

ORDINANCE NO. 381

AN ORDINANCE TO CONTRACT AN INDEBTEDNESS ON BEHALF OF THE TOWN OF BERTHOUD, COLORADO, AND UPON THE CREDIT THEREOF BY ISSUING GENERAL OBLIGATION BONDS OF THE TOWN IN THE PRINCIPAL AMOUNT OF \$125,000 FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING A SWIMMING POOL, TOGETHER WITH NECESSARY STRUCTURES AND FACILITIES, IN THE TOWN; PRESCRIBING THE FORM OF SAID BONDS AND PROVIDING FOR THE LEVY OF TAXES TO PAY THE BONDS AND THE INTEREST THEREON AND DECLARING AN EMERGENCY.

WHEREAS, at a special municipal election duly called and held in the Town of Berthoud, Colorado, on Tuesday, September 11, 1973, a majority of the registered, qualified electors voting thereat, approved the question of issuing general obligation bonds of the Town in the principal amount not exceeding \$125,000, for the purpose of constructing and equipping a swimming pool, together with necessary structures and facilities, in the Town; and

WHEREAS, the results of said election have been duly canvassed and certified, as required by law; and

WHEREAS, the Board of Trustees has determined it is necessary and advisable at this time to authorize the issuance of said bonds in the amount of \$125,000 for said purpose;

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

Section 1. Bond Details. That for the purpose of constructing and equipping a swimming pool, together with necessary structures and facilities, in the Town, the Town shall issue its general obligation negotiable coupon bonds in the principal amount of \$125,000, each to be designated "General Obligation Recreation Bond." The bonds shall be dated October 1, 1973 and consist of 25 bonds in the denomination of \$5,000 each, numbered 1 to 25, inclusive, bearing interest payable on April 1, 1974, and semi-annually thereafter on the 1st day of April and the 1st day of October each year, as evidenced by interest coupons attached to said bonds, and maturing serially on October 1, as follows:

<u>Amount</u>	<u>Maturity</u>	<u>Interest Rate</u>
\$ 5,000	1974 to 1978, incl.	5-3/4%
10,000	1979 to 1988, incl.	5-3/4%

The net effective interest rate of this issue of bonds is 5.86 % per annum, including any discount paid to the Town, for the purchase of the bonds.

Bonds of this issue maturing on or before October 1, 1983 are not redeemable prior to their respective maturity dates. Those bonds maturing in the years 1984 and thereafter shall be redeemable at the option of the Town, in inverse numerical order, on October 1, 1983, and on any interest payment date thereafter, upon payment of par, accrued interest and a premium of 1% of principal.

The bonds and the interest coupons attached thereto shall be payable in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado.

Section 2. Form and Execution of Bonds and Interest Coupons. The Bonds shall be signed by the manual signature of the Mayor of the Town, sealed with an impression of the seal of the Town, attested by the manual signature of the Town Clerk and countersigned with the facsimile signature of the Town Treasurer. The interest coupons attached to said bonds shall bear the facsimile signature of the Town Treasurer, and when issued as aforesaid as part of said bonds, shall be the binding obligations of the Town according to their import. Should any officer whose manual or facsimile signature appears on said bonds or the interest coupons attached thereto cease to be such officer before delivery of the bonds to the purchaser, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes.

The bonds and the interest coupons attached thereto shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF LARIMER

TOWN OF BERTHOUD
GENERAL OBLIGATION RECREATION BOND

No. _____

\$5,000

The Town of Berthoud, in the County of Larimer and State of Colorado, acknowledges itself indebted and hereby promises to pay to the bearer hereof the principal sum of

FIVE THOUSAND DOLLARS

on the 1st day of October, 19__, with interest thereon at the rate of five and three-fourths per centum (5-3/4%) per annum, payable on April 1, 1974, and semi-annually thereafter on the 1st day of April and the 1st day of October each year, both principal and interest being payable in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado, upon presentation and surrender of said coupons and this Bond as they severally become due.

Bonds of this issue maturing on or before October 1, 1983 are not redeemable prior to their respective maturity dates. Those bonds maturing in the years 1984 and thereafter shall be redeemable at the option of the Town, in inverse numerical order, on October 1, 1983, and on any interest payment date thereafter, upon payment of par, accrued interest and a premium of 1% of principal.

