

**TOWN OF BERTHOUD**

**ORDINANCE NO. 1252**

**AN ORDINANCE AMENDING CHAPTER 30, SECTIONS 1-6 OF THE DEVELOPMENT CODE OF THE TOWN OF BERTHOUD, FOR THE PURPOSES OF AMENDING AND REVISING THE DEVELOPMENT CODE.**

WHEREAS, it is deemed to be in the interest of the public health, safety and general welfare to revise the Development Code of the Town to provide for better building and development standards; and

WHEREAS, Town staff, Planning Commissioners and members of the Development Community have reviewed the existing code, and have made recommendations to improve the current Development Code requirements; and,

WHEREAS, the Board of Trustees, after proper notice, has held a public hearing on this ordinance providing for the adoption of said code pursuant to C.R.S. § 31-16-203; and

WHEREAS, the Development Code and amendments thereto have been submitted to the Board of Trustees in writing and the Board of Trustees has determined that such code and amendments thereto should be adopted as herein set forth;

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

Section 1. That Chapter 30, Sections 1-6 of the Berthoud Development Code is hereby repealed, and the Municipal Code Sections set forth in Exhibits "A-F", attached, are hereby adopted in its stead;

Section 2. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4: The repeal or modification of any provision of the Municipal Code of the Town of Berthoud by this ordinance shall not release, extinguish, alter, modify, or

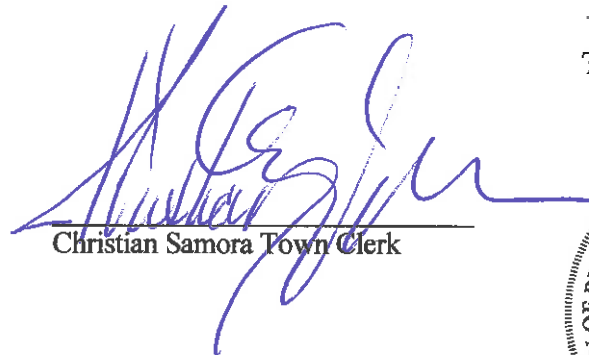
change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5: The Provisions of this Ordinance shall take effect thirty days after publication as required by law, and shall apply to all lighting plans, development, and construction permitted after such date.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN  
FULL this 25<sup>th</sup> day of September, 2018.



TOWN OF BERTHOUD, COLORADO



Christian Samora Town Clerk



**1. 30-1-117 Public hearing and general notice provisions**

**A. Specific purposes**

Public hearings are open meetings conducted by local boards to gather information from the public and to survey public opinion as part of the local rule-making process. Public hearings are required by either the State of Colorado or Town of Berthoud and will be conducted before the Planning Commission, the Board of Trustees or the Planning Commission acting as the Board of Adjustment as appropriate. Public hearings will be conducted under the following general conditions:

1. Before reviewing an application for a permit that requires a public hearing, said hearing shall be scheduled within a reasonable time as allowed by the schedules of Town officials and staff. Town staff is responsible for the scheduling of all public hearings.
2. Subject to Subsection C below, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments.
3. The Board of Trustees, Planning Commission or Board of Adjustment conducting the hearing may place reasonable and equitable limitations on the presentation of evidence, arguments and the cross-examination of witnesses.

**B. Public notice requirements**

The Town shall give notice of any public hearing required as provided below. The applicant shall be responsible for all costs of such notice.

1. Where required by statute or ordinance to give notice to surrounding property owners, notice shall be given by mailing a written notice not later than five days before the hearing to those persons who have listed for taxation any real property located within three hundred feet of the lot, parcel or property area that is the subject of the application or appeal.
2. Where required by statute or ordinance to give notice to other interested property owners such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies notice shall be given by mailing a written notice not later than fifteen days before the hearing.
3. Where required by statute or ordinance to give notice to other parties of interest or referral agencies, notice shall be given by mailing a written notice not later than fifteen days before the hearing.
4. Where required by statute or ordinance to give notice of annexation hearings to special districts, school districts and Larimer or Weld County Commissioners and the Larimer or Weld County Attorney, notice shall be given by a certified mailing of a written notice not later than twenty five days before the hearing.
5. When required by the notice of public hearing table (Table 1.1) in this section, the applicant must post a sign along each street frontage of the property. The Town will provide signs when

a complete application is made. The applicant is responsible for erecting and maintaining the sign(s) for the time period specified and removing them after the last public hearing. Signs must be placed as near the property line as possible and in a manner that is readily visible from the street or road. Posting the property is a courtesy to the public and the failure of anyone to observe a sign does not invalidate any public hearing.

