

ORDINANCE NO. 586

AN ORDINANCE APPROVING THE WHOLE COST OF THE IMPROVEMENTS TO BE MADE IN BEIN SPECIAL IMPROVEMENT DISTRICT NO. 1985-1, IN THE TOWN OF BERTHOUD, COLORADO; APPROVING AND CONFIRMING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND IN THE 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, by Ordinance No. 571, passed and adopted on March 19, 1985, the Board of Trustees (the "Board") of the Town of Berthoud, Colorado (the "Town"), created Bein Special Improvement District No. 1985-1, for the purpose of paying for local improvements to be constructed in the District; and

WHEREAS, the total cost of such improvements has been definitely ascertained, and a statement of expenses and an assessment roll apportioning such costs have been prepared and filed in the office of the Town Clerk; and

WHEREAS, due notice was given that the Board would meet to hear and consider objections to the assessment roll on this date, and that any complaints or objections which may be made in writing by the property owners or any citizen to the Board, and filed in writing on or prior to the date of the hearing, would be heard and determined by the Board before the passage of any ordinance assessing the cost of said improvements; and

WHEREAS, the Board has received no objections to the assessment roll; and

WHEREAS, from the statement filed with the Town Clerk, it appears that the total cost of the improvements is \$1,580,000, and that the entire amount thereof should be assessed against the real property specially benefited and included within the District; and

WHEREAS, the Board has apportioned a share of the cost to each lot or tract of land in the District, in accordance with

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the benefits to be derived by said property and in the proportions and amounts severally set forth in the assessment roll; and

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

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

Section 1. Confirmation of Assessment Roll. The whole cost of the improvements and the apportionment of the same, as set forth in the assessment roll, is hereby approved and confirmed. Said apportionment is hereby declared to be in accordance with the special benefits which the property in the District has received by reason of the construction of said improvements. 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 the assessment roll, which assessment roll is attached hereto as Exhibit A and incorporated herein by reference.

Section 2. Payment of Assessments. The 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. An allowance of 5% shall be made on all payments made during such thirty day period, except as otherwise provided by contract, but not thereafter. However, at the election of the property owner, all such assessments may be paid in installments, with interest as hereinafter set forth.

Failure to pay the whole assessment within said period of thirty days shall be conclusively considered to be an election on the part of all persons interested, whether under disability or otherwise, to pay in installments. All persons so electing to pay in installments shall be conclusively considered to have consented to said improvements. Such election shall be conclusively considered to be 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, the validity or the correctness of the assessments, or the validity of the lien thereof.

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In the event of such election to pay in installments, the assessments shall be payable in ten (10) equal annual installments of principal, the first of which installments of principal shall be due and payable on March 1, 1987, at the office of the County Treasurer of Larimer County. The remainder of said installments of principal shall be due and payable successively on or before March 1 each year thereafter until paid in full, with interest on the unpaid principal amount at the rate of 10.881% per annum, payable annually on March 1 each year. The tenth and last installment of principal will be due and payable on March 1, 1996. 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 the interest accruing to the maturity of the next installment of interest or principal.

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 collectible immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of 1% per month or fraction of a month until the date of tax sale. At any time prior to the date of tax sale, the owner may pay the amount of all unpaid installments with interest at 1% per month or fraction of a month and all penalties accrued, and shall be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered.

Section 4. Assessment Lien. All assessments levied against the real property in the District, 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. As to any subdivision of any land assessed hereunder, the

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assessment shall in each case be a lien upon all the subdivisions in proportion to their respective areas. In the event of such subdivision, the Town Clerk is hereby authorized and directed to divide the assessment against such land in the same proportion that the land itself is subdivided, and to certify the revised assessments to the County Treasurer.

Section 6. Notice of Payment of Assessments. The Town Clerk shall cause notice of assessments due to be published one time, on or about 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.

Section 7. Severability. 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 acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance, are hereby repealed.

Section 9. Publication. Upon passage, this Ordinance shall be numbered and recorded, authenticated by the signatures of the Mayor and the Town Clerk, and published in accordance with law.

Section 10. Declaration of Emergency. By reason of the fact that the construction of the improvements has been completed and it is necessary to proceed with the assessment and collection of the costs of such construction as soon as possible, it is hereby declared that an emergency exists, and this ordinance is necessary to the immediate preservation of the public health or safety, and that it shall be in full force and effect upon

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ASSESSMENT ROLL

Name of Owner	Description of Property to be Assessed	Amount of Assessment
ROCKY MOUNTAIN ADDITION		
Bein, Thomas C. & Louise I.	Lots 13-16 except North 77', Block 4; Lots 9-12, Block 5 and Vacated Street and Alley Adjacent to Lots	18,152.53
Bein, Thomas C. & Louise I.	Lots 9-12 & North 77' of Lots 13-16, Block 4 and Alley Adjacent to Lots	25,508.90
Bein, Thomas C. & Louise I.	Lot 5, Block 1	4,045.58
Bein, Thomas C. & Louise I.	Lot 6, Block 1	4,045.58
Schmidt, Mary	Lot 3, Block 1	4,045.58
Schmidt, Mary	Lot 4, Block 1	4,045.58

