

ORDINANCE NO. 961

AN ORDINANCE OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO; ESTABLISHING PROVISIONS FOR ADEQUATE PUBLIC FACILITIES AND SERVICES; PROVIDING A SEVERABILITY CLAUSE; SYNTHESIZING THIS ORDINANCE WITH ORDINANCE 959; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Berthoud is committed to the management of future growth to preserve the Town's quality of life and community character in the Town's existing incorporated limits as well as its established Growth Management Area (GMA), Community Influence Area (CIA), and Cooperative Planning Area (CPA) as adopted by the Comprehensive Plan as amended;

WHEREAS, the Town of Berthoud has entered into intergovernmental agreements with the Thompson R2-J School District in 1996, the Berthoud Fire Protection District in 1998, the Little Thompson Water District in 1999 and Larimer County in 2000 to coordinate and manage public services and facilities for the anticipated population and business growth in and around Berthoud;

WHEREAS, the Town of Berthoud has had a road impact fee regulation study performed by Clarion and Associates in December 2001 along with a road impact fee study by Felsburg, Holt and Ullevig in December 2001;

WHEREAS, the Town of Berthoud has adopted a 208 Plan to provide central sanitary sewer services to properties around Berthoud to protect, preserve and enhance water quality;

WHEREAS, the Board of Trustees has established capital improvement fees to maintain current levels of service for its public facilities and infrastructure to accommodate new development, thereby ensuring new development bears its proportionate share of the cost of capital improvements and maintains current levels of service; AND

WHEREAS, the Town of Berthoud has encouraged public participation and input through a public hearing on March 25, 2003 before the Board of Trustees on the proposed ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO, AS FOLLOWS:

Section 1. Purpose

The Board of Trustees intends to implement adequate public facilities requirements in such a manner so as to achieve the following public interests:

Protecting the public's health, safety and general welfare;

Implementing the Town's goals, policies, plans, programs, and regulations related to land development;

Improving the fiscal well-being of the Town in providing municipal services inside the Town limits and;

Facilitating adequate provision of services and facilities, such as transportation, water, sewer, stormwater, schools, parks, and other public facilities and services;

Lessening congestion on local streets, collectors, arterials, roads and highways; and

Protecting the community character of the Town as a desirable place to live and conduct business.

Section 2. Findings

Based upon a survey conducted by the Planning Department in August of 2002 concerning the adequacy of public services and facilities, the Town's various studies establishing impact fees, the Town's capital improvements plan, the Town of Berthoud has concluded after examination that there is a public interest in planning for and requiring adequate public facilities. The challenges and impacts of continuing, strong growth in the Town of Berthoud include the following:

Implementation of the Town's goals, policies, plans, programs, and regulations related to land development;

Attainment of the goals of the Town's Comprehensive Plan relating to growth, parks, transportation, infrastructure, and public facilities, in general;

Collection of impact fees to improve the fiscal well-being of the Town to provide adequate municipal facilities and services, including raw water, water treatment, wastewater treatment, roads, park land, park development, public facilities and so on;

Coordination of the location and construction of local trails, streets, collectors, arterials, roads and highways that serve Town residents and surrounding county residents to effectively and efficiently manage increased levels of traffic created by the addition of population and businesses;

Protection of the land, water and air;

Ability to project adequate annual budgets that include sufficient resources to manage, review and inspect new development that directly affect the provision of governmental services, such as transportation, raw water availability and treatment capacity, wastewater treatment capacity, trails, parks, open space, recreation and other elements directly related to the quality of life in the community;

Maintain adequate public services and facilities to serve the new population and businesses; and

Effectiveness and accuracy of capital improvement planning.

Section 3. Applicability and Exemptions

The provisions of this ordinance shall apply to all development, including redevelopment of properties that result in an increase in the number of dwelling units, change in use of a building or structure, change in the use of the land, or any construction or expansion of a building or structure or use that creates additional vehicular trips after April 30, 2003, except as otherwise exempted below. No site plan, final development plan, or final plat for aforementioned development may be approved unless it has been demonstrated that there

are adequate public facilities to support such development pursuant to Section 5 of this Ordinance. The following are exempted from the provisions of this ordinance:

