

AN ORDINANCE APPROVING THE WHOLE COST OF THE IMPROVEMENTS MADE IN SPECIAL IMPROVEMENT DISTRICT NO. 69-1, IN THE TOWN OF BERTHOUD, COLORADO; APPROVING AND CONFIRMING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND IN SAID DISTRICT; ASSESSING A SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND IN THE DISTRICT; PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, by Ordinance No. 343, passed and adopted on September 22, 1970, the Board of Trustees has created Special Improvement District No. 69-1, within the Town of Berthoud, for the purpose of constructing and installing certain street paving, curb and gutter and drainage improvements therein; and

WHEREAS, the improvements authorized by said Ordinance have been completed and accepted by the Town and the whole cost of such improvements has been determined; and

WHEREAS, an assessment roll has been prepared and a statement showing the total cost of the improvements has been duly filed with the Board of Trustees and due notice was given that the Board of Trustees would meet to hear and consider objections to the assessment roll on October 12th 1971, and that the owners of property named in said assessment roll might, on or before said date, file with the Town Clerk, in writing, his or their objections to the assessments; and

WHEREAS, the Board of Trustees has heard and considered all objections to the assessment roll and the following changes and corrections were made:

(Insert Changes in Assessment Roll)

WHEREAS, from the statement made and filed with the Board of Trustees, it appears that the whole cost of said improvements is the sum of \$131,278.88, of which amount the Town of Berthoud will pay \$5,450.42, leaving \$128,828.46 to be assessed against the real property in said District, said amount including costs of inspection, collection and other incidentals and also including interest as allowed by law; and

WHEREAS, from said statement it also appears that the Board of Trustees has apportioned a share of the whole cost to each lot or tract of land in said District, in accordance with the benefits to be derived by said property and in the proportions and amounts severally set forth in a Resolution adopted by the Board of Trustees on the 14th day of September, 1971, and in a public notice published in the Berthoud Bulletin, which Resolution and Notice are by reference made a part hereof;

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

Section 1. That the whole cost and apportionment of the same, as set forth in said Resolution and Notice, and as amended herein, is hereby approved and confirmed, and said apportionment is hereby declared to be in accordance with the special benefits which the property in the District will receive by reason of the construction of said improvements, and a share of said cost is hereby assessed to and upon each lot or tract of land within the District in the proportions and amounts set forth in said Resolution and Notice, as amended.

Section 2. That said assessments shall be due and payable at the office of the Town Treasurer of the Town of Berthoud, within thirty days after the final publication of this Ordinance, without demand; provided that all such assessments may, at the election of the property owner, be paid in installments, with interest as hereinafter provided. Failure to pay the whole assessments within said period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments.

Such election shall be conclusively held and considered as a waiver of any right to question the power or jurisdiction of the Town of Berthoud to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, or the validity or the correctness of the assessments, or the validity of the lien thereof.

In the event of such election to pay in installments, the assessments shall be payable at the office of the County Treasurer of Larimer County, Colorado, in ten (10) equal annual installments of principal, the first of which installments of principal shall be due and payable on or before the 1st day of January, 1972, and the remainder of said installments shall be due and payable successively on or before the 1st day of January, in each year thereafter, until paid in full, with interest on the unpaid principal at the rate of six per centum (6%) per annum, commencing on the date of publication of this Ordinance, and payable each year at the time of paying installments of assessments.

Section 3. Failure to pay any installment, whether of principal or interest, when due shall cause the whole of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one per centum (1%) per month, or fraction of a month, until the date of tax sale, as provided by law. At any time prior to the date of the tax sale, the owner may pay the amount of all unpaid installments with interest at one per centum (1%) per month, or fraction of a month, and all penalties accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any installment or payment may, at any time, pay the whole of the unpaid principal with accrued interest to the date of the next assessment installment payment date.

