

## **ORDINANCE NO. 1357**

AN EMERGENCY ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO, ACTING BY AND THROUGH ITS WASTEWATER ENTERPRISE, REFRESHING AND EXTENDING DELEGATED AUTHORITY RELATED TO THE ISSUANCE AND SALE OF ITS WASTEWATER REVENUE REFUNDING BONDS; PROVIDING DETAILS IN CONNECTION WITH THE BONDS; AND DECLARING AN EMERGENCY.

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 is the owner and operator of a wastewater utility enterprise (the “Wastewater Enterprise”) consisting of a public wastewater system (the “Wastewater System”), which was established and has been and continues to be operated by the Town as a “water activity enterprise” within the meaning of the Water Activity Law (defined herein); and

WHEREAS, pursuant to Resolution No. 9-93, Resolution No. 7-94 and Resolution No. 11-94 of the Town, the Board of Trustees of the Town (the “Board”) has heretofore identified the sources of revenue for the fund comprising the Wastewater Enterprise as well as the identification of the appropriate expenditures from said fund comprising the Wastewater Enterprise and, pursuant to Ordinance No. 773-1997, the Town reaffirmed the establishment of the Wastewater Enterprise; and

WHEREAS, in calendar year 2023 the Wastewater Enterprise was, and in calendar year 2024 the Wastewater Enterprise continues to be operated as a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all State and local governments combined, and the Board hereby determines and reaffirms that the Wastewater Enterprise is an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, the Board is acting hereunder as the governing body of the “Town of Berthoud Wastewater Enterprise” organized under the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the “Water Activity Law”); and

WHEREAS, pursuant to Ordinance No. 1338 duly passed and adopted on May 14, 2024 (“Ordinance No. 1338”), the Board authorized the issuance of the Town’s Wastewater Revenue Refunding and Improvement Bonds, Series 2024 (the “Series 2024 Bonds” or the “Bonds”) for the purpose of refinancing certain outstanding bonds of the Town (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of Ordinance No. 1338); and

WHEREAS, pursuant to Ordinance No. 1338, the Town Administrator (or in the Town Administrator's absence the Director of Finance and Human Resources), as the Sale Delegate thereunder, is delegated, for a period of one (1) year following the date of adoption of Ordinance No. 1338, authority to determine, within parameters, certain financial terms relating to the Bonds; and

WHEREAS, unfavorable interest rate market conditions that were beyond the Town's control prevented the sale, issuance and delivery of the Bonds prior to the expiration of the one-year delegation period; and

WHEREAS, the Board desires to refresh and extend to the Sale Delegate the authority to determine the final terms of the Bonds, as provided under Ordinance No. 1338 for a period of one year from the date of the adoption of this Ordinance.

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

**Section 1. Extension of Delegated Authority.** Pursuant to the delegation of authority permitted pursuant to Section 4 of Ordinance No. 1338, the Town Administrator (or in the Town Administrator's absence the Director of Finance and Human Resources) is hereby delegated for a period of one year following the date of adoption of this Ordinance, the authority to determine the final terms of the Series 2024 Bonds (now to be known as the "Series 2025 Bonds") and certain other matters, within the express parameters set forth therein.

**Section 2. Reaffirmation of Ordinance No. 1338 and Direction to Take Action.** The authorization of the Series 2025 Bonds and all other terms of Ordinance No. 1338 are hereby reaffirmed. The Mayor, the Town Clerk and all other officers of the Town are hereby authorized and directed to execute all documents and certificates necessary or desirable to effectuate the issuance of the Bond and the refinancing contemplated by Ordinance No. 1338.

**Section 3. Ratification of Prior Action.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board or by the officers and employees of the Town directed toward the issuance of the Bonds for the purposes herein set forth in Ordinance No. 1338 are hereby ratified, approved and confirmed.

**Section 4. Headings.** The headings to the various sections and paragraphs to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance, and shall not be used in any manner to interpret this Ordinance.

**Section 5. Ordinance Irrepealable.** After any of the Bonds have been issued, this Ordinance and Ordinance No. 1338 shall constitute a contract between the Owners and the Town, and shall be and remain irrepealable until the Bonds and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

**Section 6. Severability.** It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any

other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

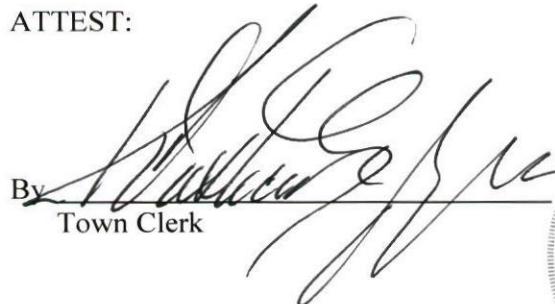
**Section 7. Repealer.** All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

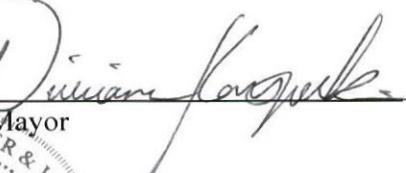
**Section 8. Emergency Declaration; Recording and Authentication.** It is hereby found and determined by the Board that: (i) there exists an immediate need for the Refunding Project, in order to properly and safely serve the Town and its residents; and (ii) current interest rate conditions are favorable, allowing the Town to issue the Bonds at reasonable interest rates, and such rates may change at any time. 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 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.

READ, PASSED AND ORDERED PUBLISHED at a meeting of the Board of Trustees of the Town of Berthoud, Colorado, this 22<sup>nd</sup> day of July, 2025.

TOWN OF BERTHOUD, COLORADO

ATTEST:

By   
Town Clerk

By   
Mayor

