

ORDINANCE NO. 332

AN ORDINANCE APPROVING THE WHOLE COST OF THE IMPROVEMENTS MADE IN AND FOR SPECIAL IMPROVEMENT DISTRICT NO. 68-1, IN THE TOWN OF BERTHOUD, COLORADO; APPROVING AND CONFIRMING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND IN SAID DISTRICT; ASSESSING A SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND IN THE DISTRICT; PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, the Board of Trustees of the Town of Berthoud, Colorado, has, by Ordinance No. 329 of said Town, adopted and approved on the 18th day of June, 1968, created Special Improvement District No. 68-1 within the Town of Berthoud, in accordance with the Laws of the State of Colorado; and

WHEREAS, the improvements authorized by said Ordinance have been completed and accepted by the Board of Trustees and the whole cost of such improvements has been determined; and

WHEREAS, an assessment roll has been prepared showing the portion of the total cost to be assessed against each owner of land specially benefited by the construction of improvements within said District and Notice of Hearing on Assessments was duly published and mailed to all property owners to be assessed, in accordance with law; and

WHEREAS, on the 10th day of December, 1968, the Board of Trustees duly heard and considered all complaints and objections that were filed; and

WHEREAS, from the statement made and filed with the Board of Trustees, it appears that the whole cost of said improvements is the sum of \$100,233.99, of which amount the Town of Berthoud will pay \$8,952.96, leaving the sum of \$91,281.03 to be assessed against the real property in said District, said amount including

costs of inspection, collection and other incidentals and also including interest as allowed by law; and

WHEREAS, from said statement it also appears that the Board of Trustees has apportioned a share of the whole cost to each lot or tract of land in the District, in accordance with the benefits to be derived by said property and in the proportions and amounts severally set forth in a Resolution adopted by the Board of Trustees on the 12th day of November, 1968, and in a public Notice published in the Berthoud Bulletin on November 14, 21, 28 and December 5, 1968, which Resolution and Notice are by reference made a part hereof;

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

Section 1. That the whole cost and apportionment of the same, as set forth in said Resolution and Notice is hereby approved and confirmed, and said apportionment is hereby declared to be in accordance with the benefits which the property in the District will receive by reason of the construction of said improvements, and a share of said cost is hereby assessed to and upon each lot or tract of land within the District in the proportions and amounts set forth in said Resolution and Notice.

Section 2. That said assessments shall be due and payable at the office of the Town Treasurer, within thirty days after the final publication of this Ordinance, without demand; provided that all such assessments may, at the election of the property owner, be paid in installments, with interest as hereinafter provided. Failure to pay the whole assessment within said period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability

or otherwise, to pay in such installments. Such election shall be conclusively held and considered as a waiver of any right to question the power or jurisdiction of the Town of Berthoud to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, or the validity or the correctness of the assessments, or the validity of the lien thereof.

In case of such election to pay in installments, the assessments shall be payable at the office of the County Treasurer of Larimer County, Colorado, in ten (10) equal annual installments of principal, the first of which installments of principal shall be due and payable on or before the 1st day of July, 1969, and the remainder of said installments shall be due and payable successively on or before the 1st day of July in each year thereafter, until paid in full, with interest in all cases on the unpaid principal at the rate of six per centum (6%) per annum, payable annually each year at the time of paying installments of assessments.

Section 3. Failure to pay any installment, whether of principal or interest, when due, shall cause the whole of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one per centum (1%) per month, or fraction of a month, until the date of tax sale, as provided by law, but at any time prior to the date of the sale, any owner may pay the amount of all unpaid installments with interest at one per centum (1%) per month, or fraction of a month, upon all delinquent installments, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any

property not in default as to any installment or payment may, at any time, pay the whole of the unpaid principal with accrued interest to the date of the next assessment installment payment date.

Section 4. Payments may be made to the Town Treasurer at any time within thirty days after the final publication of this Ordinance, and an allowance of five per centum (5%) will be made on all payments made during such period, but not thereafter. Immediately after the expiration of said thirty day period, said assessments shall be certified to the County Treasurer of Larimer County, Colorado, for collection, as provided by law.

Section 5. That if any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

Section 6. By reason of the fact that bonds of the Town of Berthoud Special Improvement District No. 68-1 are now outstanding and interest thereon will shortly become due and payable, and that funds must be made available from assessments at the earliest possible date for payment of such interest, and for the immediate preservation of the public property, health, peace and safety, it is hereby declared that an emergency exists and that this Ordinance shall take effect five days after final publication.

Section 7. This Ordinance, after its passage, shall be recorded in the Town Ordinance Book kept for that purpose, shall be authenticated by the signatures of the Mayor and Town Clerk, and shall be published in the Berthoud Bulletin, a newspaper published

and of general circulation in said Town and shall be and remain irrepealable until the assessments hereby made shall be paid in full.

ADOPTED AND APPROVED This 10th day of December, 1968.

( S E A L )

*A. B. Fickel*  
Mayor

ATTEST:

*Armona Williams*  
Town Clerk

It was thereupon moved by Trustee Beck  
and seconded by Trustee Pollock that the foregoing  
Ordinance read in full at this meeting as aforesaid, be passed,  
adopted and approved, and be published in full in the Berthoud  
Bulletin, a newspaper of general circulation published in the Town  
of Berthoud, in its issue of December 12, 1968.

The question being upon the adoption of said motion,  
the roll was called with the following result:

Those voting AYE:

Trustees:

John <sup>S.</sup>~~W.~~ Angelos

John <sup>L.</sup>~~W.~~ Beck

Thomas C. Bein

Donald <sup>Edward</sup>~~Eugene~~ Jones

Robert Pollock

Stanford Williams (Absent)

Those voting NAY: None

Five members of the Board of Trustees having voted  
in favor of said motion, and said number being more than three-  
fourths of the membership of the Board of Trustees, the presiding  
officer thereupon declared said motion carried.

After consideration of other business to come before the  
Board, the meeting thereupon adjourned.

( S E A L )

ATTEST:

Ammon Williams  
Town Clerk

R. B. Tucker  
Mayor

STATE OF COLORADO )  
COUNTY OF LARIMER ) ss.  
TOWN OF BERTHOUD )

I, Armona Williams, the Town Clerk of the Town of Berthoud, Colorado, do hereby certify that the foregoing pages numbered 60 to 67, inclusive, constitute a true and correct copy of the proceedings of the Board of Trustees of said Town, taken and adopted at a regular meeting held on December 10, 1968, at 7:30 o'clock P.M., and a true and correct copy of Ordinance No. 332, of said Town, introduced, read, adopted, approved and ordered published at said meeting, which Ordinance related to the assessment of the cost of improvements in Special Improvement District No. 68-1 in the Town of Berthoud.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of said Town this 10th day of December, 1968.

( S E A L )

Armona Williams  
Town Clerk