

AN ORDINANCE CONCERNING REVENUE AND IMPOSING A BUSINESS AND OCCUPATION TAX ON TELEPHONE UTILITY COMPANIES OPERATING WITHIN THE TOWN OF BERTHOUD; PROVIDING FOR THE COLLECTION OF SAID TAXES AND FOR PENALTIES WITH RESPECT THERETO.

WHEREAS, the operations of telephone utility companies involve substantial use of the public streets and rights-of-way, frequent excavations in the public streets and rights-of-way, and the regular installation, maintenance and repair of many poles, lines and cables in, under, and above the public streets and rights-of-way; and,

WHEREAS, the operations of telephone utility companies place a substantial burden on the Town in its efforts to provide for the public safety, and efficiently maintain and administer the public streets and rights-of-way; and,

WHEREAS, considering the nature of telephone utility companies and the burdens placed by such telephone utility companies on the Town, the classification of such utilities separately from other businesses and occupations is reasonable and nondiscriminatory; and,

WHEREAS, the Board of Trustees of the Town of Berthoud is authorized to impose taxes on the privilege of engaging in occupations or businesses solely for the purpose of raising revenue.

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

Section 1. Levy of tax. There is hereby levied on and against each telephone utility company operating within the Town of Berthoud, (hereinafter called the "Town") a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the Town and of supplying local exchange telephone service to the inhabitants of the Town. The amount of the tax levied hereby shall be:

(a) For the portion of 1980 remaining after the date on which the tax begins to accrue as provided in Section 2, \$1.00 per telephone account for which local exchange telephone service is provided within the corporate limits of the Town on said date; and,

(b) For each subsequent calendar year, \$3.00 per telephone account for which local exchange telephone service is provided within the corporate limits of the Town on the anniversary of the date on which the tax begins to accrue as provided in Section 2.

Section 2. Time payment of tax. The tax levied by this Ordinance shall begin to accrue on the first day of September, 1980, and shall be due and payable in four equal monthly installments for the remaining portion of 1980, and in twelve equal monthly installments for years subsequent to 1980, each installment to be paid on the last business day of each calendar month.

Section 3. Filing statement. Within thirty (30) days after the date on which the tax begins to accrue as provided in Section 2, each telephone utility company subject to this Ordinance shall file with the Town Clerk, in such form as the Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the Town on said date. Such statement shall be filed within thirty (30) days after each anniversary of the date on which the tax begins to accrue, showing such accounts on the anniversary date.

Section 4. Failure to pay. If any telephone utility company subject to the provisions of this Ordinance shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, and the same together with an addition of ten (10) percent of the amount of taxes due shall be and hereby is declared to be a debt due and owing from such company to the Town. The Town attorney upon direction of the Board of Trustees shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the said debt.

Section 5. Penalty clause. If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Ordinance shall fail, neglect, refuse to make or file the annual statement of accounts provided in Section 3, the said officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00); provided, that each day after said statement shall become delinquent during which the said officer, agent, manager or person shall so fail, neglect, or refuse to make and file such statement shall be considered a separate and distinct offense.

Section 6. Inspection of records. The Town, its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the telephone utility companies which are subject to the provisions of this Ordinance and to make copies of the entries or contents thereof.

Section 7. Local purpose. The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Ordinance be construed to mean that any telephone utility company is issued a franchise by the Town.

Section 8. Tax in lieu of other business and occupation taxes, etc. The tax herein provided shall be in lieu of all other occupation taxes or taxes on the privilege of doing business in the Town on any telephone utility company subject to the provisions of this Ordinance and in addition shall be in lieu of any free service furnished the Town by any said telephone utility.

Section 9. Certain offenses and liabilities to continue. All offenses committed and all liabilities incurred prior to the effective date of this Ordinance shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offenses and liabilities. All taxes, the liability for which has been accrued under the terms and provisions of Ordinance 431 on or before the effective date of this Ordinance, shall be and remain unconditionally due and payable, and shall constitute a debt to the Town, payable in conformity with the terms and provisions of said Ordinance No. 431 prior to the adoption of this Ordinance; and all of said terms and provisions of Ordinance 431 shall be and remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this Ordinance.

Section 10. Repeal. Subject to the provisions of Section 9 hereinabove, Ordinance 431 is hereby repealed.

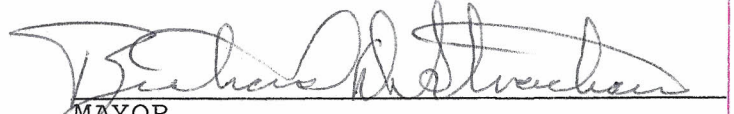
Section 11. Effective Date:

The Board of Trustees of the Town of Berthoud herewith finds, determines, and designates that this Ordinance shall take effect

and be in force thirty (30) days after publication.

This Ordinance was introduced and read and a public hearing set for July 22, 1980, by the Board of Trustees of the Town of Berthoud at its meeting held this 8th day of July, 1980. After a public hearing, this Ordinance was read, passed, and ordered published by the Board of Trustees at its meeting this 22nd day of July, 1980.

TOWN OF BERTHOUD:


MAYOR

ATTEST:


TOWN CLERK

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