

ORDINANCE NO. 1255

AN ORDINANCE TO AMEND BERTHOUD'S MUNICIPAL CODE TO CONFORM TO THE STATUTORY PENALTY STANDARDS SET FORTH IN C.R.S. § 13-10-113(1) FOR VIOLATIONS OF THE BERTHOUD MUNICIPAL CODE

WHEREAS, Colorado Revised Statute section 13-10-113(1)(a) states: "Except as provided in paragraph (b) of this subsection (1), any person convicted of violating a municipal ordinance in a municipal court of record may be incarcerated for a period not to exceed one year or fined an amount not to exceed two thousand six hundred fifty dollars, or both."; and

WHEREAS, in 2018 the Town of Berthoud Municipal Court became a "court of record"; and

WHEREAS, The Town of Berthoud Municipal Code currently has penalty provisions that provide for maximum penalties, including fines and imprisonment, which are set for courts that are *not* of record; and

WHEREAS, the Town of Berthoud desires to amend its Municipal Code to conform to the penalty provision standards as set forth in Colorado Revised Statute section 13-10-113(1) for courts of record; and

NOW THEREFORE, BE IT ORDAINED AND DECREED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD:

Each of the following sections of the Berthoud Municipal Code are hereby amended to provide for maximum penalties consistent with the powers of a of Record by the replacement of the deleted language and the insertion of new language as shown below:

Section 6.28-6(D): "It shall be unlawful to commit any act prohibited or to fail to perform any act required. Each day of the violation shall constitute a separate criminal act. The penalty for violation shall be a fine of up to two thousand six hundred fifty dollars (\$2,650.00), incarceration up to one year, or both such fine and detention."

Section 13.15-12: "In addition to the suspension, revocation or denial of any license issued hereunder, any person who violates the provisions of this Section may be punished by a fine of up to two thousand six hundred fifty dollars (\$2,650.00), incarceration up to one year, or both such fine and detention."

Section 14.6-10: "Any person, firm, or corporation violating any of the provisions of this code shall, upon conviction, be fined the amount of not more than two thousand six hundred fifty dollars (\$2,650.00), incarceration up to one year, or both such fine and detention, provided also that each day during which any such person, firm, or corporation engages in vocation, occupation or business in violation of the provisions of this code shall be deemed and constitute a separate offense."

Section 16.10: "It shall be unlawful for any person to violate any of the provisions of this Section. In addition to abatement procedures provided herein, the person may be charged with a violation of this chapter and may be found guilty of a separate offense for each and every day, or portion thereof during which any violation continues. The person shall be punished by a fine of not more than two thousand six hundred fifty dollars (\$2,650.00). Abatement procedure and penalties shall be cumulative and are not mutually exclusive."

Section 17.1-1: "It shall be unlawful to commit an act prohibited by this Chapter or to fail to perform an act required by this Chapter. Every violation and each day or portion thereof of a continuing violation shall constitute a separate violation. Each violation shall be punishable by a fine of up to two thousand six hundred fifty dollars (\$2,650.00) or up to one year in prison, or by both such fine and imprisonment."

Section 18.8-5(B): "Every person found guilty of violating any provision of this chapter, whether by acting in a manner declared to be unlawful or by failing to act as required, may be punished as provided in this Code, and sentenced to serve up one year in jail, or pay a fine of up to two thousand six hundred fifty dollars (\$2,650.00), or both such fine and imprisonment."

Section 19.1-1: "The following penalties, herewith set forth in full, shall apply to this Section: (a) It is unlawful for any person to violate any provisions adopted in this Section. (b) Every person convicted of a violation of any provision adopted by this Section shall be punished by a fine not two thousand six hundred fifty dollars (\$2,650.00), or by imprisonment not exceeding one year, or by both such fine and imprisonment."

Section 20.2: "Any person who shall be convicted on a violation of this Code shall be fined a sum of not less than \$1.00 nor more than two thousand six hundred fifty dollars (\$2,650.00), or imprisoned for a term not exceeding one year, or by both fine and imprisonment for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense."

Section 23.2-5(G): "It shall be unlawful for any person to violate any of the terms of this Section and any person convicted of violating any of the provisions of this Section shall be punished by a fine not to exceed two thousand six hundred fifty dollars (\$2,650.00), or imprisonment not to exceed one year, or both such fine and imprisonment."

Section 23.6: "Any person convicted of violating any of the provisions of this Chapter shall be punished by a fine not to exceed two thousand six hundred fifty dollars (\$2,650.00) or by imprisonment for not more than one year, or both such fine and imprisonment."

Section 23.8-1(E): "If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Section shall fail, neglect, refuse to make or file the annual statement of accounts provided in 23.8-3, the said officer, agent, manager, or person

shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than two thousand six hundred fifty dollars (\$2,650.00); provided, that each day after said statement shall become delinquent during which the said officer, agent, manager or person shall so fail, neglect, or refuses to make and file such statement shall be considered a separate and distinct offense.”

Section 30.5-101(C)(11): “Failure to comply with all of the provisions of this Chapter shall be unlawful and upon conviction is punishable by a fine of up to two thousand six hundred fifty dollars (\$2,650.00) or imprisonment for a period not more than one year, or both. Each day that such violation continues to exist shall be considered a separate offense.”

Section 30.11-115(B): “Penalty. Any person, firm, corporation or legal entity which constructs, installs or uses or causes to be constructed, installed or used, any oil, gas or injection well, well site or production site, or commits any act or omission in violation of any provision of this Section or of the conditions and requirements of the oil and gas conditional use permit, may be punished by a fine of not more than two thousand six hundred fifty dollars (\$2,650.00) or by imprisonment for not more than one year, or by both such fine and imprisonment. Each day of such unlawful operation constitutes a separate violation.”

The Town Board hereby finds, determines and declares that this Ordinance is necessary and proper for the immediate health, safety and welfare of the Town of Berthoud and the inhabitants thereof, and shall become immediately upon passage after a second reading and publication in accordance with Berthoud Code Section 4.8.

[Signature Page Follows]

FIRST READING:

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, this the 27 day of November 2018.

TOWN OF BERTHOUD

By: William Karspeck
William Karspeck, Mayor

ATTEST:

By: On behalf Michelle Adams, Deputy Town Clerk
Christian Samora, Town Clerk

SECOND READING:

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, this the 11 day of ~~November~~ December 2018.

TOWN OF BERTHOUD

By: William Karspeck
William Karspeck, Mayor

ATTEST:

By: On behalf Michelle Adams, Deputy Town Clerk
Christian Samora, Town Clerk

