

ORDINANCE NO. 305

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS OF THE TOWN OF BERTHOUD, COLORADO, IN THE PRINCIPAL AMOUNT OF \$90,000 FOR THE PURPOSE OF PROVIDING PART OF THE FUNDS FOR EXTENDING AND IMPROVING THE SEWERAGE SYSTEM OF THE TOWN; PRESCRIBING THE FORM OF SAID BONDS AND OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY.

WHEREAS, for health and sanitary reasons it is imperative that extensions and improvements to its sewerage system, with necessary incidentals and appurtenances, be constructed and installed immediately by the Town of Berthoud; and

WHEREAS, in order to provide part of the funds for such purpose, the Board of Trustees of the Town of Berthoud, Colorado, has determined to issue Sewer Revenue Bonds of said Town in the amount of \$90,000; and

WHEREAS, public Notice of Sale of said bonds has been duly given in accordance with law and said bonds awarded to

Hanifen, Imhoff & Samford, of Denver,
Colorado, the highest and best bidder therefor; and

WHEREAS, the estimated useful life of the facilities to be constructed is not less than 30 years;

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

Section 1. That for the purpose of providing part of the funds for constructing and installing improvements to and extensions of the sewerage system of the Town of Berthoud, with necessary appurtenances and incidentals, there are hereby authorized Sewer Revenue Bonds of the Town of Berthoud in the aggregate amount of \$90,000, both the principal thereof and the interest thereon to

be payable solely and only out of the net revenue to be derived by the Town from and through the operation of its sewer system.

Section 2. That said bonds hereby authorized shall be dated as of October 1, 1964, shall be in the denomination of \$1,000 each, shall be numbered 1 to 90, inclusive, and shall be payable to bearer, shall bear interest, payable April 1, 1965, and semi-annually thereafter on April 1 and October 1 each year, and shall mature on October 1, as follows:

<u>Amount</u>	<u>Maturity</u>	<u>Interest Rate</u>
\$ 1,000	1966	3 $\frac{1}{2}$ %
1,000	1967	3 $\frac{1}{2}$ %
2,000	1968	3 $\frac{1}{2}$ %
2,000	1969	3 $\frac{1}{2}$ %
2,000	1970	3 $\frac{1}{2}$ %
2,000	1971	3 $\frac{1}{2}$ %
3,000	1972	3 $\frac{1}{2}$ %
3,000	1973	3 $\frac{1}{2}$ %
4,000	1974	3 $\frac{1}{2}$ %
4,000	1975	3 $\frac{1}{2}$ %
5,000	1976	3 3/4 %
6,000	1977	3 3/4 %
6,000	1978	3 3/4 %
7,000	1979	3 3/4 %
8,000	1980	3 3/4 %
11,000	1981	3 3/4 %
11,000	1982	3 3/4 %
12,000	1983	3 3/4 %

Bonds maturing in the years 1975 and thereafter shall be redeemable at the option of the Town on October 1, 1974, and on any interest payment date thereafter in inverse numerical order, at par, accrued interest and a premium of 3% of principal.

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

Said bonds shall be signed by the Mayor, countersigned by the Treasurer, with the seal of said Town thereto affixed and attested by the Town Clerk, and the coupons attached thereto shall bear the facsimile signature of the Treasurer. Should

any officer whose signature or facsimile signature appears on said bonds or the coupons thereto attached cease to be such officer before delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes.

Section 3. Said Revenue Bonds and the interest coupons to be thereto attached shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF LARIMER

TOWN OF BERTHOUD
SEWER REVENUE BOND

No. _____

\$1,000

The Town of Berthoud, in the County of Larimer and State of Colorado, hereby promises to pay to the bearer hereof out of the special fund hereinafter designated, but not otherwise, the sum of

ONE THOUSAND DOLLARS

on the 1st day of October, 19____, with interest thereon at the rate of _____ per centum (____%) per annum, payable April 1, 1965, and semi-annually thereafter on the 1st day of April and the 1st day of October each year, as evidenced by interest coupons hereto attached, upon presentation and surrender of the annexed coupons and this Bond as they severally become due, both principal and interest being payable in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado.

