

ORDINANCE NO. 349

ON BEHALF OF THE TOWN OF BERTHOUD, COLORADO, AND UPON THE CREDIT THEREOF BY ISSUING GENERAL OBLIGATION BONDS OF SAID TOWN IN THE PRINCIPAL AMOUNT OF \$125,000 FOR THE PURPOSE OF SUPPLYING THE TOWN WITH WATER; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY OF TAXES TO PAY THE SAME; AND DECLARING AN EMERGENCY.

WHEREAS, a majority of the voters of the Town of Berthoud, Colorado, who were taxpayers under the law, voting on the question at a municipal election heretofore held in said Town, by their vote approved and authorized the Board of Trustees of the Town to erect a system of waterworks for fire and domestic purposes, the same to be owned and operated by the Town; and

WHEREAS, the Town did erect and ever since said time has owned, operated and maintained a system of waterworks for said purpose; and

WHEREAS, it is necessary to extend and improve the waterworks system in order to supply the Town and the inhabitants thereof with a proper and adequate supply of water; and

WHEREAS, there are not sufficient funds in the treasury of the Town to pay the costs and expenses of supplying the Town with water and the Board of Trustees deems it advisable and necessary to authorize the issuance of general obligation negotiable coupon bonds of the Town in the amount of \$125,000 for that purpose;

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

Section 1. That for the purpose of paying the costs and expenses of supplying the Town of Berthoud with water by extending and improving the waterworks system, the Town shall issue general

obligation negotiable coupon bonds, dated February 1, 1971, in the principal amount of \$125,000, consisting of 25 bonds in the denomination of \$5,000 each, numbered 1 to 25, inclusive, payable in lawful money of the United States of America, to bear interest from and after date at a rate of 5-1/2% per annum payable on November 1, 1971, and semi-annually thereafter on the 1st day of May and the 1st day of November, each year, evidenced by interest coupons attached to said bonds, and maturing serially on May 1, as follows:

<u>Amount</u>	<u>Maturity</u>
\$ 5,000	1974
10,000	1975
15,000	1976 to 1981, incl.
20,000	1982

Bonds of this issue maturing on or before May 1, 1976 are not redeemable prior to their respective maturity dates. Those bonds maturing on or after May 1, 1977, shall be redeemable at the option of the Town, on May 1, 1976 and any interest payment date thereafter, in inverse numerical order, upon payment of par, accrued interest and a premium of 3% of principal.

The principal of and interest on said bonds shall be payable at the Berthoud National Bank, in Berthoud, Colorado.

The Bonds shall be signed by the manual signature of the Mayor, sealed with a facsimile of the seal of the Town, attested with the manual signature of the Town Clerk, and countersigned with the facsimile signature of the Town Treasurer, and shall be recorded in a book kept by the Town Treasurer for that purpose. All interest coupons shall bear the facsimile signature of the Treasurer of the Town, and when issued as part of said bonds, shall be the lawful promises and obligations of the Town, securing the payment of said interest as it becomes due. 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.

Section 2. That 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 WATER 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 May, 19____, with interest thereon at the rate of five and one-half per centum (5-1/2%) per annum, payable on November 1, 1971, and semi-annually thereafter on the 1st day of May and the 1st day of November, 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 the annexed coupons and this Bond as they severally become due.

Bonds of this issue maturing in the years 1974 to 1976, inclusive, are not redeemable prior to their respective maturity dates. Those bonds maturing in the years 1977 and thereafter are redeemable at the option of the Town, on May 1, 1976 and any interest payment date thereafter, in inverse numerical order, upon payment of par, accrued interest and a premium of 3% of principal.

This Bond is issued by the Board of Trustees of the Town of Berthoud, Colorado, for the purpose of supplying water to the Town and its inhabitants, by extending and improving the waterworks system of the Town, under the authority of and in full conformity with the Constitution of the State of Colorado, the provisions of

Chapter 139, Article 32, Colorado Revised Statutes 1963, as amended, and all other laws thereunto enabling, and pursuant to an Ordinance of the Town duly adopted, published and made a law of the Town prior to the issuance of this Bond.

It is hereby certified and recited that all the requirements of law have been fully 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 annual taxes on all the taxable property in said Town, sufficient to pay the interest on and the 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 the interest on this Bond.

IN TESTIMONY WHEREOF, the Board of Trustees of the Town of Berthoud, Colorado, has caused this Bond to be signed by the manual signature of the Mayor of the Town, sealed with a facsimile of the seal of the Town, attested with the manual signature of the Town Clerk and countersigned with the facsimile signature of the Town Treasurer, and the attached interest coupons to be signed with the facsimile signature of the Town Treasurer, as of the 1st day of February, 1971.

TOWN OF BERTHOUD, COLORADO

(FACSIMILE)
S E A L)

(Manual Signature)
Mayor

ATTEST:

COUNTERSIGNED:

(Manual Signature)
Town Clerk

(Facsimile Signature)
Town Treasurer

(Form of Interest Coupon)

No. _____

\$ _____

May,
On the 1st day of November, 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 and 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 in-
terest then due on its General Obligation Water Bond dated
February 1, 1971, bearing

No. _____

(Facsimile Signature)

Town Treasurer

Section 3. That when said bonds have been duly executed as aforesaid, they shall be sold and delivered to the purchaser thereof, and the proceeds shall be used for the purpose of paying the costs and expenses of supplying the Town of Berthoud with water and for no other purpose whatsoever. Neither the purchaser of said bonds nor any subsequent holder of any of them shall be responsible for the application or disposal by said Town, or any of its officers, of any of the funds derived from the sale thereof.

