

ORDINANCE NO. 338

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE TOWN OF BERTHOUD, COLORADO BY CREATING CHAPTER 23, CONCERNING REVENUE AND IMPOSING A SALES TAX UPON THE SELLING OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES, AS PROVIDED IN AND UNDER CHAPTER 138, ARTICLE 5, C.R.S. 1963 AS AMENDED, UPON EVERY RETAILER IN THE TOWN OF BERTHOUD; AND TO PROVIDE FOR THE SUBMISSION OF THIS ORDINANCE FOR THE APPROVAL OR REJECTION, AT A GENERAL MUNICIPAL ELECTION, AND TO PROVIDE PENALTIES WITH RESPECT THERETO.

BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. There is hereby created Chapter 23 of the Municipal Code of the Town of Berthoud, Colorado.

Section 2. Purpose. The purpose of this ordinance is to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services, the sale of which tangible personal property and services are taxable pursuant to Section 4, Article 5, Chapter 138, C.R.S. 1963, as amended.

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Section 3. Definitions. For the purpose of this ordinance, the definitions of words herein contained shall be as defined in Section 2, Article 5, Chapter 138, C.R.S. 1963, as amended, and said definitions are incorporated herein by this reference.

Section 4. Licenses.

4-1. It shall be unlawful for any person to engage in the business of selling tangible personal property at retail without first having obtained a license therefor. Such license shall be granted and issued by the Town Clerk and shall be in force and effect until the 31st day of December of the year in which it is issued, unless sooner revoked.

4-2. Such licenses shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business and the location and such other facts as the Town Clerk may require.

4-3. It shall be the duty of each licensee on or before January 1st of each year during which this ordinance remains in effect to obtain a renewal thereof if the licensee remains in the retail business or liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of licensee's prior license.

4-4. In case business is transacted at one or more separate premises by one person, a separate license for each place of business shall be required.

4-5. Any person engaged in the business of selling tangible personal property at retail in the Town, without having secured a license therefore, except as specifically provided herein, shall be guilty of a violation of this ordinance.

4-6. Each license shall be numbered and shall show the name, residence, place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferrable.

4-7. No license shall be required for any person engaged exclusively in the business of selling tangible personal property which are exempt from taxation under this ordinance.

4-8. The annual fee for such license shall be the sum of One (\$1.00) Dollar which shall be paid to the Town Clerk prior to the issuance of such license.

Section 5. General Provisions and Exemptions From Taxation.

5-1. For the purpose of collection, exemption, administration, and enforcement of this ordinance by the Director of Revenue, the provisions of C.R.S. 138-5-14, 1963, as amended, shall be deemed applicable and incorporated into this ordinance.

5-2. The amount subject to tax under this ordinance shall not include the State Sales and Use Tax imposed by Article 5, Chapter 138, C.R.S. 1963, as amended.

5-3. For the purpose of this ordinance, all retail sales shall be considered consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a final destination outside the limits of the Town of Berthoud, or to a common carrier for delivery to a final destination outside the limits of the Town of Berthoud.

5-4. The gross receipts from sales shall include delivery charges, when such charges are subject to the State Sales and Use Tax imposed by Article 5 of Chapter 138, C.R.S. 1963, as amended, regardless of the places to which delivery is made.

5-5. In the event a retailer has no permanent place of business in the Town of Berthoud, or more than one place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 5 of Chapter 138, C.R.S. 1963, as amended, and by the rules and regulations promulgated by the Department of Revenue.

5-6. The Town of Berthoud shall permit the retailer to withhold a collection fee in an amount of money equal to three and one-third (3 1/3%) percent of the total sales tax collected.

Section 6. Schedule of Sales Tax.

6-1. There is hereby imposed on the sale of tangible personal property at retail or the furnishing of services where such personal property and services are taxable pursuant to Section 4, Article 5, Chapter 138, C.R.S. 1963, as amended, a tax equal to two percent of the gross receipts. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town of Berthoud.

6-2. The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue of the State of Colorado in the same manner as the collection, administration and enforcement of the State Sales Tax. The provisions of Article 5 of Chapter 138, C.R.S. 1963, as amended, and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of the sales tax imposed by this ordinance.

Section 7. Election and Amendments.

7-1. Before this sales tax ordinance shall become effective, it shall receive the approval of a majority of the qualified electors of the Town of Berthoud at a general election to be held on April 7, 1970.

7-2. The Board of Trustees may amend, alter or change this ordinance, except as to the two per centum rate of tax herein imposed, subsequent to adoption by a majority vote of the Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the Town of Berthoud for their approval.

Section 8. Penalty. Any person convicted of violating any of the provisions of this ordinance shall be punished by a fine of not to exceed \$300.00, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Section 9. Effective Date. This ordinance shall take effect January 1, 1971, and shall apply to all retail sales and the furnishing of certain services unless made exempt on or after that date.

Section 10. Repeal. Upon approval of this Ordinance, all ordinances of the Town of Berthoud in conflict therewith shall be deemed repealed, effective January 1, 1971.

Section 11. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

INTRODUCED, READ AND PASSED ON FIRST READING THIS 10th DAY OF FEBRUARY, 1970.

READ, PASSED AS AMENDED, ADOPTED, AND ELECTION ORDERED ON SECOND AND FINAL READING THIS 10th DAY OF MARCH, 1970.

J. B. Ticehle

Mayor

ATTEST:

Armona Williams (SEAL)

Town Clerk

PUBLISHED: March 12, 1970