(The following clause shall be inserted in bonds maturing in the years 1975 and thereafter)

This Bond is redeemable at the option of the Town on October 1, 1974, and on interest payment dates thereafter prior to maturity, in its inverse numerical order in the issue of which it is one, at 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 extending and improving the sewerage system of said Town, under the authority of and in

full conformity with the Constitution and Laws of the State of Colorado, particularly the provisions of Chapter 139, Article 52, Colorado Revised Statutes 1953, as amended, and all other laws thereunto enabling, and pursuant to Ordinance No. 305 of said Town, duly adopted, published and made a law of said Town prior to the issuance of this Bond.

Both the principal of this Bond and the interest hereon are payable solely out of a special fund created in full conformity with law and designated "Sewer Revenue Bond Fund" of said Town, which Fund shall contain the net revenue derived by the Town from the operation of its municipal sewer system, all as more fully stated in said Ordinance.

It is hereby recited, certified and warranted that for the payment of this Bond the Town of Berthoud has created and will maintain said Fund and will deposit therein, out of the revenues of its sewer system, the amounts and revenue specified in said Ordinance, and out of said Fund, as an irrevocable charge thereon, will pay this Bond and the interest thereon, in the manner provided by said Ordinance. For a description of said Fund and the nature and extent of the security afforded thereby for the payment of this Bond, reference is made to that Ordinance.

This Bond does not constitute a debt of the Town of Berthoud within the meaning of any constitutional or statutory limitation.

It is hereby certified and recited that all the requirements of law have been fully complied with by the proper officers of said 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.

For the payment of this Bond and the interest thereon, the Town of Berthoud pledges the exercise of all its lawful powers.

IN TESTIMONY WHEREOF, the Board of Trustees of the Town of Berthoud, Colorado, has caused this Bond to be signed by the Mayor of said Town, sealed with the seal of the Town, attested by the Town Clerk and countersigned by the Town Treasurer, and the attached coupons to be signed with the facsimile signature of the Town Treasurer, as of the 1st day of October, 1964.

(Do not sign)

Mayor

COUNTERSIGNED:

(S E A L)

ATTEST:

(Do not sign)

Town Treasurer

(Do not sign)
Town Clerk

(Form of Coupon)

No. _____

\$ _____

On the 1st day of April, 19____, *(unless the Bond to October, which this coupon is attached has been called for prior redemption,) the Town of Berthoud, in the County of Larimer and State of Colorado, will pay to bearer

_____ DOLLARS

in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado, out of the Sewer Revenue Bond Fund of said Town, but not otherwise, being six months' interest on its Sewer Revenue Bond dated October 1, 1964, bearing

No. _____

_____ (Facsimile Signature)
Town Treasurer

*(This clause to be inserted in coupons maturing on April 1, 1975, and thereafter)

Section 4. Said bonds shall be sold and delivered to the purchasers, solely to provide the Town with money for the purpose hereinbefore specified, but neither the purchasers of said bonds, nor the subsequent holders of any of them shall be responsible for the application or disposal by the Town or any of its officers of the funds derived from the sale thereof. The issue of said bonds by the Town shall constitute a warranty by and on behalf of the Town for the benefit of each and every holder of any of said bonds, that said bonds have been issued for a valuable consideration in full conformity with law.

Section 5. If necessary, the interest due on said bonds during the construction of the sewer facilities shall be advanced from any fund of the Town available therefor, said amount to be later reimbursed from the revenues of the system. The principal of and interest on said bonds shall be payable solely out of the revenues to be derived by the Town from the operation of its sewer system as specified in this Ordinance, but the term "sewer system", as herein used, shall include not only the property comprising said system at the present time, but all additions and betterments thereto and improvements and extensions hereafter constructed or acquired by the Town.

Section 6. The Board of Trustees of the Town covenants that it will establish, maintain and enforce rates and charges for services rendered by the sewer system to create income and revenue sufficient to cover 1.25 times the average annual interest on and principal of the bonds authorized herein, in addition to the Sewer Revenue Bonds dated October 1, 1963, in the principal amount of \$35,000, and to provide for the reserve fund hereinafter mentioned.

