

ORDINANCE NO. 543

AN ORDINANCE CREATING SPECIAL IMPROVEMENT DISTRICT NO. 1983-1, IN THE TOWN OF BERTHOUD, COLORADO, ORDERING THE CONSTRUCTION AND INSTALLATION THEREIN OF STREET PAVING, CURB, GUTTER AND SIDEWALK IMPROVEMENTS; PROVIDING FOR THE ISSUANCE OF BONDS IN PAYMENT FOR SAID IMPROVEMENTS; PROVIDING FOR NOTICE TO CONTRACTORS AND OTHER DETAILS IN CONNECTION WITH THE DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, the Board of Trustees of Berthoud, Colorado, pursuant to the Laws of the State of Colorado, hereby finds and determines that there exists a necessity for the creation of Special Improvement District No. 1983-1, in the Town, and the construction and installation therein of certain street paving, curb, gutter and sidewalk improvements; and

WHEREAS, Notice of a public hearing concerning the creation of the District and the construction and installation of the improvements was given by publication in one issue of the Loveland Daily Reporter Herald, a newspaper of general circulation in the Town, at least 15 days prior to the date of the hearing, and in addition, notice was mailed by first-class mail to each property owner to be assessed for the cost of improvements and included within the proposed district; and

WHEREAS, on April 19, 1983, the time and place set forth in the notice, the Board of Trustees met in open session for the purpose of hearing any objections or protests that might be made against the proposed district or the improvements to be constructed or installed; and

WHEREAS, by a resolution passed and adopted on May 10, 1983, the Board deleted certain streets from the list of streets to be improved, and made other changes relating to the proposed district; and

WHEREAS, the Board held a further hearing on June 21, 1983, concerning the streets to be included as part of the proposed district, and the real property to be assessed for the cost of improvements; and

WHEREAS, the Board has determined to proceed with the creation of the district, as set forth in the resolution passed on May 10, 1983;

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

Section 1. Creation of District. That a special improvement district for the construction and installation of street paving, curb, gutter and sidewalk improvements herein-after described, is hereby created and established in accordance with the laws of the State of Colorado, and shall be known and designated as "Special Improvement District No. 1983-1". All proceedings heretofore taken and adopted in connection with the District are hereby ratified, approved and confirmed.

Section 2. Approval of Engineering Plans. That the engineer's reports, together with all of the details, specifications, estimates, maps and schedules thereto attached or appended, as amended, are hereby approved and adopted.

Section 3. Boundary of District. The boundary of the District shall include those lots contained within the following described zones:

LEGAL DESCRIPTION FOR Zone "A"

ZONE "A"

Beginning at the Southeast corner of Lot 1, Block 1 of "Versaw Replat" according to the plat on file in the records of the Clerk and Recorder of Larimer County, Colorado; thence West along the South line of Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 1 of said "Versaw Replat" to the Southeast corner of Lot 3, Block 3 of "Versaw Replat 2nd" according to the plat on file in the records of the Clerk and Recorder of Larimer County, Colorado; thence West along the South line of said Lot 3, Block 3 of "Versaw Replat 2nd " to the Southwest corner of said Lot 3, Block 3 of "Versaw Replat 2nd", said Southwest corner being a point on the Easterly right-of-way of the Colorado and Southern Railway Company; thence Northerly along the West line of said Lot 3, Block 3 of "Versaw Replat 2nd", said line also being the Easterly right-of-way of the Colorado and Southern Railway Company, to a point on the Southerly right-of-way of Bunyan Avenue, said point also being the Northwest corner of said Lot 3, Block 3 of "Versaw Replat 2nd"; thence Westerly along the prolongation of the South right-of-way of Bunyan Avenue to the centerline of the Colorado and Southern Railway Company; thence Northerly along the centerline of the Colorado and Southern Railway Company to a point on the prolongation of the North right-of-way of Bunyan Avenue; thence East along the prolongation of the North right-of-way of Bunyan Avenue to a point on the Easterly right-of-way of the Colorado and Southern Railway Company; thence Northerly along the Easterly right-of-way of the Colorado and Southern Railway Company to a point on the "City Limits" of the Town of Berthoud, Colorado, said point being 360 feet

North of the South line of the Northeast Quarter of Section 14, Township 4 North, Range 69 West of the 6th P.M., Larimer County, Colorado; thence East along the "City Limits" of the Town of Berthoud to a point on the East line of the Northeast Quarter of said Section 14; thence South along the East line of the Northeast Quarter of said Section 14 to the East Quarter corner of said Section 14; thence South along the East line of the Southeast Quarter of said Section 14, 150 feet; thence Westerly and parallel with the North line of the Southeast Quarter of said Section 14 to a point on the East right-of-way of 2nd Street; thence Westerly across 2nd Street to the POINT OF BEGINNING.

LEGAL DESCRIPTION for Zone "C"

Beginning at the Northwest corner of Fickel Subdivisions, Second Filing, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence North 40 feet more or less to the North right-of-way of Bunyan Avenue; thence East along the North right-of-way of Bunyan Avenue to a point which lies 80 feet West and 40 feet North of the center quarter corner of Section 14, Township 4 North, Range 69 West of the 6th P.M., Larimer County, Colorado; thence North along the Westerly Town Limits of the Town of Berthoud, 290 feet more or less; thence Easterly 930 feet more or less to a point on the Westerly line of that certain parcel of land described in Book 1481, Page 247 of the Records of the Clerk and Recorder of Larimer County, Colorado; thence Southerly along the West line of said parcel of land described in Book 1481, Page 247, 330 feet more or less to a point on the East-West centerline of said Section 14; thence West along the East-West centerline of said Section 227.8 feet more or less to the Northeast corner of the Garden Fair Homes Subdivision, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence South along the East line of said Garden Fair Homes to a point which lies 150 feet South of the South right-of-way of Bunyan Avenue; thence Westerly and parallel with the South right-of-way of Bunyan Avenue to a point on the East line of Lot 41, Block 5 of said Garden Fair Homes; thence along the Easterly Lot lines of Lots 41, 40, 39, and 38, Block 5 of said Garden Fair Homes to the Northwest corner of Lot 35, Block 5 of said Garden Fair Homes; thence Easterly along the North line of said Lot 35 to a point which lies 150 feet East of the East right-of-way of 7th Street;

thence South and parallel with the East right-of-way of 8th Street to the North right-of-way of Capitol Avenue; thence Southerly across Capitol Avenue to the centerline of a 20 foot wide alley; thence along the centerline of said 20 foot wide alley to a point which lies 150 feet North of the North right-of-way of Franklin Avenue; thence Easterly and parallel with the North right-of-way of Franklin Avenue to the centerline of a 20 foot wide alley located in Block 3 of Capitol Hill Second Addition, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence Southerly along the centerline of said 20 foot wide alley to a point which lies 150 feet South of the South right-of-way of Franklin Avenue; thence West and parallel with the South right-of-way of Franklin Avenue to a point on the centerline of a 20 foot wide alley located in Block 2 of Longs Peak Addition to the Town of Berthoud, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence South along the centerline of said 20 foot wide alley to a point on the centerline of Turner Avenue; thence West along the centerline of Turner Avenue to the centerline of 8th Street; thence South along the centerline of 8th Street to a point on the Easterly prolongation of the South line of Lot 6, Block 9 of said Longs Peak Addition to the Town of Berthoud; thence Westerly along the Easterly prolongation of the South line of said Lot 6, Block 9 of Longs Peak Addition and along the South line of said Lot 6 and along the Westerly prolongation of the South line of said Lot 6 to a point on the Westerly Town limits of the Town of Berthoud; thence North along the Westerly Town limits of the Town of Berthoud to a point on the centerline of Lake Avenue; thence Easterly along the centerline of Lake Avenue to the centerline of 9th Street; thence Northerly along the centerline of

9th Street to a point which lies 150 feet North of the North right-of-way of Franklin Avenue; thence Easterly and parallel with the North right-of-way of Franklin Avenue to a point 150 feet West of the West right-of-way of 7th Street; thence North and parallel with the centerline of 7th Street to a point on the North line of Lot 11 of Garden Fair Homes No. 2, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence East along the North line of Lot 11 of said Garden Fair Homes No. 2 to the Southwest corner of Lot 13 of said Garden Fair Homes No. 2; thence Northerly along the West line of Lot 13, 14, 15, and 16 of said Garden Fair Homes No. 2 to the Southeast corner of Lot 19 of said Garden Fair Homes No. 2; thence Westerly along the Southerly line of Lot 19, 20, 30, and 31 of said Garden Fair Homes No. 2 to a point on the Westerly line of said Garden Fair Homes No. 2, said line also being the Easterly line of Fickel Subdivision Third Filing, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence Northerly along the Easterly line of said Fickel Subdivision Third Filing to the Northeast corner of Lot 1 of said Fickel Subdivision Third Filing; thence Westerly along the South line of Lots 1, 2, 3, 4, and 5 of said Fickel Subdivision Third Filing to a point on the Easterly line of Lot 7 of Fickel Subdivision, Third Filing; thence Southerly along the East line of Lot 7 of said Fickel Subdivision, Third Filing to a point which lies 150 feet South of the South right-of-way of Bunyan Avenue; thence Westerly and parallel with the South right-of-way of Bunyan Avenue to a point on the Westerly Town limits of the Town of Berthoud; thence Northerly along the Westerly Town limits of the Town of Berthoud to the POINT OF BEGINNING.

LEGAL DESCRIPTION for Zone "E"

Beginning at the Northwest corner of Lot 2, Block 2 of Jones Subdivision, 1st Filing, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence East along the North line of said Lot 2 to the Northeast corner of said Lot 2; thence Southerly along the East line of said Lot 2 to the Southeast corner of said Lot 2; thence Westerly along the South line of said Lot 2 and along the prolongation of the South line of said Lot 2 to the Centerline of 3rd Street; thence along the centerline of 3rd Street to a point on the Westerly prolongation of the North line of said Lot 2; thence Easterly along the prolongation of the North line of said Lot 2 to the POINT OF BEGINNING.

LEGAL DESCRIPTION for Zone "F"

Commencing at the Southwest corner of Block 6 of the Town of Berthoud, according to the plat on file in the office of the Clerk and Recorder of Larimer County, Colorado; thence Easterly along the South line of said Block 6 to a point on the centerline of a 20 foot wide alley, said point being the POINT OF BEGINNING; thence Southerly to the centerline of Mountain Avenue; thence Westerly along the centerline of Mountain Avenue to a point on the Southerly prolongation of the centerline of a 20 foot wide alley located in Block 3 of said Town of Berthoud; thence Northerly along the prolongation and centerline of said 20 foot wide alley to a point 150 feet North of the North right-of-way of Mountain Avenue; thence Easterly and parallel with the North right-of-way of Mountain Avenue to a point on the centerline of a 20 foot wide alley located in Block 6 of said Town of Berthoud; thence Southerly to the POINT OF BEGINNING.

Section 4. Description of Improvements. The kind of improvements and the streets to be improved are as follows:

- (a) Street Improvements.
Necessary excavation and grading; installation of gravel base course and asphalt concrete surface, together with necessary drainage structures, and other necessary appurtenances and incidentals;
- (b) Curb, Gutter and Sidewalk Improvements.
Combined concrete curb, gutter and sidewalk improvements, conforming to the engineering standards of the Town.

The improvements shall be constructed and installed on the following streets:

Zone A

- (a) Bunyan Avenue, from the east line of 3rd Street to the west line of U.S. Highway 287 Right-of-Way;

Zone C

- (b) Bunyan Avenue from a point approximately 169' west of 4th Street to a point 115' west of 10th Street;
- (c) Franklin Avenue from the alley between 5th and 6th Streets, to the east line of 9th Street;
- (d) 7th Street, from the south line of Bunyan Avenue to the north line of Franklin Avenue;
- (e) 8th Street, from the south line of Franklin Avenue, to the north line of Turner Avenue;
- (f) Lake Avenue from the west line of 8th Street, west approximately 1/2 block; and the south 1/2 of Lake Avenue west to the Town boundary west of 10th Street;
- (g) Turner Avenue, from the east line of 8th Street, west approximately 1/2 block;
- (h) Sunnywood Place, from 7th Street, east to Alley;

Zone E

- (h) East one-half of 3rd Street adjacent to Block 2 Lot 2, Jones Subdivision First Filing;

Zone F

- (j) 4th Street from the north line of Mountain Avenue, north approximately 1/2 block (curb, gutter and sidewalk only).

Section 5. Improvements Authorized. The construction and installation of the improvements in and for the District, as shown by the plans, specifications and maps thereof, as amended, prepared by the Engineer and approved by the Board of Trustees of the Town and now on file in the office of the Town Clerk, be and the same is hereby authorized and ordered, the materials to be used in the construction of said improvements to be in accordance with such maps, plans and specifications.

Section 6. Cost of Improvements. The probable total cost of the street paving, curb, gutter and sidewalk improvements is approximately \$329,750, plus an amount not exceeding 6% additional for the cost of inspection, collection, and other incidentals and also including interest on the bonds issued to the time the first installment of the assessment is made payable. The probable cost for such improvements shall not exceed the unit cost per front foot or per lot as more particularly set forth in the Resolution of Intention to create the District, passed and adopted on March 29, 1983, or the Resolution passed and adopted on May 10, 1983. It is anticipated that the Town will pay for part of the cost of the improvements on Bunyan Ave., from 7th Street to the west town limits. The method of assessment of cost shall be in accordance with the Resolution passed by the Board of Trustees on March 29, 1983, and the Resolution passed and adopted on May 10, 1983.

Section 7. Payment of Assessments. The assessments will be due and payable without demand within thirty (30) days from and after the publication of the Ordinance assessing the whole cost of said improvements against the real property in the District. In the event any owner of real estate shall fail to pay the whole of such assessment against his or her property within said thirty (30) days, then the whole cost of the improvements so assessed against such property shall be payable in ten (10) equal annual installments of principal. The first of such installments of principal shall be due and payable successively on the same

day in each year thereafter, until all are paid in full. The rate of interest to be paid on unpaid and deferred installments will be established by ordinance to be adopted by the Board of Trustees at a later date; it is anticipated that the rate of interest shall not exceed 12% per annum.

Section 8. Special Improvement Bonds. By virtue of and pursuant to the Laws of the State of Colorado, local improvement bonds of the Town shall be issued for the purpose of paying for the local improvements described in this Ordinance, in an amount not to exceed the cost and expenses of said improvements, including engineering, legal and incidental expenses, as provided by law. The bonds shall be issued based upon estimates approved by the Board of Trustees, and as authorized by an Ordinance to be passed by the Board at a later date. The maximum net effective interest rate of the local improvement bonds for Special Improvement District No. 1983-1, shall not exceed twelve per centum (12%) per annum. The bonds and the interest thereon shall be payable out of special assessments to be levied against the real property included within the District and specially benefited by the improvements to be constructed and installed.

Section 9. Construction Bids. The Mayor and Town Treasurer are hereby authorized to advertise for bids to construct such improvements in the time and manner required by the Laws of the State of Colorado, which advertisements may run concurrently with the publication of this Ordinance. The publication of any such notice prior to the passage or effective date of this Ordinance, is hereby ratified and approved.

Section 10. General Benefits The Board of Trustees hereby finds and determines that the improvements proposed to be constructed and installed will confer a special benefit upon the property within the District and a general benefit upon the Town as a whole.

Section 11. Repealer. That all acts, orders, resolutions, ordinances, or parts thereof, of the Town that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency or conflict. This repealer shall not be construed so as to revive any act, order, resolution, ordinance or part thereof, heretofore repealed.

Section 12. Severability. 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 13. Recording. 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 be published in accordance with law.

Section 14. Declaration of Emergency. Since it is necessary for the construction of the proposed improvements to commence as soon as possible and during favorable weather conditions, and to award the construction contract to the best bidder, 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 upon adoption and compliance with Section 31-16-104, Colorado Revised Statutes 1973, as amended.

ADOPTED AND APPROVED, This 21st day of June, 1983.

(S E A L)


Mayor

ATTESTED:


Town Clerk