This Bond is issued by the Board of Trustees of the Town of Berthoud, Colorado, for the purpose of constructing and equipping a swimming pool, together with necessary structures and facilities, in the Town, under the authority of and in full conformity with the Constitution and Laws of the State of Colorado, and pursuant to an Ordinance duly adopted, published and made a law of the Town prior to the issuance of this Bond; and that the issuance of this Bond was authorized at an election duly called and held in the Town of Berthoud, on the 11th day of September, 1973.

It is hereby certified and recited that all the requirements of law have been duly complied with by the proper officers of the Town in the issuance of this Bond; that the total debt of the Town, including that of this Bond, does not exceed any limit of indebtedness prescribed by the Constitution or Laws of the State of Colorado; and that provision has been made for the levy and collection of an annual tax on all the taxable property in the Town sufficient to pay the interest on and principal of this Bond when the same become due.

The full faith and credit of the Town of Berthoud, Colorado, are hereby pledged for the punctual payment of the principal of and interest on this Bond.

IN TESTIMONY WHEREOF, the Board of Trustees of the Town of Berthoud, Colorado, has caused this Bond to be signed with the manual signature of the Mayor of the Town, sealed with an impression of the seal of the Town, attested by the manual signature of the Town Clerk, countersigned with the facsimile signature of the Town Treasurer, and the interest coupons attached hereto to be signed with the facsimile signature of the Town Treasurer, as of the 1st day of October, 1973.

(S E A L)

ATTEST:

TOWN OF BERTHOUD, COLORADO

By *R. B. Fickel*
(Manual Signature)
Mayor

(Manual Signature)
Town Clerk

COUNTERSIGNED:

(Facsimile Signature)
Town Treasurer

(Form of Interest Coupons)

No. _____

\$ _____

April,
On the 1st day of October, 19__, unless the bond to
which this coupon is attached, if redeemable, has been called
for prior redemption, the Town of Berthoud, in the County of
Larimer, State of Colorado, will pay to bearer the amount shown
hereon in lawful money of the United States of America, at the
Berthoud National Bank, in Berthoud, Colorado, being interest
then due on its General Obligation Recreation Bond, dated October
1, 1973, bearing

No. _____

(Facsimile Signature)

Town Treasurer

Section 3. Disposition of Bond Proceeds. When said bonds have been duly executed, the Town Treasurer is hereby directed to deliver the bonds to the purchaser thereof on receipt of the agreed purchase price therefor. The proceeds of the bonds shall be used only for the purpose of constructing and equipping a swimming pool, together with necessary structures and facilities, in the Town, and for paying the costs and expenses incurred incidental to the issuance of said bonds and for no other purpose whatever. Neither the purchaser of said bonds nor the subsequent holder of any of them shall be responsible for the application or disposal by the Town, or any of its officers, of any of the funds derived from the sale thereof.

All or any portion of the bond proceeds may be temporarily invested, or reinvested, pending such use, in securities or obligations which are lawful investments for such municipalities in the State of Colorado. It is hereby covenanted and agreed by the Town that the temporary investment or reinvestment of the bond proceeds, or any portion thereof, shall be of such nature and extent, and for such period, that the bonds of the Town shall not be or become "arbitrage bonds" within the meaning of Section 103(d) of the Internal Revenue Code, and pertinent regulations, and such proceeds, if so invested or reinvested, shall be subject to the limitations and restrictions of said Section 103(d), as the same now exists or may later be amended, and shall further be subject to any applicable regulations of the Internal Revenue Service.

Section 4. Payment of Principal and Interest. If necessary, the amount of interest to become due on said Bonds on April 1, 1974 and October 1, 1974, and the principal amount due on October 1, 1974, shall be advanced from any other fund or funds of the Town lawfully available therefor. For the purpose of reimbursing said fund, paying the interest accruing on said Bonds promptly and as the same thereafter becomes due and providing for the ultimate payment and redemption of said bonds, there

shall be levied upon all of the taxable property in the Town, in addition to all other taxes, direct annual taxes in each of the years 1973 to 1987, inclusive, sufficient to make such reimbursement and pay the interest on and principal of the bonds as the same become due and payable, respectively.