6. The applicant shall provide (prior to the hearing) an affidavit showing the property was posted within the specified time.
7. The Town shall give notice of any public hearing required as follows:
  - a. Notice shall be given to potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than fifteen days prior to the hearing.
  - b. This notice shall state the date, time and place of the hearing, reasonably identify the lot, parcel or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

#### C. Hearing and notification requirements

Listed below are the notification requirements in the Town of Berthoud. Abbreviations used below include C.R.S. (Colorado Revised Statutes) and Hearing (Public Hearing). Hearings will be noticed per the Town of Berthoud in most instances, but notice requirements for annexation must follow provisions of the Colorado Revised Statutes. Mailed notices identified below would normally include notice of both the Planning Commission and Town Board meeting/hearings as appropriate.

Table 1.1 Hearing and notification requirements				
	Hearing	Publication	Mailed notice	Post sign
<b>Annexation</b>	Before Commission as regular agenda item. Before Town Board per C.R.S.	4 successive weeks starting at least 30 days prior to Statutory Hearing.	Yes, to property owners within 500 feet no less than 25 days and no more than 30 days prior to Statutory Hearing.	Yes, no less than 30 days prior to Statutory Hearing.
<b>Zoning</b>	Before Commission as regular agenda	No less than 15 days prior to	Yes, to property owners w/in 500 feet sent no less than 15 days prior	Yes, no less than 15 days prior to

	item and Town Board as hearing.	Commission meeting.	to Commission meeting.	Commission meeting.
<b>Rezoning</b>	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to hearing.	Yes, to properties within 500 feet area sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Text Amendment to Development Code (Chapters 10-11)</b>	Before Board as hearing.	No less than 15 days prior to hearing.	No.	No.
	<b>Hearing</b>	<b>Publication</b>	<b>Mailed notice</b>	<b>Post sign</b>
<b>Preliminary Plat</b>	Before Planning Commission as regular agenda item and Board as hearing.	No less than 5 days prior to meeting.	Yes, to property owners within 500 feet no less than 5 days prior to meeting.	Yes, no less than 5 days prior to Commission meeting.
<b>Final Plat</b>	Before Planning Commission as Hearing. <u>No</u> Board meeting or hearing.	No less than 5 days prior to Commission meeting.	Yes, to property owners within 500 feet no less than 5 days prior to Commission hearing.	Yes, no less than 5 days prior to Commission hearing.
<b>Conveyance Plat</b>	Before Commission as regular agenda item and Board as hearing.	No less than 5 days prior to Commission meeting.	Yes, to property owners within 500 feet, and referral agencies no less than 5 days prior to Commission meeting.	Yes, no less than 5 days prior to Commission meeting.
<b>PUD or amendment to PUD</b>	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet, and referral agencies no less than 15 days prior	Yes, no less than 15 days prior to Commission meeting.

			to Commission meeting.	
<b>Comprehensive Plan Amendment</b>	Before Planning Commission as hearing and Board as regular agenda item.	No less than 15 days prior to Commission hearing.	No	No
<b>Text Amendment to Development Code (Chapters 1-9)</b>	Before Planning Commission as regular item and Town Board as hearing.	No less than 15 days prior to hearing.	No.	No.
	<b>Hearing</b>	<b>Publication</b>	<b>Mailed notice</b>	<b>Post sign</b>
<b>Variances &amp; Appeals</b>	Board of Adjustment (BOA) as hearing	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet no less than 15 days prior to BOA hearing.	Yes, no less than 15 days prior to BOA hearing.
<b>Conditional Use</b>	Before Planning Commission as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet, and referral agencies no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Use By Special Review/Conditional Use: Medical Marijuana/Oil and Gas</b>	Before Town Board as a hearing	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet, and referral agencies no less than 15 days prior to Board meeting.	Yes, no less than 15 days prior to Town Board meeting.
<b>Minor Subdivision</b>	Before	No less than 5 days prior to hearing.	Yes, to property owners within 500 feet no less than 5	Yes, no less than 5 days prior to

	Planning Commission as hearing.		days prior to Commission hearing.	Commission hearing.
<b>Site Plan Review &amp; Action</b>	Administrative approval unless referred to Planning Commission by Administrator	No notice required,	No notice required,	No notice required,

#### **4. Modification of application at hearing**

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Trustees, Planning Commission or Board of Adjustment, the applicant may agree to modify his or her application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive so as to materially change the plans, the hearing body may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Town for review and approval as an administrative act.

