

ORDINANCE NO. 1310

AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO, AMENDING CHAPTER 20 OF THE MUNICIPAL CODE OF THE TOWN OF BERTHOUD ESTABLISHING PROCEDURES FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENTS, AND COLLECTIONS FOR TRAFFIC AND PARKING VIOLATIONS IN BERTHOUD MUNICIPAL COURT

WHEREAS, the Town of Berthoud ("Town") is a municipal corporation possessing all powers granted to statutory towns by Title 31 of the Colorado Revised Statutes; and

WHEREAS, the Board of Trustees of the Town of Berthoud (the "Board") desires to amend the Municipal Code to establish and declare default and default judgments and allow assignment municipal court fees, costs, and fines to collection agencies for traffic and parking violations; and

WHEREAS, the Board finds that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF BERTHOUD, COLORADO THAT THE FOLLOWING CHANGES ARE HEREBY INCORPORATED INTO THE MUNICIPAL CODE:

Section 1. Chapter 20 of the Municipal Code of the Town of Berthoud is hereby amended by the addition of a new Section 20.4 which is to read as follows:

Sec. 20.4. – Default, Default Judgments and Collections.

- A. **Application.** This section 20.4 applies to all traffic or parking related violations of the Berthoud Municipal Code.
- B. **Service.** Before a traffic or parking violation can be subject to the procedures set forth in this section, the action must have been properly initiated by personal service, or proper substituted service of a complaint, summons and complaint, citation, penalty assessment, notice or other document charging the party with any traffic or parking violation of the Berthoud Municipal Code. Service shall comply with *Colorado Municipal Court Rules of Procedure* Rule 204.
- C. **Default and Default Judgment.** Failure to appear, to enter a plea, or defend any non-criminal ticket at a scheduled court date shall result in the entry of default against the Defendant. Following the entry of default, notice of the default (Notice) will be sent to the Defendant, at the Defendant's last known physical address and by email if available. The Notice shall include a statement that at the next Court Date which must be at least seven (7) days after the date of the provision of the Notice that a hearing (Hearing) will be held on whether default judgment shall be entered against the Defendant. Defendant shall have the opportunity to appear at the Hearing and contest the entry of default judgment. Failure to appear at the duly-noticed hearing shall result in entry of a default judgment, the setting of fine and referral for collections as provided below.

D. **Setting Aside Default.** A motion to set aside a default and/or a default judgment shall be made within a reasonable time, not to exceed six (6) months. The court may, for good cause shown, set aside an entry of default, and/or a default judgment.

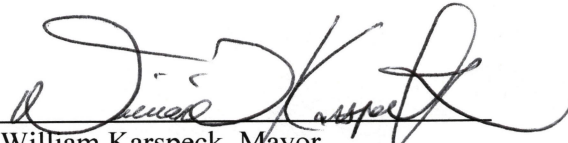
Section 2. Chapter 20 of the Municipal Code of the Town of Berthoud is hereby amended by the addition of new Section 20.5 which is to read as follows:

A. **Collections.** The Court Clerk is authorized to use any lawful method of collecting fines, fees, default judgments, personal recognizance bond forfeitures, civil penalties, and other amounts due from any person assessed such sums by the Town of Berthoud Municipal Court, including without limitation reasonable costs of collection. The Town shall be entitled to receive the reasonable costs of collection in addition to the amounts otherwise due, and interest at the statutory rate for unpaid civil judgments. Reasonable costs of collection shall include, without limitation, the fees and costs of the Town Attorney or of private counsel or a collection agency, which the Court Clerk is hereby authorized to engage, but such fees and costs shall not exceed twenty-five percent (25%) of the amount collected. Any agreement for collection services shall be signed by the Town Administrator.

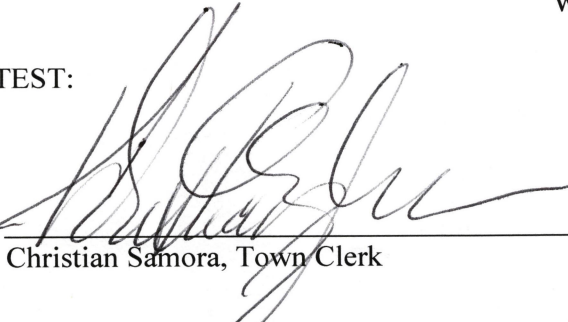
Section 3. Should any section, clause, or provision of this Ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the balance of this Ordinance.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED
PUBLISHED IN FULL on this 25th day of October, 2022.

TOWN OF BERTHOUD

By: 
William Karspeck, Mayor

ATTEST:

By: 
Christian Samora, Town Clerk