Said taxes, when collected, shall be deposited in a special fund to be known as "Town of Berthoud, General Obligation Recreation Bond Fund", and the proceeds derived from said taxes shall be applied only to the payment of the interest and principal of the Bonds authorized herein, and for no other purpose whatsoever, until the indebtedness so contracted pursuant to this Ordinance, both principal and interest, shall have been fully paid, satisfied and discharged. Nothing herein contained shall be so construed as to prevent the Town from applying any other funds or revenues that may be in the Town treasury and available for that purpose, toward the payment of said interest and principal, as the same respectively accrue or mature, and upon such payment, the levy or levies herein provided may thereupon to that extent be diminished.

An amount necessary to pay all costs and expenses incidental to the issuance of said bonds and the amounts hereinbefore provided to pay the interest on said Bonds, and to discharge the principal thereof when due, are hereby appropriated for that purpose, and said amount for each year shall also be included in the annual budget and appropriations Ordinance and bills to be adopted and passed by the Board of Trustees of the Town in each year, respectively, until said Bonds have been fully paid, satisfied and discharged.

It shall be the duty of the Board of Trustees of the Town, annually, at the time and in the manner provided by law for the levying of other Town taxes, if such action shall be necessary to effectuate the provisions of this Ordinance, to ratify and carry out the provisions hereof with reference to the levying and collection

of taxes; and the Town shall levy, certify and collect such taxes in the manner provided by law for the purpose of creating a fund for the payment of the bonds and interest thereon, and such taxes, when collected, shall be kept for and applied only to the payment of the interest on and principal of said bonds, as hereinabove specified.

Section 5. Severability. That if any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

Section 6. Repealer. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 7. Ordinance Irrepealable. After said bonds are issued, this Ordinance shall be and remain irrepealable until said bonds and the interest thereon shall have been fully paid, satisfied and discharged.

Section 8. Recording and Authentication. This Ordinance, immediately on its passage shall be recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Clerk and shall be published as required by law.

Section 9. Emergency Provision. By reason of the fact that the Board of Trustees has determined that it is necessary and advisable to issue and sell said bonds on or about October 1, 1973 in accordance with the contract for the purchase of the bonds, and that therefore it is necessary for the ordinance authorizing the issuance of the bonds to be effective on the date of issuance and sale, it is hereby declared that an emergency exists, that this Ordinance is necessary to the immediate preservation of the public peace, health and safety, and that it shall be in full

force and effect five days after publication.

ADOPTED AND APPROVED This 25th day of September, 1973.

(S E A L)

R. B. Fickel
Mayor

ATTEST:

Carl A. Mayo
Town Clerk

It was then moved by Trustee Freddy and seconded by Trustee Huerta that all rules of the Board which, unless suspended, might prevent the final passage and adoption of this Ordinance at this meeting, be and the same are hereby suspended.

The question being upon the adoption of the motion and the suspension of the rules, the roll was called with the following result:

Trustees:	John Angelos <i>absent</i>
	John Cooper
	John Erickson
	Daniel Freddy
	Julian Huerta
	Ted Koolstra, Jr.

Those voting NAY: none

5 members of the Board of Trustees having voted in favor of the motion, the presiding officer declared the motion carried and the rules suspended.

Trustee Freddy then moved that the Ordinance be passed and adopted as an emergency Ordinance. Trustee Huerta seconded the motion.

The question being the upon the passage and adoption of the Ordinance, the roll was called with the following result:

Those voting AYE:

Trustees:	John Angelos <i>absent</i>
	John Cooper
	John Erickson
	Daniel Freddy
	Julian Huerta
	Ted Koolstra, Jr.

Those voting NAY: none

The presiding officer thereupon declared that, more than three-fourths of all the Trustees elected having voted in favor thereof, the motion was carried and the Ordinance duly passed and adopted as an emergency ordinance.

On motion duly adopted, it was ordered that the Ordinance be numbered 381, and after approval by the Mayor, be published in the Berthoud Bulletin, in Berthoud, Colorado, a newspaper of general circulation within the Town.

After consideration of other business to come before the Board of Trustees, the meeting was adjourned.

(S E A L)

R. B. Finkel
Mayor

ATTEST:

Carol A. Mayo
Town Clerk