#### **5. Hearing continuations**

The Board, Commission or Board of Adjustment may continue the hearing to a subsequent meeting at a certain date and time or may close the hearing and continue the meeting to deliberate the issues until a final decision is made. If a hearing is continued to a certain date and time, no further notice of a continued hearing or meeting need be published.

#### **6. Record**

A tape recording shall be made of all hearings, and transcripts of such hearings may be requested within thirty days of the close of the hearing. Transcripts shall be provided within a reasonable time after deposit of the cost of the preparation of the transcript with the Town.

**A. Intent.** To preserve Town's special character and integrate new development by promoting quality landscape design that:

1. Reinforces the identity of the community and each neighborhood;
2. Provides tree-lined streets with canopy tree species in urban areas;
3. Anchors new buildings within the landscape;
4. Provides tree canopies within paved areas; and
5. Preserve existing trees, utilize water conservation techniques, and support the planting of native species (when appropriate), to enhance the natural habitat.
6. Enhances natural features, and drainage ways.
7. Enhance functional open space through the creation of natural areas appropriate to the location and purpose of the open space within the development.
8. Maximizes connections within development sites to natural areas and to landscaped areas in adjacent developments
9. Reinforces neighborhood identity, creates consistency between proposed developments and the surrounding areas.
10. Incorporate the elements of gateway, path and destination into the design of landscapes. Gateways are entries that provide transitions from one space to another. Pathways are routes that lead to a destination. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.

**B. General provisions.** All land development applications except for building permits for individual single-family residences shall be accompanied by an appropriate landscape plan. New landscaping within the community shall comply with these regulations.

1. Site landscape design regulations. Landscape improvements shall be an integral part of the overall site design for all residential common areas, multi-family developments, and any non-residential development/property. Landscape improvements shall be designed to complement and enhance the character of the existing neighborhood and shall follow these guidelines.
  - a. Environmental considerations: Landscapes shall use the following *xeriscape* design principles to facilitate water conservation:
    - i. Well-planned planting schemes;
    - ii. Appropriate turf selection to minimize the use of bluegrass;
    - iii. Use of mulch to maintain soil moisture and reduce evaporation;
    - iv. Placement of plant materials according to their microclimatic needs and water requirements;
    - v. Improve the soil with organic matter if needed;
    - vi. Efficient irrigation systems that reduce spray over; and
    - vii. Proper maintenance and irrigation schedules.
    - viii. Group plantings of similar water requirements together.



- b. All landscapes shall strive to maximize the use of native species. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.
- c. Landscapes shall consist of a variety of species to enhance biodiversity.
- d. Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. No healthy tree shall be removed without good cause. If a healthy tree is removed with cause, it must be replaced with comparable trees per a tree mitigation plan. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.
- e. Where possible, trees shall be located to provide summer shade and limit winter shade on walks and streets.
- f. A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.
- g. Weed control will be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction.

**2. Plant materials.**

- a. The minimum planting sizes on all required landscaping shall be two inch caliper deciduous trees, one and one-half inch caliper ornamental trees, six foot tall evergreen trees and five gallon shrubs.
- b. Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. A variety of plant species should be installed to prevent the spread of disease.
- c. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the *American Standard for Nursery Stock*, American Association of Nurserymen, Inc., (AAN-ASNS) and the Colorado Nursery Act of 1965 (CNA).
- d. Plants shall be no more than twenty-four inches in height when located in a sight distance triangle.

**3. Irrigation.** This Code mandates landscaping and installation of permanent automatic underground sprinkler systems containing moisture sensors in all parks and open spaces within new developments, except for (i) Natural Areas, (ii) Open Water, (iii) all impervious surfaces, and (iv) as allowed in Section 7.c below. All irrigated landscaping shall be established and maintained in a live and weed-free condition. Irrigation shall be appropriate to the type and scope of the improvements.

- a. Water Dedication Requirements. Water dedication for irrigation purposes shall be in accordance with Section 30-10-105 of this Development Code.
- b. Criteria and process for determining Natural Areas and Open Water. Town staff in its discretion, with final approval of the Town Administrator, may determine that areas qualify as Natural Areas or Open Water in accordance with the definitions in Chapters 30-1-116 and 30-10-105.
- c. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available. Gravity flow irrigation using irrigation ditches for Native Seed Areas may be permitted as an

alternative to installing permanent automatic underground sprinklers where deemed acceptable and appropriate by the Town staff in its discretion, with final approval by the Town Administrator.

