

ORDINANCE NO. 568

AN ORDINANCE APPROVING THE WHOLE COST OF THE IMPROVEMENTS MADE IN SPECIAL IMPROVEMENT DISTRICT NO. 1983-1, 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; AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS.

WHEREAS, by Ordinance No. 543, passed and adopted on June 21, 1983, the Board of Trustees of the Town of Berthoud, Colorado, has created Special Improvement District No. 1983-1, within the Town, for the purpose of paying for local improvements to be constructed in the District; 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, and that the owners of property named in the assessment roll might, on or before the date of the hearing file with the Town Clerk, in writing, his or her objections to the assessments; and

WHEREAS, the Board of Trustees has heard and considered all objections to the assessment roll; and

WHEREAS, from the statement made and filed with the Town Clerk, it appears that the portion of the total cost of the improvements which will be assessed against the real property specially benefited and included within the District is \$390,985.87, which, together with the amount of unused bond proceeds, if any, will be sufficient to pay and redeem the outstanding bonds for the District; and

WHEREAS, the Board of Trustees has apportioned a share of the 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 part of 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. 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. 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, as filed in the office of the Town Clerk, and which is made a part hereof and incorporated herein by specific reference.

Section 2. Payment of Assessments. That the assessments shall be due and payable at the office of the Town Treasurer, within thirty days after the publication of the Ordinance following its passage, without demand; provided that all such assessments may be paid, at the election of the property owner, in installments, with interest as hereinafter set forth. 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

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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 in ten (10) equal annual installments of principal, the first of which installments of principal shall be due and payable on March 1, 1985, at the office of the County Treasurer of Larimer County, in Fort Collins, Colorado. The remainder of said installments 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 11.00% 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 March 1, 1994.

The Board of Trustees may, at a later date, provide for the installments of assessments to be payable at the office the Town Treasurer, rather than the County Treasurer of Larimer County. Such change shall be by resolution of the Board.

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 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 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 the District 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 Town Treasurer and the County Treasurer of Larimer County, Colorado.

Section 6. Notice of Payment of Assessments. The Town Clerk shall cause notice of assessments due to be published one time, on the same day as the 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:

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NOTICE OF ASSESSMENTS DUE FOR IMPROVEMENTS
CONSTRUCTED IN SPECIAL IMPROVEMENT DISTRICT NO. 1983-1
IN BERTHOUD, COLORADO

PUBLIC NOTICE IS HEREBY GIVEN that all assessments or any portion of the assessment levied against property within Special Improvement District No. 1983-1, in the Town of Berthoud, Colorado, may be paid at the office of the Town Treasurer, at any time on or before Monday, February 4, 1985, 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 11.00% 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 March 1, 1985, and subsequent installments shall be due and payable on each March 1 thereafter, until said assessments are paid in full. The installments of assessments are payable at the office of the County Treasurer of Larimer County, in Fort Collins, Colorado. The Board of Trustees may, at a later date, provide for the installments of assessments to be payable at the office of the Town Treasurer, rather than the County Treasurer of Larimer County. Such change shall be by resolution of the Board.

If the amount of the assessment is paid in full anytime

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after the end of the thirty day period, interest on such amount to the next installment payment date of assessments will be added.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Town of Berthoud, as of the 2nd day of January, 1985.

(S E A L)

/s/ Orahbelle Patterson
Town Clerk
Berthoud, Colorado

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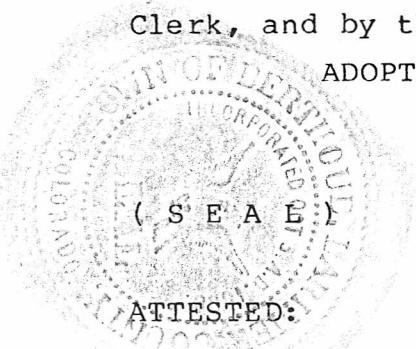
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Section 7. Severability. That if any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, it being the intention 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. Publication. Upon passage, this Ordinance shall be numbered and recorded, and the adoption and publication shall be authenticated by the signature of the Mayor and the Town Clerk, and by the Certificate of Publication.

ADOPTED AND APPROVED, This 2nd day of January, 1985.



Tommy D. Helms
Mayor

ATTESTED:

Orville Patterson
Town Clerk