- 3.1 Redevelopment, remodeling, restoration, reconstruction, or replacement of legally established structures that does not increase the number of dwelling units or the gross area of a nonresidential building that existed previously on the site;
- 3.2 Vacant lots and subdivisions that had an approved land use classification permitting a dwelling unit and had an approved final plat as of April 1, 2003, which may or may not have had obtained vested rights prior to the effective date of this ordinance. The following properties, lots and subdivisions have been identified as meeting this criteria and are specifically exempted by this ordinance:
 - A. Lot 13, Block 6, Berthoud Common – 111 10th Street, created 5-12-1998
 - B. Lot 14, Block 6, Berthoud Common – 121 10th Street, created 5-12-1998
 - C. Lot 1, Block 2, North Park 3rd Filing – 1601 Maple Drive, created 5-12-1998
 - D. Lot 1, Fickel Farm PUD, 2nd Filing* – 100 E. Indiana, created 7-11-2000
 - E. Lot 2, Fickel Farm PUD, 2nd Filing* – 102 E. Indiana, created 7-11-2000
 - F. Lot 3, Fickel Farm PUD, 2nd Filing* – 104 E. Indiana, created 7-11-2000
 - G. Lot 4, Fickel Farm PUD, 2nd Filing* – 211 Victoria St., created 7-11-2000
 - H. Lot 5, Fickel Farm PUD, 2nd Filing* – 209 Victoria St., created 7-11-2000
 - I. Lot 6, Fickel Farm PUD, 2nd Filing* – 207 Victoria St., created 7-11-2000
 - J. Lot 7, Fickel Farm PUD, 2nd Filing* – 217 Victoria St., created 7-11-2000
 - K. Lot 8, Fickel Farm PUD, 2nd Filing* – 215 Victoria St., created 7-11-2000
 - L. Lot 9, Fickel Farm PUD, 2nd Filing* – 213 Victoria St., created 7-11-2000
 - M. 690 Bunyan Avenue (house demolished on 11-29-2000)
 - N. 512 5th Street (house demolished on 4-13-2001)
 - O. Gateway Park Subdivision*
 - P. Village at Mathews Farm Subdivision*
 - Q. Estate at Mathews Farm Subdivision*
 - R. Mary's Farm Tract A and 1 Subdivisions*
 - S. Fickel Farm 3rd Filing Subdivision*
 - T. Peakview Meadows 1st Filing and 2nd Filing Subdivisions*

Note: All lots denoted by an “*” have existing vested rights in effect prior to April 1, 2003.

Any lot not specifically cited above that meets the criteria of this section shall be exempted upon presentation of evidence by the property owner to the Planning Director of the Town;

- 3.3 Recorded plats as of April 1, 2003 that are required by the Town to be replatted after April 1, 2003 shall also be exempt if the replatting does not increase the number of residential lots contained in the original recorded plat;
- 3.4 Residential development on lots in an amended final plat recorded after April 1, 2003, if the original final plat was recorded prior to April 1, 2003 and the amendment does not increase the number of residential lots contained in the original final plat; and
- 3.5 The placement or replacement of a manufactured home or mobile home on a space or lot in a manufactured (mobile) home park in existence prior to April 1, 2003, which includes Blue Spruce, Sunshine Acres, Wagon Wheel Estates and Pinewood Park.

Section 4. Vested Rights

Any development receiving "Vested Rights" after April 1, 2003 in accordance with Town Development Code and the provisions of Article 68 of Title 24, Colorado Revised Statutes (C.R.S.), as amended, shall be subject to the provisions of this Ordinance.

Section 5. Adequate Public Facilities and Services

- 5.1 The Board of Trustees shall examine the availability of public facilities and services at least annually. The Board of Trustees shall examine the following criteria in determining the availability of adequate public facilities and services to accommodate new development:
 - 5.1.1 Water. The availability of raw water and reservoir capacity along with the capacity of the water treatment plant, water mains and other associated infrastructure necessary to meet the demand of the anticipated growth without system extensions beyond those normally installed by development;
 - 5.1.2 Sanitary Sewer: The capacity of the wastewater treatment plant(s), sanitary sewer mains and other associated infrastructure necessary to dispose of effluent generated by the anticipated growth without system extensions beyond those normally installed by development;
 - 5.1.3 Stormwater Drainage Facilities. The capacity of stormwater drainage facilities and other associated infrastructure to adequately dispose of surface runoff generated by the anticipated growth without system extensions beyond those normally installed by development;
 - 5.1.4 Recreation. The availability of recreational facilities, including parks, playgrounds, trails, and open spaces, to meet the demands for vital public services without system extensions beyond those normally installed by development;
 - 5.1.5 Traffic and Circulation. The capacity of major street linkage to provide for the needs of the anticipated growth without substantially altering existing traffic patterns or overloading the existing street system, and the capacity of local state highways within the Town limits without substantially altering the level of

service (LOS) as established by the Road Impact Fee Regulation study conducted by Clarion and Associates in December 2001, such community standard being at LOS of "C," on an average daily basis, or better, without system extensions beyond those normally installed by development;

- 5.1.6 Police Protection. The ability of the Police Department to provide police protection according to the established response standards of the Town without the necessity of establishing a new station or substation or requiring addition of major equipment or personnel;
- 5.1.7 Fire Protection. The ability of the Berthoud Fire Protection District (BFPD) to provide fire protection according to the established response standards of the BFPD without the necessity of establishing a new station or substation or requiring addition of major equipment, personnel, or housing facilities to an existing station;
- 5.1.8 Schools. The capacity of the appropriate school district to absorb the children expected from the anticipated growth without the necessitating unusual scheduling or classroom overcrowding as determined by the school district's master plan;

Section 6.

It is the intent of the Board of Trustees to synthesize this ordinance and initiated ordinance #959.

Section 7. Severability

Should any part of this ordinance be held illegal for any reason, the holding shall not affect the remaining portions of this ordinance. To the extent these two ordinances are in conflict, the provisions of this ordinance shall prevail.

Section 8. Effective Date

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this ordinance shall take effect and be in force thirty (30) days after publication. At its meeting on February 25, 2003, a public hearing was set by the Board of Trustees of the Town of Berthoud for its meeting held on the 25th day of March 2003. After the public hearing, this ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 25th day of March 2003.

ATTEST:

Mary K. Cowdin

Mary K. Cowdin, Town Clerk

TOWN OF BERTHOUD:

Milan Karspeck

Milan Karspeck, Mayor

Published: April 3, 2003