- d. Sleeving for the future installation of irrigation lines shall be provided under walkways and paved areas where irrigation may be installed in order to prevent or minimize damage and replacement to paved areas.
  - e. Irrigation systems shall be drip irrigation where possible in planting beds and for shrubs, trees, etc. All irrigation systems shall be designed to prevent overspray and runoff onto paved or other non-landscaped areas.
  - f. All automatic irrigation systems must be installed with moisture sensors.
4. Guarantee of installation. Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy for all structures. If weather conditions prevent installation, the developer, builder or applicant shall post a financial guarantee for the improvements. This guarantee shall be released by the Town upon completion of the installation of the landscaping and expiration of any warranty period.
5. Maintenance, removal, & replacement. All property owners/occupants shall be responsible for maintenance, removal and replacement of trees and landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property. All property owners/occupants of mixed use, commercial or industrial property with an approved Final Development Plan or Site Plan are responsible for the maintenance and replacement of landscaping as shown on that approved plan.
- a. Seventy five percent of all landscape areas shall be covered with living ground cover. The recommended ground cover should be attained within three years of the date of planting. The use of non-living ground cover, such as rocks, gravel and bark, should be used sparingly; non-living ground cover is generally most suitable as accent treatment.
6. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction, and operation.
- a. Every effort shall be made to prevent the spread of noxious weeds.

### **C. Landscaping design standards.**

1. Landscaping in common open space areas. Common open space areas are lands meant to be enjoyed by the general population, includes lands reserved for pocket parks and along trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation (where necessary) and paving. Native grass is appropriate for trail corridors while Kentucky bluegrass is appropriate for more active park areas and some open spaces.
- a. A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping – such as a homeowners’ association and covenants is required.

2. Tree-lined streets. The Town of Berthoud has a long, rich heritage of tree-lined streets. Today street trees and their conditions are a concern to those involved in urban forestry and the Town has the authority and obligation to assure that vegetation planted on public rights-of-way meets certain standards. Tree plantings should be made with the same methodical planning that is used when making substantial financial investments. To comply with Section 30-2-105 of this Code there are three options to achieve this requirement:

**a. Tree lawns with detached sidewalks:**

- i. Tree lawns are recommended in all developments.
- ii. Tree lawns along Local streets shall be a minimum of 6' in width to ensure adequate room for root growth. Tree lawns along Collector or Arterial streets shall be a minimum of 10' in width.
- iii. Trees shall be aligned in straight rows, located in the middle of the tree lawn, and spaced between 30'-40' (as appropriate given the species) on center in order to allow for mature spread. If two (2) or more consecutive residential lots along a street each measure between forty (40) and sixty (60) feet in street frontage width, one (1) tree per lot may be substituted for the thirty-foot to forty-foot spacing requirement. Such street trees shall be placed at least five (5) feet away from the edges of driveways and alleys, and forty (40) feet away from any streetlight and to the extent reasonably feasible, be positioned at evenly spaced intervals.

**b. No tree lawns, attached sidewalks:**

- i. In limited cases attached sidewalks will be allowed.
- ii. Trees installed along streets without a tree lawn shall include a mix of species, be generally aligned along the street frontage and may be placed outside of the public right-of-way.
- iii. Trees shall be irrigated from the adjacent private property owner.
- iv. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction.
- v. Street trees along rural streets where there is no sidewalk may be planted to create irregular clusters to reinforce the design and character of the project and frame views. Downtown streets – The properties generally located within the boundary of Massachusetts Avenue, Welch Ave, 1<sup>st</sup> Street, and LCR 17 are encouraged to provide decorative hardscaping, window boxes, planters, tree boxes, benches and street art, in order to attract pedestrian activity. Trees planted within paved environments shall have a minimum four-foot wide square tree well with grate.

**c. General regulations for trees to be planted on public right-of-way:**

- i. All newly-planted street trees shall be planted midway between the sidewalk and the curb. Trees shall be spaced to allow for safe, healthy, attractive growth.
- ii. No trees will be planted closer than 5' to an driveway or alley, nor shall it be planted in such a manner that eventual growth cannot be reasonably maintained to avert interference with, or obstruction of, any improvements installed for the public benefit such as traffic and street signs and lights, fire hydrants, overhead utility wires, street lights, utility poles, etc.
- iii. At edges of streets where a space of less than 5' in width exists between the curb and the abutting private property line, no trees or woody plants shall be planted on the public area so involved.

