

ORDINANCE NO. 323

AN ORDINANCE PROVIDING FOR LIQUOR OCCUPATION TAX

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

Section 1. DEFINITIONS. As used in this ordinance the following words or phrases shall have the following meanings, respectively:

(a) ("Malt Liquors") shall include beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar products or any combination thereof in water, containing more than 3.2% alcohol by weight.

(b) ("Vinous Liquors") shall include wine and fortified wines not exceeding 21 % of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural produce containing sugar.

(c) "Spiritous Liquors" shall be construed to mean any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid patented or not, containing alcohol and which are fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as above provided shall not be construed to be malt or vinous liquors, but shall be construed to be spirituous liquor.

(d) "3.2 Beer" Malt liquor as herein defined containing not more than 3.2% of alcohol by weight.

(e) "Medicinal Liquors" any liquor sold by a duly licensed pharmacist or drug store solely on bona fide doctor's prescription.

(f) The word "person" used in this ordinance shall include persons, partnerships, associations, organizations or corporations.

(g) "Operator" means a person licensed by law to sell malt, vinous, and spirituous liquors, other than medicinal liquors, for beverage purposes at retail and who is engaged at any time during the calendar year in such operation within the Town of Berthoud.

Section 2. CLASSIFICATION. The business of selling at retail, any malt, vinous or spirituous liquor other than medicinal liquors, <sup>or 3.2% beer,</sup> for beverage purposes is hereby defined and separately classified as such occupation for the purposes of this ordinance, as follows:

Class "A" Operators: All operators who are licensed to sell beer, wine and spirituous liquors for consumption on the premises either as hotel or restaurants shall be Class "A" Operators.

Class "B" Operators: All operators licensed to sell malt or vinous liquors only by the drink for consumption on the premises shall be Class "B" operators.

Class "C" Operators: All operators licensed as retail liquor stores to sell in original containers malt, vinous or spirituous liquors in original containers for consumption off the premises, shall be Class "C" operators.

Class "D" Operators: All operators licensed as drug stores to sell malt, vinous or spirituous liquors in original containers for consumption off the premises, shall be Class "D" operators.

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Class "E" Operators: All operators licensed to sell malt, vinous or spirituous liquors as clubs are Class "E" operators.

Class "F1" Operators: All operators licensed to sell only 3.2% beer and who sell the same for consumption on the premises are Class "F-1" operators.

Class "F-2" Operators: All operators licensed to sell only 3.2% beer and who sell the same solely in the original package or container for consumption off the premises shall be Class "F-2" operators.

Section 3. DECLARATION OF POLICY AND PURPOSE. The Board of Trustees of the Town of Berthoud, Colorado hereby find, determines and declares that considering the nature of the business of selling at retail 3.2% beer, malt, vinous and spirituous liquors for beverage purposes and the relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required of the Town and a proper, just and equitable distribution of tax burdens within the Town, and all other matters proper to be considered in relation thereto, that the classification of said business as a separate occupation is reasonable, proper, uniform and non-discriminatory and that the amount of tax hereby imposed by this ordinance is reasonable, proper, uniform and non-discriminatory and necessary for a just and proper distribution of tax burdens within the Town of Berthoud.

Section 4. There is hereby levied and assessed for the year 1968 and for each year thereafter an annual occupation tax upon the business of selling 3.2% beer, malt, vinous or spirituous liquors except medicinal liquors, in the Town of Berthoud, as said occupation has been herein classified as follows:

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For all Class "A" Operators the sum of	\$	<u>500.00</u>
For all Class "B" Operators the sum of	\$	<u>500.00</u>
For all Class "C" Operators the sum of	\$	<u>150.00</u>
For all Class "D" Operators the sum of	\$	<u>150.00</u>
For all Class "E" Operators the sum of	\$	<u>100.00</u>
For all Class "F-1" Operators the sum of	\$	<u>100.00</u>
For all Class "F-2" Operators the sum of	\$	<u>100.00</u>

Section 5. Such tax shall be due and payable to the Town Clerk of the Town of Berthoud on January 1st of each year and shall be delinquent on February 1st of the same year. Prepayment of said tax may be made in the month of December preceding the due date.

Upon receipt of such tax, it shall be the duty of the Town Clerk of the Town of Berthoud to execute and deliver to the operator paying the tax, a Revenue Receipt showing the name of the operator paying the tax, the date of payment, the annual period for which said tax is paid, and the place at which said operator conducts business.

The operator shall, at all times during said year, keep the said receipt posted in a conspicuous place in his place of business.

If any operator begins business subsequent to January 1st of any year, the tax required shall be pro-rated on a monthly basis for the remaining portion of the year; but no refund shall be made to any person who discontinues said business during the year. All pro-rated taxes provided for in this paragraph shall be due and payable upon the beginning of

business and shall be delinquent ten days thereafter. Interest shall accrue on all delinquent taxes from the day of delinquency until paid or collected, at the rate of 1% per month.

Section 6. No delinquency in payment of the tax herein provided for shall be grounds for suspension or revocation of any license granted to any such operator by any licensing authority pursuant to the statutes enacted by the General Assembly of Colorado, and in performance of any duties imposed upon the Town Board of the Town of Berthoud as a licensing authority by said statutes, the Town Board shall exclude from consideration any delinquency in payment of the tax herein provided for.

Section 7. The Town of Berthoud shall have the right to recover all sums due by the terms of this ordinance, by judgment and execution thereon in a civil action, in any Court of competent jurisdiction; such remedy shall be cumulative with all other remedies provided herein for the enforcement of this ordinance.

Section 8. Failure to comply with the terms of this ordinance of payment of taxes, securing and posting a receipt therefor, and to otherwise comply with the terms of this ordinance, shall constitute an offense and violation of this ordinance. A violation for each calendar month shall constitute a separate offense. But no conviction for such violation shall work a revocation of the license of the defendant issued under the laws of the State of Colorado.

Section 9. The Board of Trustees herewith determines

and designates that this Ordinance is necessary for the immediate preservation of the public peace, health and safety and whereas in the opinion of the Board of Trustees an emergency exists, this Ordinance shall take effect and be in force five (5) days after its final passage, adoption and publication.

This ordinance was passed by the Board of Trustees of the Town of Berthoud at a special meeting held Tuesday, June 27, 1967.

TOWN OF BERTHOUD, COLORADO

R. B. Fickel  
Mayor

ATTEST:

Armons Williams  
Town Clerk