

ORDINANCE NO. 986

AN ORDINANCE AMENDING CHAPTER 30-3-109 OF THE DEVELOPMENT CODE, AMENDMENTS, OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO, PERMITTING THE GRANTING OF EXCEPTIONS TO THE DEVELOPMENT CODE.

WHEREAS, Chapter 30-3 of the Town of Berthoud Development Code sets forth various administrative processes of the Town including processes for amendments to the Development Code and the zoning district map at Section 30-3-109;

WHEREAS, Chapter 30-3 of the Town of Berthoud Development Code does not provide a process for the granting of exceptions, modifications and/or waivers from regulations of the Development Code by the Town Board;

WHEREAS, recognizing that the ability of the Town Board to grant exceptions, modifications and/or waivers from regulations of the Development Code may under certain circumstances be beneficial to the Town and in furtherance of the overall purpose and intent of the Development Code, the Town desires to amend Section 30-3-109 of the Town of Berthoud Development Code to provide therefor.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO:

Section 1. Amendment of Section 30-3-109:

Section 30-3-109, AMENDMENTS, shall be amended to read as follows:

30-3-109 AMENDMENTS AND EXCEPTIONS

A. Initiated by the Town. This code and the zoning district map may be amended by the Town Board after public notice of any such proposed amendment, and after holding public hearings thereon, in accordance with state statutes.

B. Initiated by a Property Owner. Any person may petition the town Board of Trustees to change the zoning of any real property within the Town upon the filing with the Town clerk a petition in such form and content as shall be prescribed by the clerk; provided, such petition is filed in accordance with the provisions of any ordinances of the Town pertaining thereto. Thereafter, the zoning district map may be

amended by the Town Board after public notice of any such proposed amendment, and after holding public hearings thereon, in accordance with state statutes.

C. Limitation on Change of Zoning Map. No petition for rezoning shall be granted where, within one year preceding the date of filing of such petition with the Town clerk, a petition for the same change of the zoning district of the property described in such petition has been denied.

D. Exceptions. The Town Board may initiate and in its discretion, grant exceptions, modifications and/or waivers ("Exceptions") from the regulations set forth in this Development Code with respect to a particular parcel of property upon the following findings:

- (1) That there are special circumstances or conditions affecting such property which create exceptional difficulties with the property itself (and not self-imposed by the applicant), or that development of the property for which such Exceptions are sought is of such extraordinary commercial, social or cultural merit that the potential benefits to the Town outweigh the tangible and intangible costs to the Town created by the Exceptions; and
- (2) That the granting of the Exceptions will not be materially detrimental to the public welfare, will not materially diminish the rights set forth in the Development Code of other property in the area in which the property is situated or be in conflict with the purposes and objectives of the Town's comprehensive plans.

In granting such Exceptions, the Town Board may impose such conditions as deemed necessary in its opinion to substantially secure the objectives of the regulations from which the Exceptions are granted.

Section 2. Effective Date:

This ordinance was introduced, read, adopted, approved, signed and ordered published in full this 24th day of February, 2004.

TOWN OF BERTHOUD:

Milan Karspeck

Milan Karspeck - Mayor

ATTEST:

Mary K. Cowdin

Mary K. Cowdin - Town Clerk

Published: Feb. 26, 2004