- iv. Where an attached sidewalk has been installed, no tree plantings are to be made closer than 5' from the edge of any concrete installation.
- v. Trees are not to be planted within 10' of either side of water, sewer, or storm drain main lines or within 5' of either side of water or sewer service lines.
- vi. No more than six of the same plant genus may be used consecutively in a row-type planting.

### 3. Minimum Species Diversity.

To prevent uniform insect or disease susceptibility and eventual uniform senescence on a development site or in the adjacent area or the district, species diversity is required and extensive monocultures are prohibited. The following minimum requirements shall apply to any development plan.

<i>Number of trees on site</i>	<i>Maximum percentage of any one species</i>
10—19	50%
20—39	33%
40—59	20% species; 30% genus; 40% family
60 or more	15% species; 20% genus; 30% family

#### 4. Tree Species and Minimum Sizes.

The Applicant shall provide a recommended list of trees, to be reviewed by the Town Forester and Community Development Director which shall be acceptable to satisfy the requirements for landscape plans, including approved canopy shade trees that may be used as street trees. The following minimum sizes shall be required (except as provided in subparagraph (5) below):

<i>Type</i>	<i>Minimum Size</i>
Canopy Shade Tree	2.0" caliper balled and burlapped or equivalent
Evergreen Tree	6.0' height balled and burlapped or equivalent
Ornamental Tree	1.5" caliper balled and burlapped or equivalent
Shrubs	5 gallon or adequate size consistent with design intent
Canopy Shade Tree as a street tree on a Residential Local Street Only	1.5" caliper container or equivalent

- i. Any tree plantings that are in addition to those that are made as part of the approved landscape plan are exempt from the foregoing size requirements.
- ii. Ornamental trees shall be planted in substitution for the canopy shade trees required in subsection (7) above where overhead lines and fixtures prevent normal growth and maturity. Ornamental trees shall be placed at least fifteen (15) feet away from any streetlight.
- iii. A permit issued by the Town Forester, will be required prior to the planting of any Street Tree (or tree on public land). Any violations will follow Article V, Section 30-5-101 of this code, and may result in the Town withholding permits and Certificates of Occupancy.
- iv. The caliper shall be measured 6 inches above the tree-line.

#### 5. Trees permitted within rights-of-ways.

a. The following list identifies tree species allowed on public lands or within the public right-of-way (7' in width or larger) in the Town of Berthoud as of the adoption of this Code. Additional tree species may be permitted if approved by the Forestry Division as appropriate. Trees marked with an asterisk are drought tolerant.

- **Oak (Quercus) Genus:** Bur\*, Chinkapin\*, Chesnut\*, English\*, Shumard\*, Texas Red\*, Heritage\*, Bur-gambel Hybrid\*, Fastigate English\*, Crimson Spire\*.
- **Elm (Ulmus) Genus:** Choice City\*, Prospector\*, Accolade, Triumph, Discovery, Brandon, Regal. Make sure cultivar is resistant to Dutch Elm Disease and Elm Leaf Beetle.
- **Legume (Fabaceae) Family:** Shademaster Honeylocust\*, Skyline Honeylocust, Imperial Honeylocust, Kentucky Coffeetree\*, Kentucky Coffeetree Espresso\*.
- **Linden (Tilia) Genus:** Redmond, Greenspire, American, Glenleven.
- **Planetree (Platanus) Genus:** Bloodgood, Exclamation, Northern Advance. Make sure cultivar is resistant to anthracnose.
- **Chokecherry (Prunus Virginiana) Genus:** Canada Red\*, Sucker Punch\*. (Height usually 20-25')
- **Maple (Acer) Genus:** Bigtooth (single stem)\*, State Street\*, Caddo Sugar\*, Columnare, Fairview.
- **Buckeye (Aesculus) Genus:** Ohio Buckeye\*, Yellow Buckeye, Texas Buckeye\*, Prairie Torch Hybrid Buckeye, Common Horsechestnut\*.