Section 4. Payments may be made to the Town Treasurer at any time within thirty days after the final publication of this Ordinance, and an allowance of five per centum (5%) will be made on all payments made during such period, but not thereafter. Immediately after the expiration of such thirty day period, said assessments shall be certified to the County Treasurer of Larimer County, Colorado, for collection, as provided by law.

Section 5. That if any tract of real property included within Special Improvement District No. 69-1 is hereafter divided or subdivided into two or more such tracts or parcels, the Town Treasurer is hereby authorized and directed to divide the assessment against such tract in the same proportion that the tract itself is subdivided into two or more such parcels, and to certify the revised assessments to the Treasurer of Larimer County, Colorado.

Section 6. All assessments levied against the real property in Special Improvement District No. 69-1, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of the final publication of this ordinance, a perpetual lien in the several amounts assessed against each lot or tract of land. Such lien shall have priority over all other liens except general tax liens, and shall be enforced in accordance with the laws of the State of Colorado.

Section 7. 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 8. By reason of the fact that bonds of Special Improvement District No. 69-1 are now outstanding and interest thereon will shortly become due and payable, funds must be made available from assessments at the earliest possible date for payment of such interest, and for the immediate preservation of the public property, health, peace and safety, it is hereby declared that an emergency exists and that this Ordinance shall take effect upon its final passage.

Section 9. All ordinances, or parts thereof, in conflict herewith are hereby repealed. This Ordinance, after its passage, shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and Town Clerk, and shall be published in the Berthoud Bulletin, a newspaper of general circulation in the Town, and shall be and remain irrepealable until the assessments hereby made shall be paid in full.

ADOPTED AND APPROVED This 12th day of October, 1971.

(S E A L)


Adrian C. Stein
Mayor

SEREST:


Leon R. Bauer
Town Clerk

It was thereupon moved by Trustee Beck,
and seconded by Trustee Freddy, that the foregoing
Ordinance, read in full at this meeting as aforesaid, be passed
and adopted and be published in full in the Berthoud Bulletin, a
newspaper of general circulation published in Berthoud, Colorado,
immediately following its passage.

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

Those voting AYE:

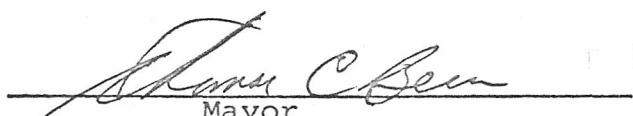
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|-----------|------------------|
| Trustees: | John S. Angelos |
| | John E. Beck |
| | Thomas C. Bein |
| | John Erickson |
| | Norman Erickson |
| | Dan Freddy |
| | Dick Holzmeister |

Those voting NAY: None

6 members of the Board of Trustees having voted
in favor of the motion, and said number being at least three-fourths
of the members of the Board of Trustees, the presiding officer there-
upon declared the motion carried and the ordinance passed and adopted
as an emergency ordinance.

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

(S E A L)


Thomas C. Bein
Mayor

ATTEST:


Lyle Bauer
Town Clerk

CITY OF BERTHOUD)
COUNTY OF LARIMER) ss.
TOWN OF BERTHOUD)

I, Lynn Bauer, Town Clerk of the Town of Berthoud, Colorado, do hereby certify that the foregoing pages numbered 77 to 84, inclusive, constitute a true and correct copy of the proceedings taken by the Board of Trustees of said Town, at a regular meeting thereof, held on Tuesday, the 12th. day of October, 1971, so far as said proceedings relate to an ordinance assessing the costs of improvements in Special Improvement District No. 69-1; that said ordinance has been authenticated by the signatures of the Mayor, as presiding officer of the Board of Trustees and by myself, as Clerk of the Town of Berthoud, and recorded in a book kept for that purpose in my office. The ordinance has been published in full in the Berthoud Bulletin, a newspaper published in the Town, in the issue dated October 21st., 1971, as evidenced by an affidavit of publication attached hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town, this 14th. day of October, 1971.

(S E A L)


Lynn Bauer
Town Clerk

(Attach Affidavit of Publication of Ordinance)