

ORDINANCE NO. 406

AN ORDINANCE CONCERNING REVENUE, TO ENACT A USE TAX COVERING REVENUE AND IMPOSING A USE TAX UPON THE STORING, USING OR CONSUMING IN THE TOWN OF BERTHOUD ANY CONSTRUCTION AND BUILDING MATERIALS AND MOTOR AND OTHER VEHICLES ON WHICH REGISTRATION IS REQUIRED, PURCHASED AT RETAIL; PROVIDING FOR THE COLLECTION, ADMINISTRATION AND ENFORCEMENT OF THE SAME AND EXEMPTIONS FROM SUCH TAX.

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

Section 1. Purpose. The purpose of this ordinance is to impose a use tax on the privilege of storing, using or consuming in the Town of Berthoud any construction and building materials and motor and other vehicles on which registration is required, purchased at retail.

Section 2. Definitions.

1. The term "person" as used in this ordinance 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.

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

Section 3. Tax Levied. There is hereby 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 in accordance with the following schedule:

Amount of storage or acquisition charges or cost	Tax
\$0.01 to \$0.18	<u>no tax</u>
\$0.19 to \$1.00	<u>.18</u>

On storage or acquisition charges or cost in excess of one dollar, the tax shall be 17% for each full dollar of storage or acquisition charges or cost, plus the tax shown in the above schedule for any fractional part of a dollar of such storage or acquisition charges or cost.

Section 4. Exemptions.

The tax hereby imposed shall not apply:

(a) To 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) To 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) To 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) To 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) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, 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) To 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 ordinance. A credit shall be granted against the use tax imposed by this ordinance with respect to a person's storage, use or consumption in the 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 ordinance.

(g) To 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) To 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 said motor vehicle outside of the Town.

(i) To 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 the effective date of this use tax.

(j) To 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 the effective date of this use tax ordinance.

(k) To purchases by tax exempt entities which would be otherwise taxable under this ordinance. The furnishing to the Town Clerk of a certificate of exemption shall be prima facia 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 5. Collection, Administration and Enforcement.

1. The tax herein imposed on motor or other vehicles on which registration is required shall be collected, administered and enforced as provided by Section 138-5-40, Colorado Revised Statutes and as amended.

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

2.1. Said 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. The payment of said 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.

2.2 The Town Clerk is hereby authorized to promulgate such additional rules and regulations as may be necessary for the proper administration and enforcement of this section.

Section 6. Tax A Lien On Taxpayer's Property. If any tax imposed herein 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 pre-existing liens on 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 7. Penalty. It shall be unlawful for any person to violate any of the terms of this ordinance and any person convicted of violating any of the provisions of this ordinance 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 8. Severability. If any provision of this ordinance or the application thereof to any person or situation is determined to be 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.

Section 9. Emergency. The Board of Trustees hereby finds, determines and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of the public health or safety and that the ordinance shall be in full force and effect five days after final passage and publication as provided by law.

This ordinance was introduced, read, and passed on first reading and ordered published by the Board of Trustees of the Town of Berthoud at its regular meeting held this 10th day of December, 1974.

TOWN OF BERTHOUD

Mayor

ATTEST:

Town Clerk

Published: _____

Filed by Mayor
3-11-75