

# TOWN OF MOFFAT, COLORADO

## Ordinance NO. 2019-16

### AN ORDINANCE ESTABLISHING EXCISE TAX PROCEDURES & PENALTIES FOR THE TOWN OF MOFFAT, COLORADO.

**WHEREAS**, the Town of Moffat, Colorado passed Ballot Issue 2C - The Creation of a Specific 5% Marijuana Excise Tax in the November 6<sup>th</sup>, 2018 General Election; and

**WHEREAS**, the excise tax will be set on a tiered system of 2% the first year, 3% the second year, and 5% every year following the second year of business on all commercial marijuana cultivations, facilities, manufactured infused product grows & facilities; and

**WHEREAS**, the Town of Moffat shall expend funds received from Excise tax revenue solely on funding for Town of Moffat public safety and/or for failing or obsolete equipment; and

**WHEREAS**, the Town of Moffat has created and implemented procedures and penalties for the Excise Tax Reporting process as shown in Sections A through E of this Ordinance;

**NOW THEREFORE**, Be it hereby ordained by the Board of Trustees of the Town of Moffat, Colorado:

#### **Section A: Imposition of Excise Tax Rate**

- 1.) That the Town of Moffat shall be authorized to collect and spend such revenues as a voter approved revenue change notwithstanding any revenue or expenditure limitations contained in Article X, Section 20 of the Colorado Constitution or by other law.
- 2.) There is levied and shall be paid and collected an excise tax of 2% the first year, 3% the second year, and 5% thereafter on the average market rate of unprocessed marijuana that is sold or transferred from a commercial marijuana facility, cultivation, or otherwise on the 20<sup>th</sup> of each month effective immediately.

#### **Section B: Procedures**

- 1.) Excise Tax Reporting forms will be sent at the end of each month for the following month. Excise Tax Reporting forms will be due by the 20<sup>th</sup> of each month for the prior month's sales. If the 20<sup>th</sup> of the month lands on a Sunday or holiday in which the

Town Hall is closed, forms and payment will need to be returned by the next available business day.

- 2.) Excise Tax Forms will need to be filed every month regardless of whether or not the business owes the Town taxes, whether or not sales were generated for the month, or whether or not the business is in full operation.
- 3.) Excise Tax Forms are updated monthly, therefore you cannot use the same Tax form as months prior due to changes in market rates. Excise Tax Forms will be mailed to the address the Town has on file from your business license application.
- 4.) Excise Tax Forms will only be accepted by in person delivery, mail, or fax. Payments can only be made by mail or in person delivery. Electronic delivery such as email will not be accepted due to security purposes.
- 5.) A copy of the business' Colorado Department of Revenue Reporting Form must accompany the local Excise Tax Reporting Form.
- 6.) If the "Contract Price" section of the Excise Tax Reporting Form is filled out, the business must provide a copy of the contract dated prior to the sale.
- 7.) If an individual or entity has more than one business within the Town of Moffat, a reporting form will need to be filled out for all marijuana cultivation or MIP facility businesses. If a business operates both a cultivation and marijuana infused product facility, an excise tax reporting form will need to be filled out for both operations.
- 8.) Business owners must certify on their Excise Tax Form that the information reported on the reporting form is true and correct, and agree to promptly submit an amended return if any errors are discovered, and agree to reimburse the Town for all costs and attorney's fees in recovering any under reported amounts and otherwise enforcing its excise tax.

### **Section C: Penalty for Violation**

- 1.) Per the Excise Tax Reporting Form, if payment and/or the tax return is filed after the due date a 10% penalty will be assessed on the amount of tax owed to the Town.
- 2.) For each month the payment and/or return is late, a 25% interest will accrue on the excise tax amount due.
- 3.) If the payment and/or reporting form is late, an email will be sent to the business stating that the business is late on their deadline. After a week of the deadline, a late notice will be mailed and a phone call made to the owner on file.
- 4.) Each business will have sixty (60) days to pay their past due excise tax, at which point their water tap will be shut off. The business will then be added to the next available Town of Moffat Board Meeting agenda to discuss termination of the business's local license, and the Colorado Marijuana Enforcement Division will be notified. Within the sixty (60) day late period, the business owner may request a public hearing with the Moffat Board of Trustees to present a proposal for payment to be considered by the Town of Moffat. If the Board finds the proposal sufficient, an extension will be applied to the business to allow for a payment plan no longer than ninety (90) days from the Board's approval at the Public Hearing . If the Board finds the proposal insufficient, or the business does not apply for a public hearing, the Board may make a motion to temporarily or permanently terminate the local business license for such entity, at which time the MED will be notified.
- 5.) The Town may impose a penalty for a check remitted to the Town for payment of tax, but that is returned to the Town unpaid due to insufficient funds, a closed account, or a stop payment order.
- 6.) Failure to pay may cause the Town to charge the local business with the following:

- Fraud with intent to evade tax
- Negligence or intentional disregard of rules and regulations, without intent to defraud.
- Making retail sales without a valid license.

#### **Section D. Repeal**

- 1.) Any and all existing Ordinances or parts of Ordinances of the Town of Moffat inconsistent with the provisions of this Ordinance are hereby repealed; provided, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the taking effect of this Ordinance.

#### **Section E. Severability**

- 1.) If any section, subsection, sentence, clause or phrase of this Ordinance adopted herein is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town of Moffat hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases thereof be declared invalid or unconstitutional.

The Town Clerk is hereby instructed to record this Ordinance in the office of the Saguache County Clerk and Recorder after such Ordinance is published.

**INTRODUCED AND READ IN FULL** this 2<sup>nd</sup> day of July, 2019;

DONE and SIGNED this 6<sup>th</sup> day of August, 2019.

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Patricia Reigel, Mayor

ATTEST:

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Sarah Van Horn, Town Clerk

**CERTIFICATION**

I hereby certify that the above Ordinance was introduced, read in full on July 2, 2019, and read in full, approved, and adopted at the regular meeting of the Board of Trustees of the Town of Moffat, Colorado on the 6<sup>th</sup> day of August, 2019 and published by posting on the designated locations in the Town of Moffat on June 25, 2019 and July 30, 2019.

Grammy's Kitchen, Moffat

US Post Office, Moffat

Town Hall, Moffat

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Sarah Van Horn, Town Clerk