

**TOWN OF BERTHOUD
ORDINANCE NO. 1251**

AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO CALLING AN ELECTION ON NOVEMBER 6, 2018, AND CERTIFYING BALLOT ISSUES TO AUTHORIZE (I) A SALES AND USE TAX RATE INCREASE AND (II) THE ISSUANCE OF REVENUE BONDS TO FINANCE CAPITAL IMPROVEMENTS; SETTING THE BALLOT TITLES AND CONTENT FOR THE BALLOT ISSUES; PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Berthoud, Colorado, is a statutory municipality of the State of Colorado, duly organized and operating under the constitution and laws of the State (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Ordinance); and

WHEREAS, the Town presently imposes a sales and use tax at the aggregate rate of 3.0%; and

WHEREAS, the Board of Trustees of the Town (the "Board") desires to develop, construct and equip various park and recreation facilities and improvements for the benefit of the Town and its residents; and

WHEREAS, there are not sufficient funds in the treasury of the Town to develop, construct, equip and operate such park and recreation facilities and improvements and the Board does not anticipate that existing sources of revenue will be sufficient to generate the moneys necessary to timely develop, construct and equip such park and recreation facilities and improvements in the near future without the incurrence of debt through the issuance of revenue bonds; and

WHEREAS, Article X, Section 20 of the Constitution of the State of Colorado requires that the Town have voter approval in advance for any tax rate increase and for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever; and

WHEREAS, the Board has determined that the operational and capital needs of the Town necessitate that the Town seek voter approval, at an election to be held on November 6, 2018, to increase the aggregate rate of the sales and use tax and to incur debt through the issuance of revenue bonds or similar obligations; and

WHEREAS, the election shall be conducted as a coordinated election in Larimer and Weld Counties, respectively, in accordance with Articles 1 to 13 of Title 1, Colorado Revised Statutes, as amended (the "Uniform Election Code"); and

WHEREAS, the Clerk and Recorders of Larimer and Weld Counties (the “County Clerks”) are the coordinated election officials for the election pursuant to the Uniform Election Code, and are responsible for mailing the notice of election required by Article X, Section 20(3)(b) of the Colorado Constitution (the “TABOR Notice”); and

WHEREAS, the Town will assist the County Clerks in providing necessary information and notices for the conduct of the election; and

WHEREAS, the Board has determined to set the ballot titles and content for the ballot issues to be submitted at the election called by this Ordinance.

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

Section 1. An election shall be held on Tuesday, November 6, 2018 (the “Election Date”), at which there shall be submitted to the eligible electors of the Town the ballot issues which shall be in substantially the forms attached hereto as Appendix A. Appendix A is hereby incorporated into this Ordinance as if set forth in full herein.

Section 2. For purposes of Section 1-11-203.5, C.R.S., this Ordinance shall serve to set the ballot titles for the respective ballot issues set forth in Appendix A hereto. Appendix A is hereby incorporated into this Ordinance as if set forth in full herein. The ballot titles for the respective ballot issues attached hereto as Appendix A shall be the text of such ballot issues.

Section 3. The officers and employees of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance and comply with the Uniform Election Code, Article X, Section 20 of the Colorado Constitution (“TABOR”) and other applicable laws and election rules. The Town Clerk shall be the Designated Election Official for the Town in connection with the coordinated election.

Section 4. If a majority of the votes cast on either or both of the ballot issues submitted at the election shall be in favor of such ballot issues, the Town acting through the Board shall be authorized to proceed with the necessary actions in accordance with the ballot issue or ballot issues which have been so approved. Any authority to issue bonds, if conferred by the results of the election, shall be deemed and considered a continuing authority to issue the bonds so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

Section 5. All actions not inconsistent with the provisions of this Ordinance heretofore taken by the members of the Board and the officers and employees of the Town and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

Section 6. All prior acts, orders, ordinances or resolutions, or parts thereof, by the Town in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any act, order, ordinance or resolution, or part thereof, heretofore repealed.