The proceeds of the bonds herein authorized shall be used only for the purposes recited above; PROVIDED, HOWEVER, that any portion of the bond proceeds may be temporarily invested pending such use in securities or obligations which are lawful investments for such towns in the State of Colorado.. The temporary investment 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, shall be subject to the limitations and restrictions of said Section 103(d) (4), 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. If necessary, the interest to become due on said bonds on November 1, 1971, shall be advanced from the water or other funds of said Town which are lawfully available therefor. For the purpose of reimbursing said fund, and for paying the interest accruing on said bonds promptly as the same become due, and for providing for the ultimate payment and redemption of said bonds,

there shall be levied on all the taxable property in the Town, in addition to all other taxes, direct annual taxes in each of the years 1971 to 1981, inclusive, sufficient to make such reimbursement and to pay the principal of and interest on the outstanding bonds as the same become due and payable. Said taxes when collected shall be deposited in a special fund to be known as "Town of Berthoud Water Bond Fund, 1971", and such Fund shall be applied solely to the purpose of the payment of the interest on and the principal of said bonds and for no other purpose whatever, until the indebtedness so contracted under 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, to the payment of said interest or principal, as the same respectively mature, and upon any such payments, the levy or levies herein provided may thereupon be diminished to that extent.

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 the appropriation bills to be adopted and passed by the Board of Trustees of said Town in each year, respectively.

Section 5. 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 levying 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 Board shall levy, certify and collect said taxes in the manner provided by law for the purpose of creating a fund for the payment of the principal of the bonds and interest thereon, and said taxes, when collected, shall be kept for and applied only to the payment of the interest and principal of the bonds as hereinabove specified.

Section 6. Notwithstanding the foregoing provisions for tax levies, the Town hereby further covenants and agrees to establish, maintain, collect and enforce a schedule of rates, fees, tolls, and charges for connection to and use of the waterworks system of the Town, which schedule shall be sufficient to assure that the revenue thereby produced, together with the proceeds of general ad valorem taxes, shall pay all reasonable costs and expenses of operating and maintaining the waterworks system and to pay the interest on and principal of the General Obligation Water Bonds, herein authorized, promptly as the same become due and payable, respectively.

Section 7. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 8. 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 9. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 10. 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 11. By reason of the fact that the Town and its inhabitants must be properly and adequately supplied with water, and that it is necessary to issue and sell bonds of the Town to pay the costs and expenses of extending and improving the waterworks system, which costs and expenses have and will hereafter become due and payable, 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 9 day of February 1971.

(S E A L)

Seal & Seal

Mayor

ATTEST:

Lynn Bauer

Town Clerk

It was then moved by Trustee Beck and seconded by Trustee J. Erickson that all rules of this 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 said motion and the suspension of the rules, the roll was called with the following result:

Those voting AYE:

Trustees:	John S. Angelos
	John E. Beck
	John Erickson
	<u>Norman Erickson</u>
	Dan Freddy
	Dick Holzmeister

Those voting NAY:

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

Trustee J. Erickson then moved that the Ordinance be passed and adopted as read. Trustee Angelos 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 S. Angelos
John E. Beck
John Erickson
Norman Erickson
Dan Freddy
Dick Holzmeister

Those voting NAY: _____

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 349, and after approval by the Mayor, be published in the Berthoud Bulletin, in Berthoud, a newspaper of general circulation within the Town of Berthoud.

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

(S E A L)

sign } seal

Mayor

ATTEST:

Lynn Bauer

Town Clerk

STATE OF COLORADO)
)
COUNTY OF LARIMER) ss.
)
TOWN OF BERTHOUD)

I, Lynn Bauer, Town Clerk of the Town of Berthoud, Larimer County, Colorado, do hereby certify that the foregoing pages numbered 1 to 13, inclusive, constitute a true and correct copy of the record of proceedings of the Board of Trustees of said Town, taken at a regular meeting thereof, held at the Town Hall, the regular meeting place of the Board, on Tuesday, the 9th day of February, 1971, insofar as said proceedings relate to the passage and adoption of the Ordinance therein set forth, concerning the issuance of General Obligation Water Bonds of the Town in the principal amount of \$125,000.

That attached hereto is an Affidavit of Publication of said Ordinance as passed and adopted by the Board of Trustees at said meeting; that the original Ordinance has been duly authenticated by the signatures of the Mayor and myself, as Clerk of said Town, sealed with the corporate seal of the Town, signed and recorded in the Book of Ordinances of the Town kept for that purpose in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Berthoud, Colorado, this 10 day of Feb., 1971.

(S E A L)

sign & seal

Lynn Bauer
Town Clerk

STATE OF COLORADO)
)
COUNTY OF LARIMER) ss.
)
TOWN OF BERTHOUD)

The Board of Trustees of the Town of Berthoud, Larimer County, Colorado, met in regular session in full conformity with law and the Ordinances and Rules of said Town, at the Town Hall, in said Town, the regular place of meeting of the Board, on Tuesday, the 9th day of February, 1971, at 1:30 o'clock P.M., at which meeting there were present and answering at roll call:

Mayor:	Thomas C. Bein
Trustees:	John S. Angelos
	John E. Beck
	John Erickson
	<u>Norman Erickson</u>
	Dan Freddy
	Dick Holzmeister
Town Clerk:	Lynn Bauer
Town Treasurer:	John S. Angelos
Town Attorney:	<u>Frank E. Starkey</u>

Absent: N. Erickson

Thereupon Trustee J Erickson introduced and there was read in full the following Ordinance: