

**ORDINANCE NO. 773-1997**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO, REAFFIRMING THE ESTABLISHMENT OF ITS WATER ACTIVITY ENTERPRISES CONSISTING OF THE TOWN'S WATER ENTERPRISE FUND AND THE TOWN'S WASTEWATER ENTERPRISE FUND.**

WHEREAS, the Town of Berthoud, Larimer and Weld Counties, Colorado (the "Town"), is a statutory town and political subdivision of the State of Colorado (the "State"), duly organized and operating under the constitution and laws of the State of Colorado; and

WHEREAS, the Town is the owner and operator of a water utility enterprise (the "Water Enterprise") consisting of a public water system (the "Water System") and of a wastewater utility enterprise (the "Wastewater Enterprise") consisting of a public wastewater system (the "Wastewater System"), both of which have historically been operated on a self-supporting basis by the Town and are considered to be government-owned businesses (the Water Enterprise and the Wastewater Enterprise collectively referred to as the "Water Activity Enterprises"); and

WHEREAS, pursuant to Resolution No. 9-93, Resolution No. 7-94 and Resolution No. 11-94 of the Town (the "Enterprise Resolutions"), the Board of Trustees of the Town (the "Board") has heretofore identified the sources of revenue for the funds comprising the Water Activity Enterprises as well as the identification of the appropriate expenditures from said funds comprising the Water Activity Enterprises; and

WHEREAS, pursuant to the provisions of Title 31, Article 35, Part 4, Colorado Revised Statutes the Town has its own bonding capacity for the acquisition, construction, reconstruction, lease, improvement, betterment, or extension of any water facilities or sewer facilities; and

WHEREAS, pursuant to the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the "Water Activity Law"), State and local governmental entities which have their own bonding capacity under applicable law are authorized to establish or continue to maintain water activity enterprises and to issue bonds or other obligations payable from the revenues derived from the operation of such enterprises; and

WHEREAS, in order to qualify as a water activity enterprise under the Water Activity Law, the enterprise must consist of a government water activity business owned by a governmental entity such as the Town, which enterprise receives under 10% of its annual revenues in grants from all Colorado state and local governments combined, and which is authorized to issue its own revenue bonds; and

WHEREAS, pursuant to the Enterprise Resolutions the Water System and the Sewer System have been and continue to be operated as "water activity enterprises", respectively, within the meaning of the Water Activity Law; and

WHEREAS, it is the intent of the Town to reaffirm its Water Activity Enterprises under the Water Activity Law;

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

Section 1. **Water Activity Enterprises.** The Town hereby reaffirms the establishment of its Water Activity Enterprises pursuant to the provisions of the Water Activity Law. The governing body of the respective Water Activity Enterprises (the "Governing Body") shall be the Board of Trustees of the Town, which body shall be subject to all of the applicable laws, rules, and regulations pertaining to the Board. Whenever the Board is in session exercising its legal authority relating to any Water Activity Enterprise matter, the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from any meeting of the Board, nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the Water Activity Enterprises. The Governing Body is authorized to exercise the Town's legal authority relating to water activities as provided in the Water Activity Law; provided however, the Governing Body may not levy a tax which is subject to section 20(4) of the State Constitution.

Section 2. **Ratification and Approval of Prior Actions.** All actions heretofore taken by the officers of the Town and the members of the Board of Trustees, not inconsistent with the provisions of this Ordinance, relating to the operation or creation of the Water Activity Enterprises, are hereby ratified, approved, and confirmed.

Section 3. **Repealer.** All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

Section 4. **Severability.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 5. **Effective Date; Recording and Authentication.** This Ordinance shall be in full force and effect 30 days after its publication. This Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and the Town Clerk, and shall be published in accordance with law.

At its meeting August 26, 1997, a public hearing was set by the Board of Trustees of the Town of Berthoud for its meeting held on the 9th day of September, 1997. After the public hearing, the Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 9th day of September, 1997.

ATTEST:

By Mary K. Couldin  
Town Clerk

TOWN OF BERTHOUD, COLORADO

By Beth D. Strachan  
Mayor

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