Section 7. If any section, paragraph, clause or provision of this Ordinance shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Ordinance, it being the intention that the various parts hereof are severable.

Section 8. It is hereby found and determined by the Board that there exists an immediate need to certify the ballot issues by an established date in order to ensure that the matters set forth in this Ordinance will be subject to a vote by the eligible electors of the Town. As a result of the foregoing, the Board hereby declares that an emergency exists, and that this ordinance is necessary to the immediate preservation of the public peace, health and safety, all in accordance with §31-16-105, C.R.S. 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.

INTRODUCED, READ, ADOPTED AS AN EMERGENCY ORDINANCE, AND ORDERED PUBLISHED at a meeting of the Board of Trustees of the Town of Berthoud, Colorado, this 28th day of August, 2018.

TOWN OF BERTHOUD, COLORADO

ATTEST:

By William Karspeck
Mayor

By Michelle Adams Deputy Town Clerk
Town Clerk



APPENDIX A

Tax Ballot Issue:

SHALL THE TOWN OF BERTHOUD TAXES BE INCREASED \$1,400,000 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY FOR THE PURPOSE OF FUNDING PARKS AND RECREATION NEEDS WITHIN THE TOWN; SUCH TAX TO CONSIST OF A RATE INCREASE IN THE TOWN SALES AND USE TAX OF 1.0% (WHICH REPRESENTS A ONE CENT INCREASE ON EACH DOLLAR) COMMENCING JANUARY 1, 2019; SHALL ALL REVENUES GENERATED FROM THE TAX, NET OF THE COSTS OF COLLECTION, BE DEPOSITED INTO A SEPARATE PARK AND RECREATION FUND AND RESTRICTED AS TO USE SOLELY FOR PARKS AND RECREATION PURPOSES, INCLUDING BUT NOT LIMITED TO:

- EXPANDING AND IMPROVING THE EXISTING TOWN TRAIL SYSTEM;
- RENOVATING OR REPLACING EXISTING AQUATIC FACILITIES;
- DEVELOPING, CONSTRUCTING AND EQUIPPING A RECREATION CENTER AND RELATED FACILITIES; AND
- DEVELOPING CONSTRUCTING AND EQUIPPING ATHLETIC FIELDS;

AND, TO THE EXTENT FUNDS ARE AVAILABLE, FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING, EQUIPPING AND OPERATING PARK AND RECREATION IMPROVEMENTS; AND SHALL THE TAX REVENUES DEPOSITED IN THE TOWN PARK AND RECREATION FUND AND ALL EARNINGS THEREON (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Bond Ballot Issue:

SHALL THE TOWN OF BERTHOUD DEBT BE INCREASED \$30,000,000, WITH A MAXIMUM REPAYMENT COST OF UP TO \$59,000,000, SUCH DEBT TO CONSIST OF SALES AND USE TAX REVENUE BONDS TO BE PAYABLE FROM ALL OR A PORTION OF THE TOWN'S SALES AND USE TAX AND ISSUED SOLELY FOR PARKS AND RECREATION PURPOSES, INCLUDING BUT NOT LIMITED TO:

- EXPANDING AND IMPROVING THE EXISTING TOWN TRAIL SYSTEM;
- RENOVATING OR REPLACING EXISTING AQUATIC FACILITIES;
- DEVELOPING, CONSTRUCTING AND EQUIPPING A RECREATION CENTER AND RELATED FACILITIES; AND
- DEVELOPING CONSTRUCTING AND EQUIPPING ATHLETIC FIELDS;

SUCH BONDS TO BE DATED AND SOLD AT SUCH TIME, AND AT SUCH PRICES (AT, ABOVE OR BELOW PAR) AND CONTAINING SUCH TERMS, NOT INCONSISTENT HEREWITH, AS THE BOARD OF TRUSTEES MAY DETERMINE; AND SHALL THE EARNINGS ON THE INVESTMENT OF THE PROCEEDS OF SUCH BONDS (REGARDLESS OF AMOUNT) AND THE FUNDS USED FOR THE PAYMENT OF THE

BONDS CONSTITUTE A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?