	TOTAL ASSESSMENT	59,843.75
	TOTAL ASSESSMENT FOR ALL PROPERTIES	\$1,580,000.00

ASSESSMENT ROLL

Name of Owner	Description of Property to be Assessed	Amount of Assessment
BERTHOUD BUSINESS PARK		
Berthoud Associates, Ltd.	Lot 1	57,002.71
Berthoud Associates, Ltd.	Lot 2	205,209.74
Berthoud Associates, Ltd.	Lot 3	141,873.40
Berthoud Associates, Ltd.	Lot 4	38,635.17
Berthoud Associates, Ltd.	Lot 5	48,135.62
Berthoud Associates, Ltd.	Lot 6	15,200.72
Berthoud Associates, Ltd.	Lot 7	12,667.27
Berthoud Associates, Ltd.	Lot 8	11,400.54
Berthoud Associates, Ltd.	Lot 9	10,767.18
Berthoud Associates, Ltd.	Lot 10	8,867.09
Berthoud Associates, Ltd.	Lot 11	8,867.09
Berthoud Associates, Ltd.	Lot 12	8,867.09
Berthoud Associates, Ltd.	Lot 13	8,867.09
Berthoud Associates, Ltd.	Lot 14	8,867.09
Berthoud Associates, Ltd.	Lot 15	8,867.09
Berthoud Associates, Ltd.	Lot 16	8,867.09
Berthoud Associates, Ltd.	Lot 17	8,867.09
Berthoud Associates, Ltd.	Lot 18	8,867.09
Berthoud Associates, Ltd.	Lot 19	12,667.27

TOTAL ASSESSMENT	633,363.41
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BEIN FIFTH ADDITION

Bein, Thomas C. & Louise I.	Block 2	41,871.97
Bein, Thomas C. & Louise I.	Block 3	80,070.99
Bein, Thomas C. & Louise I.	Block 4	125,444.56
Bein, Thomas C. & Louise I.	Block 5	61,387.76

TOTAL ASSESSMENT	308,775.28
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BEIN SEVENTH ADDITION

Bein, Thomas C. & Louise I.	Lot 1	45,975.42
Bein, Thomas C. & Louise I.	Lot 2	12,310.36
Bein, Thomas C. & Louise I.	Lot 3	12,310.36
Bein, Thomas C. & Louise I.	Lot 4	12,310.36
Bein, Thomas C. & Louise I.	Lot 5	12,310.36
Bein, Thomas C. & Louise I.	Lot 6	30,399.04

TOTAL ASSESSMENT	125,615.90
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ASSESSMENT ROLL

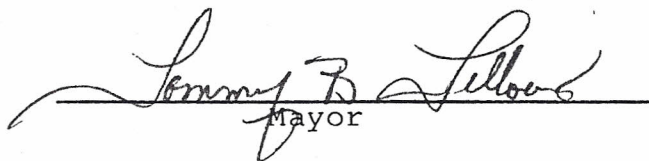
Name of Owner	Description of Property to be Assessed	Amount of Assessment
BERTHOUD HEIGHTS SUBDIVISION		
Bein, Tom C. and Louise I.	Lot 1, Block 1	\$11,034.18
Bein, Tom C. and Louise I.	Lot 2, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 3, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 4, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 5, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 6, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 7, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 8, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 9, Block 1	11,034.18
Bein, Tom C. and Louise I.	Lot 1, Block 2	11,034.18
Bein, Tom C. and Louise I.	Lot 2, Block 2	11,034.18
Bein, Tom C. and Louise I.	Lot 3, Block 2	11,034.18
Bein, Tom C. and Louise I.	Lot 4, Block 2	11,034.18
Bein, Tom C. and Louise I.	Lot 5, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 6, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 7, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 8, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 9, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 10, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 11, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 12, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 13, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 14, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 15, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 16, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 17, Block 2	11,034.19
Bein, Tom C. and Louise I.	Lot 1, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 2, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 3, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 4, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 5, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 6, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 7, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 8, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 9, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 10, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 11, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 12, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 13, Block 3	11,034.19
Bein, Tom C. and Louise I.	Lot 1, Bein Fifth Addition	11,034.19
Bein, Tom C. and Louise I.	Lot 2, Bein Fifth Addition	11,034.19
TOTAL ASSESSMENT		452,401.66

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adoption by the affirmative vote of three-fourths of the members of the Board in compliance with §31-16-105, C.R.S., and adoption thereby.

ADOPTED AND APPROVED AS AN EMERGENCY ORDINANCE This 14th day of January, 1986.

(S E A L)


Mayor

ATTESTED:


Town Clerk