposed and also such excess.

**Section 4. Exemptions designated.** The sales of food items taxable under this Ordinance shall be subject to the exemptions from taxation specified in C.R.S. § 39-26-707 (2009), as may from time to time be amended. The burden of proving that any vendor, retailer, consumer, or purchaser is exempt from collecting or paying the tax upon any property sold or purchased is on the person asserting the claim of exemption.

**Section 5. Administration, collection and enforcement of tax.**

A. The collection, administration and enforcement of this sales tax shall be performed by the Executive Director of the Department of Revenue of the State of Colorado in the same manner as the collection, administration and enforcement of the Colorado State sales tax. The provisions of Title 39, Article 26 of the Colorado Revised Statutes, as may from time to time be amended, and all rules and regulations promulgated thereunder by the Executive Director shall govern the collection, administration and enforcement of this sales tax.

B. The sales tax on individual sales levied by this Ordinance shall be collected in accordance with schedules set forth in the rules and regulations promulgated by the Executive Director. If any vendor, during any reporting period, shall collect as a tax an amount in excess of two percent (2%) of his total taxable sales, he shall remit to the Director of Revenue the full amount of the tax herein imposed and also such excess.

**Section 6. Vendor liable for tax.**

A. Every retailer, also herein called "vendor," shall be liable and responsible for the payment of an amount equivalent to two percent (2%) of all sales made by him of food items, and other previously taxed personal property, as specified in Section 3 herein, and shall, before the twentieth day of each month, make a return to the Executive Director for the preceding calendar month and remit an amount equivalent to said two percent (2%) on such sales to said director. Such returns of the vendor or his duly authorized agent shall contain such information and be made in such manner and upon such forms as the Executive Director may prescribe.

B. The burden of proving that any retailer is exempt from collecting the tax on any food items and paying the same to the Director of Revenue, along with its oth taxes, or from making such returns, shall be on the retailer or vendor under such reasonable requirements or proof as the Director of Revenue may prescribe.

**Section 7. Violation.**

A. It shall be unlawful for any retailer or vendor to refuse to make any return provided to be made in this Ordinance or to make any false or fraudulent return or false statement on any return or fail and refuse to make payment to the Executive Director of Revenue of any taxes collected or due to the Town of Moffat, or in any manner evade the collection and payment of the tax or any part thereof, or for any person or purchaser

to fail or refuse to pay such tax or evade the payment thereof or to aid or abet another in any attempt to evade the payment of the tax.

**Section 9. Effective date.** This ordinance shall take effect at 12:01 a.m. on July 1, 2010.

**Section 10. Amendments.** The Board of Trustees of the Town of Moffat shall not increase the retail sales tax imposed by this Ordinance except by submission or such proposed increase to an election by the qualified electors of the Town of Moffat for their approval or rejection in accordance with C.R.S. § 29-2-102, as may from time to time be amended. The Board of Trustees of the Town of Moffat reserves the power, however, to make any other amendments to this Ordinance or to repeal this Ordinance in its entirety without submission of such amendment or such repeal to an election by the qualified electors of the Town of Moffat for their approval or rejection.

**Section 11. Severability.** If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

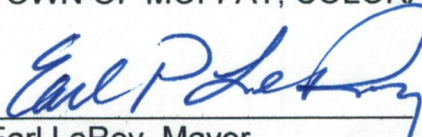
**Section 12.** This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

INTRODUCED, READ, and APPROVED on this 4<sup>th</sup> day of May, 2010.

APPROVED and ADOPTED on this 7<sup>th</sup> day of June, 2010.



TOWN OF MOFFAT, COLORADO

  
Earl LeRoy, Mayor

ATTEST:

  
Johann McKee, Town Clerk