Nothing in this Section shall be construed in such manner as to prevent the Town from increasing such rates and charges sufficiently to produce 1.25 times the average annual interest on and principal of the bonds authorized herein and the additional bonds as indicated above.

It shall be the duty of the Town to establish, maintain and enforce such rates continuously until all of said bonds and the interest thereon have been fully paid and discharged.

Section 7. The Town of Berthoud has heretofore created and established, by Ordinance No. 298, adopted and approved on the 15th day of October, 1963, by which Ordinance Sewer Revenue Bonds of the Town dated October 1, 1963, were authorized to be issued, a special fund known as the "Sewer Revenue Bond Fund", and hereby covenants and agrees to maintain said Fund, as hereinafter set forth, so long as any of said Sewer Revenue Bonds dated October 1, 1963, or any of the Sewer Revenue Bonds herein authorized, remain outstanding and unpaid. Said Sewer Revenue Bond Fund shall be kept separate and apart from all other funds of the Town, and shall contain all of the revenues derived by the Town from the operation of its sewer system after paying the necessary costs of operating and maintaining said system in an efficient and economical manner. The owners and holders of the Sewer Revenue Bonds dated October 1, 1963, and the owners and holders of the Sewer Revenue Bonds herein authorized shall be equal and on a parity one with the other. Such revenues and Fund are hereby irrevocably pledged for the following purposes and shall be disbursed in the following manner and order:

(a) For the prompt payment of the interest on and the principal of the Sewer Revenue Bonds dated October 1, 1963, and the bonds authorized herein, when and as the same shall become due and payable respectively.

(b) For the required payments into the "Reserve Fund" created by said Ordinance No. 298 for the benefit of Sewer Revenue Bonds dated October 1, 1963, and for an additional reserve fund designated "Reserve Fund 1964" for the benefit of the bonds herein authorized. The Town shall deposit in said Reserve Fund 1964, on or before the 1st day of October, in each of the years 1965 to 1974, inclusive, the amount of \$700, or more, until the amount of \$7,000 is on deposit therein.

The money in said Reserve Fund 1964 may be used to prevent defaults in the payment of said bonds herein authorized and interest thereon, but if used for such purpose, it shall be restored to the Reserve Fund 1964 as soon as possible. Said Reserve Fund 1964 shall be maintained until such time as the amount therein will be sufficient to pay all of the Sewer Revenue Bonds authorized herein outstanding and the interest thereon. Moneys in the Reserve Fund may be invested in direct obligations of the United States Government or in obligations or securities of any agency or instrumentality thereof, and the interest from any such investments shall be considered as net revenues of the system.

(c) After the payments and accumulations hereinabove referred to have been made, any remaining revenues of the system may be used for the purchase of bonds of this issue or the issue dated October 1, 1963, on the open market at market prices, for the redemption and refunding of such bonds, as provided herein, or as provided by law, for extensions of or improvements to said system, or for the payment of principal and interest of additional bonds payable out of the revenues of said system, as hereinafter provided.

Section 8. The Town hereby further irrevocably covenants

and agrees with each and every holder of said Sewer Revenue Bonds issued under the provisions of this Ordinance that so long as any of said bonds remain outstanding:

(a) It will continue to operate and manage its sewer system in an efficient and economical manner and keep and maintain separate accounts of the receipts and expenses thereof in such manner that the revenue thereof, payable into the Sewer Revenue Bond Fund, may at all times be readily and accurately determined.

(b) It will, through appropriate action of the Board of Trustees, establish, maintain and enforce the schedule of rates and charges for sewer services furnished by said system to insure the efficient and economical operation and maintenance of the system, the payments of the principal of and interest on all Sewer Revenue Bonds of this issue promptly as the same become due and the accumulation and maintenance of the Reserve Fund 1964 provided herein. In the event that such sewer rates and charges at any time should not be sufficient to meet such payments, the Town shall increase its sewer rates and charges to such an extent as to insure the payments and accumulations required by the provisions of this Ordinance.

