

AN ORDINANCE AMENDING CHAPTER 23 OF THE MUNICIPAL CODE OF THE TOWN OF BERTHOUD TO ESTABLISH A USE TAX ON BUILDING MATERIALS AND MOTOR VEHICLES.

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

Section 23.12 - Purpose:

The purpose of this Chapter is to impose a use tax on the privilege of storing, using, or consuming in the Town any construction and building materials, and motor and other vehicles on which registration is required, purchased at retail.

Section 23.13 - Definitions:

"Person", as used in this chapter, means an individual, corporation, partnership, firm, joint adventure, association, estate, trust, receiver or any other group acting as a unit, and the plural as well as the singular number.

"Storage" or "storing" means any keeping or retention of, or exercise of dominion or control over, tangible personal property in this Town.

Section 23.14 - Tax Levied:

There is levied and there shall be collected from every person in this Town a tax or excise for the privilege of storing, using or consuming in this Town any construction and building materials, and motor and other vehicles on which registration is required, purchased at retail. Such tax shall be payable to and shall be collected by the Town Clerk of the Town in accordance with the following schedule:

A. On storage or acquisition charges or cost amounting to nineteen cents to and including sixty-eight cents, a tax of one cent;

B. On all storage or acquisition charges or cost greater than sixty-eight cents, one cent shall be added in each bracket of fifty cents of additional selling price.

Section 23.15 - Exemptions:

The tax imposed shall not apply to:

A. The storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the Town;

B. The storage, use or consumption of any tangible personal property purchased for resale in the Town, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

C. The storage, use or consumption of tangible personal property brought into the Town by a nonresident thereof for his own storage, use or consumption while temporarily within the Town;

D. The storage, use or consumption of tangible personal property by the United States government, or the State of Colorado, or its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;

E. The storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof;

F. The storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another county, city or town equal to or in excess of that imposed by this chapter. A credit shall be granted against the use tax imposed by this chapter with respect to a person's storage, use or consumption in the county or town of tangible personal property purchased by him elsewhere. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of another county, city or town on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this chapter;

G. The storage, use or consumption of tangible personal property and household effects acquired outside of the Town and brought into it by a nonresident acquiring residency;

H. The storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and he purchased the vehicle outside of the Town for use outside the Town and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled and licensed the motor vehicle outside the Town;

I. The storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required, if a written contract for the purchase thereof was entered into prior to August 1, 1978;

J. The storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract, bid, let or entered into at any time prior to August 1, 1978;

K. Purchases by tax exempt entities which would be otherwise taxable under this chapter. The furnishing to the Town Clerk of a certificate of exemption shall be *prima facie* evidence of such tax exempt status, and the use tax otherwise due shall not be collected at the time the building permit is secured or the vehicle is purchased.

Section 23.16 - Collection, administration and enforcement.

A. The tax imposed on motor or other vehicles on which registration is required shall be collected, administered and enforced as provided by CRS 39-26-208, 1973.

B. The tax imposed on the privilege of storing, using or consuming in the Town any construction and building materials, purchased at retail shall be collected as follows:

1. The use tax shall be paid to the Town Clerk and shall be collected at the time building permits are issued for building and construction by the Town building department. The payment of the tax shall be the responsibility of the person applying for the building permit. For the purposes of this section the value of the construction and building materials to be stored, used or consumed as part of any project shall be deemed to be an amount equal to fifty percent of the total valuation of the construction project as stated on the building permit issued. If the tax is paid in this way, no further sales or use tax information will be required for final building inspection on the project.

2. As an alternative to the estimation procedure set forth in subsection (B)(1) in this section, the taxpayer may make arrangements with the Town Clerk to pay the tax monthly or on terms mutually agreed upon, on the basis of returns to be filed with the Town Clerk. Under this option, a final project cost report must be filed and approved before final building inspection is allowed and a certificate of occupancy is issued. Unless the taxpayer pays the tax as set forth in subsection (B)(1) in this section, failure to file the return required in this subsection is a violation of this chapter.

3. The Town Clerk is authorized and directed to draw up and make available forms on which the returns and reports described in subsection (B)(2) in this section, may be filed and to promulgate such additional rules and regulations as may be necessary for the proper administration and enforcement of this section.

Section 23.17 - Delinquent -- Lien on Property.

If any tax imposed is not paid within ten days after it is due, the Town Clerk shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, the date of the accrual thereof, and that the Town claims a first and prior lien therefor on the real and personal property of the taxpayer, except as to preexisting liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose right has attached prior to the filing of the notice as hereinafter provided. This notice shall be on forms prepared by the Town Clerk, and, when filed in the office of the clerk and recorder of any county in this state in which the taxpayer owns real or personal property, such notice shall create a lien as aforesaid on such property in that county and constitute a notice thereof.

Section 23.18 - Violation -- Penalty.

Any person convicted of violating any of the provisions of this chapter shall be punished by a fine not to exceed three hundred dollars, or imprisonment for a maximum of ninety days, or by both such fine and imprisonment.

Section 23.19 - Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such

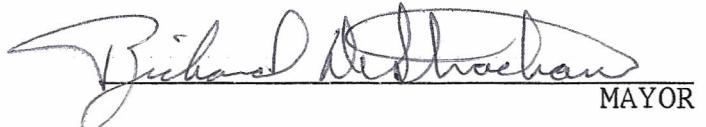
invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

Effective Date:

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this Ordinance shall take effect and be in force on September 4, 1978.

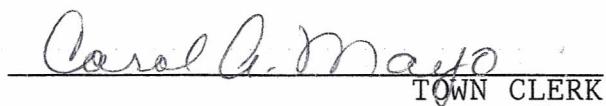
This Ordinance was introduced and read by the Board of Trustees of the Town of Berthoud at its meeting held this 27th day of June, 1978, and was read, passed and ordered published by the Board of Trustees at its meeting this 11th day of July, 1978.

TOWN OF BERTHOUD:



Richard DeHaan
MAYOR

ATTEST:



Carol A. Mayo
TOWN CLERK

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