

ORDINANCE NO. 1308
AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO, UPDATING FINE
AND PENALTY PROVISIONS TO CORRESPOND TO THOSE AUTHORIZED FOR A
MUNICIPAL COURT OF RECORD

Whereas, The Board of Trustees of the Town of Berthoud, Colorado (the “Town”), desires to fully standardize fine and penalty provisions throughout the Berthoud Municipal Code and enable assessment of penalties consistent with those authorized for a municipal court of record; and

Whereas, in 2018 the Town of Berthoud Municipal Court became a “municipal court of record” and adopted an ordinance amending various fine and penalty provisions; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE
TOWN OF BERTHOUD, COLORADO AS FOLLOWS:

Section 1. Chapter 9, Section 9.8-1 of the Berthoud Municipal Code is amended to read in its entirety as follows:

9.8-1 Process – Penalty

In all actions for the violation of any ordinance or code of the Town of Berthoud, the process shall be as required by Colorado Municipal Court Rules section 204 (as may be amended), and may involve the issuance of a summons; provided, that a warrant for the arrest of the offender may issue at the first instance upon the affidavit of any person that an ordinance or code has been violated, and that the person making the complaint has reasonable grounds to believe the party charged is guilty thereof.

Any person arrested upon such warrant shall be taken before the proper officer to be tried for the alleged offense without unnecessary delay. Any person upon whom any fine or penalty shall be imposed, upon the order of the Court or magistrate before whom the conviction is had, may be committed to the County Jail, or other place provided by the Town for the incarceration of offenders, until such fine, penalty, and cost shall be fully paid. No such imprisonment shall exceed the time limitations set forth in Colorado Revised Statute section 18-1.3-702 (as may be amended).

Section 2. The last paragraph of Chapter 17, Section 17.20-5 of the Berthoud Municipal Code is amended to read as follows:

Penalty — It shall be unlawful for any person to fail to comply with the provisions of this Section. The maximum penalty for a conviction of violating this Section shall be a fine of up to \$2,650.00, or imprisonment for a term not exceeding 364 days, or by both such fine and imprisonment. 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 3. Chapter 17, section 17.5-10 subsection G, sub-subsection 4 of the Berthoud Municipal Code is amended to read in its entirety as follows:

17.5-10(G) Violations.

4. The maximum penalty for a conviction of violating Section 17.5 shall be a fine of up to \$2,650.00, or imprisonment for a term not exceeding 364 days, or by both such fine and imprisonment. 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 4. Chapter 8, section 8.3-21 of the Berthoud Municipal Code is amended to read in its entirety as follows:

8.3-21 Criminal Prosecution

In addition to any and all other remedies that may be available, any person convicted of violating this Section shall be subject to a fine of up to \$2,650.00, or imprisonment for a term not exceeding 364 days, or by both such fine and imprisonment. 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 5. Severability. Should any one or more sections or provisions of this ordinance be determined to be unconstitutional or invalid by a Court of competent jurisdiction, then such judgment shall not affect the validity or constitutionality of the remaining provisions of this ordinance. It is expressly stated and understood that the Town Board would have passed this ordinance and each part or parts hereof irrespective of the fact that one part or parts be declared unconstitutional or invalid.

Section 6. Effective Date. Unless otherwise specified herein, this ordinance shall take effect thirty days after publication as provided by law.

INTRODUCED, READ, PASSED AND ADOPTED this 13th day of 2022, 2022.

ATTEST:

Christian Samora, Town Clerk



William Karspeck, Mayor