

ORDINANCE NO. 405

AN ORDINANCE APPROVING THE WHOLE COST OF THE IMPROVEMENTS MADE IN SPECIAL IMPROVEMENT DISTRICT NO. 73-1, 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; AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, by Ordinance No. 392, passed and adopted on July 9, 1974, the Board of Trustees has created Special Improvement District No. 73-1, within the Town of Berthoud, for the purpose of constructing and installing street paving, curb and gutter and drainage improvements therein; and

WHEREAS, the whole cost of such improvements has been determined; and

WHEREAS, an assessment roll has been prepared and a statement showing the total cost of the improvements has been duly filed with the Board of Trustees, and due notice was given that the Board of Trustees would meet to hear and consider objections to the assessment roll on Monday, January 6, 1975, and that the owners of property named in said assessment roll might, on or before the date of the hearing file with the Town Clerk, in writing, his or their objections to the assessments; and

WHEREAS, the Board of Trustees has heard and considered all objections to the assessment roll and the following changes and corrections were made:

Robert L. Berling - amount to read \$3,435.85

WHEREAS, from the statement made and filed with the Board of Trustees, it appears that the whole cost of said improvements is the amount of \$112,029.51, of which amount, \$83,000 will be assessed against the real property specially benefited and included within the District; the Town of Berthoud will pay approximately \$29,029 toward the cost of the improvements; 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 the assessment roll approved by the Board of Trustees; and

WHEREAS, the Board of Trustees has determined to assess the cost of the improvements against those lots and tracts of land and in the amounts as are more particularly set forth in the assessment roll certified to the Board of Trustees;

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

Section 1. Confirmation of Assessment Roll. That the whole cost and apportionment of the same, as set forth in the assessment roll is hereby approved and confirmed, and said apportionment is hereby declared to be in accordance with the special 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 assessment roll.

Section 2. Payment of Assessments. That the assessments shall be due and payable at the office of the Town Clerk of the Town of Berthoud, within thirty days after the publication of this Ordinance, without demand; provided that all such assessments may be paid, at the election of the property owner, 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 said installments.

An allowance of 5% shall be made on all payments of assessments made during such thirty day period of time, but not thereafter.

Such election shall be conclusively held and considered as a waiver of any right to question the power or jurisdiction of the Town 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 the event 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, 1975. 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 on the unpaid principal amount at the rate of eight and one-half per centum (8-1/2%) per annum, commencing as of the effective date of this ordinance, and payable each year at the time of paying installments of assessments. The tenth and last installment of assessments will be due and payable on July 1, 1984.

Section 3. Penalty for Default or non-payment.

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. 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. At any time prior to the date of the tax sale, the owner may pay the amount of all unpaid installments with interest at one per centum (1%) per month, or fraction of a month, 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. Assessment Lien. All assessments levied against the real property in Special Improvement District No. 73-1, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of the final publication of this ordinance, a perpetual lien in the several amounts assessed against each lot or tract of land. Such lien shall have priority over all other liens except general tax liens, and shall be enforced in accordance with the laws of the State of Colorado.

Section 5. Assessments Against Divided or Subdivided Tracts. If any tract of real property included within Special Improvement District No. 73-1 is hereafter divided or subdivided into two or more such tracts or parcels, the Town Clerk is hereby authorized and directed to divide the

assessment against such tract in the same proportion that the tract itself is subdivided into two or more such parcels, and to certify the revised assessments to the County Treasurer of Larimer County, Colorado.

Section 6. Notice of Payment of Assessments. The Town Clerk shall cause notice of the payment of the assessments to be published in one issue of the Berthoud Bulletin, on the same day as the final publication of this ordinance. Such notice shall set forth the place of payment and the time for the thirty day period to close, and shall be in substantially the following form:

NOTICE OF ASSESSMENTS DUE FOR IMPROVEMENTS
CONSTRUCTED IN SPECIAL IMPROVEMENT DISTRICT NO. 73-1
IN BERTHOUD, COLORADO

PUBLIC NOTICE IS HEREBY GIVEN That the assessments or any portion of the assessment levied against property within Special Improvement District No. 73-1, in the Town, may be paid at any time on or before February 18, 1975, which is not less than thirty (30) days after publication of the assessment ordinance upon its passage, without penalty, interest or costs. An allowance of 5% shall be made on all payments of assessments made during such thirty day period of time, but not thereafter.

All assessments or parts thereof not paid on or before the expiration of said thirty-day period will bear interest at a rate not to exceed 8-1/2% per annum.

The assessments may be paid in ten (10) equal annual installments, with interest on unpaid installments, the first installment being due and payable on July 1, 1975, and subsequent installments shall be due and payable on the same day of the month each year thereafter, until said assessments are paid in full.

If the amount of the assessment is paid in full anytime after the end of the thirty day period, interest on such amount to the next installment payment date of assessments will be added.

All payments made within the thirty (30) day period of time should be made to the Town Treasurer, in Berthoud.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Town of Berthoud, as of the 14th day of January, 1975.

(S E A L)

/s/ Carol A. Mayo

Town Clerk
Berthoud, Colorado

Publish in: Berthoud Bulletin

Publish on:

Section 7. Severability. 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 8. Repealer. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 9. Recording and Authentication. This Ordinance, immediately on its passage shall be recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Clerk and shall be published as required by law.

Section 10. Emergency Provision. By reason of the fact that Special Improvement Bonds for the District have been issued and are outstanding, and which are payable from special assessments, and that it is necessary to levy and collect assessments against the property included within the District at the earliest possible date, it is hereby declared that an emergency exists, that this Ordinance is necessary to the immediate preservation of the public peace, health and safety, and that it shall be in full force and effect five days after publication.

ADOPTED AND APPROVED This 14 day of January,
1975.

(S E A L)

R. B. Fiebel
Mayor

ATTEST:

Carol A. Mayo
Town Clerk