(c) It will not sell or alienate any of the property constituting any part or all of its sewer system in any manner or to any extent as might reduce the security provided for the payment of said Sewer Revenue Bonds by means of and out of said Sewer Revenue Bond Fund, created and established by Ordinance No. 298, adopted and approved on the 15th day of October, 1963, but the Town may sell any portion of such property which shall have been replaced by other similar property of at least equal value, or which shall cease to be necessary for the efficient operation

of said system; provided, however, that in the event of any sale or sales, as aforesaid, where the aggregate consideration exceeds the sum of \$1,000, such consideration shall be paid into said Sewer Revenue Bond Fund and shall be used for the purposes of said Fund.

(d) It will promptly render bills for sewer services furnished and it will certify to the Board of County Commissioners of Larimer County, Colorado, delinquent rates and charges which shall become a lien on the delinquent property, the amount thereof to be collected in the same manner as general taxes are collected.

(e) At least once each year it will furnish the original purchasers of said bonds a statement of the receipts of and the disbursements for its sewer system for the fiscal year immediately preceding each statement.

(f) It will carry workmen's compensation, public liability and such other forms of insurance on insurable sewer property as would ordinarily be carried by utilities having similar properties of equal value, such insurance being in such amounts as will protect said sewer system and its operation.

(g) For the protection of the health of the inhabitants of the Town, it will, by appropriate action, compel all owners of occupied property capable of being served by said sewer facilities to connect their premises with such system.

Section 9. That nothing in this Ordinance shall be construed in such manner as to prevent the issuance by said Town of Berthoud of additional bonds payable from the income and revenue derived from the operation of its sewer system; provided, however, that while any of the bonds authorized by Ordinance

No. 298, adopted and approved on the 15th day of October, 1963, or this Ordinance are outstanding, the Town will not issue any additional bonds payable from the income of said system and having a lien on such income on a parity with the lien of said Sewer Revenue Bonds unless the income of the system, after paying expenses of maintenance and operation for the two fiscal years next preceding such authorization shall be equal to not less than 125% of the average yearly requirement for principal and interest on said Sewer Revenue Bonds dated October 1, 1963, and October 1, 1964, and 125% of the average yearly requirement for principal and interest on the additional bonds proposed to be issued. Nothing herein shall prevent the Town from issuing bonds having a junior or inferior lien on the income and revenue of said system.

Section 10. By this Ordinance, the issuance of \$90,000 of the \$100,000 of Sewer Revenue Bonds referred to in paragraph 2, Section 10, Ordinance No. 298, adopted and approved on the 15th day of October, 1963, have been authorized. It is hereby determined that no further bonds on a parity with the Sewer Revenue Bonds dated October 1, 1963, in the amount of \$35,000, and the Sewer Revenue Bonds dated October 1, 1964, in the amount of \$90,000, shall be issued unless the requirements of Section 9, set forth above, are met. The Town has further determined that the remaining \$10,000 of Sewer Revenue Bonds referred to in Section 10, Ordinance No. 298, shall not be issued and sold.

Section 11. All costs and expenses incurred in connection with the issuance and payment of the Sewer Revenue Bonds authorized herein shall be paid exclusively from the proceeds of said bonds or from the revenue of said sewer system, and in no event shall any of such costs or expenses, or the principal of or

interest on said bonds be paid out of or charged to the general funds or tax levies of the said Town.

Section 12. All ordinances, or parts thereof, in conflict with this Ordinance are hereby repealed. After said Sewer Revenue Bonds have been issued, this Ordinance shall be irrepealable until said bonds and the interest thereon shall be fully paid, satisfied and discharged in the manner herein provided.

Section 13. 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 hereof, it being the intention that the various provisions of this Ordinance are severable.

Section 14. By reason of the fact that the Town is not supplied with adequate sewer facilities, it is hereby declared that an emergency exists, that this Ordinance is necessary for the preservation of the public peace, health and safety, and that it shall take effect five days after its publication.

ADOPTED AND APPROVED This 27th day of August, 1964.

(S E A L)

ATTEST:

Viola Parrowman
Town Clerk

W. D. Warner
Mayor