**Other trees allowed along right-of-way (by common name):** Hackberry, Western Catalpa, Ginkgo, or any other tree species allowed approved by the Town Forester.

b. **Trees in Public Lands:** The following tree species are permitted to be planted within parks, common areas, open spaces, and other public lands:

**i. Deciduous Trees**

<u>Plant Name</u>	<u>Height/Spread</u>		<u>Plant Name</u>	<u>Height/Spread</u>	
Toba Hawthorn	15'	15'	Goldenrain Tree*	20'	30'
Amur Chokecherry	25'	20'	Russian Hawthorn*	20'	15'
Washington Hawthorn	20'	15'	Cockspur Hawthorn*	20'	15'
Thornless Hawthorn*	25'	20'	Downy Hawthorn*	25'	25'
Japanese Tree Lilac*	20'	20'	Coralburst Crabapple	15'	15'
Coralburst Crabapple	15'	15'	Dolgo Crabapple	30'	30'
Spring Snow Crabapple	25'	25'	Thunderchild Crabapple	15'	20'
Indian Magic Crabapple	15'	20'	Radiant Crabapple	20'	25'
Red Jewel Crabapple	10'	15'	Tina Sargent Crabapple	8'	10'

Gambel Oak*	8'	6'	Newport Plum	25'	15'
Autumn Blaze Pear	30'	25'	Cleveland Select Pear	30'	25'
Royal Star Magnolia	10'	15'	Hotwings Maple	15'	20'
Autumn Brilliance			Wavyleaf Oak*	20'	20'
Serviceberry	25'	15'	Callery Pear	35'	25'
Red Buckeye	20'	15'	Box Elder Sensation		

- Any Tree not on the list as approved by the Town Forester

**ii. Evergreen trees.**

<u>Plant Name</u>	<u>Height/Spread</u>		<u>Plant Name</u>	<u>Height/Spread</u>	
Colorado Blue Spruce	60'	30'	Pinyon Pine*	20'	15'
Bristlecone Pine*	20'	20'	Concolor Fir, White Fir	50'	30'
Eastern Red Cedar*	40'	15'	Austrian Pine*	50'	40'
Rocky Mountain Juniper*	30'	15'	Spartan Juniper	15'	6'
One Seed Juniper*	15'	13'	Cologreen Juniper*	15'	6'
Gray Gleam	15'	6'	Skyrocket Juniper	15'	3'
Wichita Blue Juniper*	15'	6'	Fastigate Norway Spruce	15'	6'
Black Hills Spruce	25'	20'	Vanderwolf's Pyramid Pine	30'	20'
Bosnian Pine	20'	12'	Ponderosa Pine*	60'	30'
Scots Pine**	60'	30'	Siberian Larch	50'	25'
European Larch	60'	25'			

- c. The following trees are prohibited for any new planting within the Town of Berthoud right of way or on public lands.**

1. Any of the ash species (*Fraxinus* spp.) Including Green, White, Purple, Blue, or any other ash due to emerald ash borer.
2. Any of the poplar species (*Populus* spp.), including but not limited to Cottonwood, Aspen, Silver Poplar, Lombardy Poplar
3. Any of the Willow species (*Salix* spp.)
4. Siberian (Chinese) Elm (*Ulmus pumila* )
5. Any weeping or pendulous type tree (i.e. Weeping Birch).
6. Any shrub or hedge which by its habit of growth would obstruct, restrict, or conflict with necessary and safe use of the public rights-of-way.
7. Conifers or evergreens which would eventually grow over the sidewalks or streets
8. Any Honeylocust (*Gleditsia triacanthos* ) that bears either seed pods or thorns.
9. Purple Locust, Black Locust, Mulberry, Bradford Pear, Black Walnut, Russian Olive, Tree of Heaven, Tamarisk, , Silver Maple, Birch.

**D. Business/commercial and industrial development landscaping standards.**

1. New buildings and paved areas. Provide trees, shrubs and groundcover plantings along front and sides of new buildings. The size and intensity of plantings shall be appropriate to the building or structure.
2. Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.
3. Use landscaping to provide a transition from developed, managed landscape to more natural areas and vegetation.
4. Provide a tree canopy by installing shade trees within and adjacent to paved areas.

**E. Landscape improvements within the R-3, R4, C1, C2, M1 and M2 districts** shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. A minimum of fifteen percent of the site (gross) shall be landscaped area.

1. The developer or assigns shall provide:
  - i. Site trees – plant a minimum of one tree per one thousand square feet of landscaped area, distributed on the site, exclusive of right-of-way landscaping.
  - ii. Shrubs – plant a minimum of one shrub per one hundred fifty square feet of landscaped area, exclusive of right-of-way landscaping. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half of the required shrubs at the rate of one tree for six shrubs.
  - iii. Groundcover – establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. There shall be a minimum of seventy-five percent live materials between the building and the street unless otherwise approved by the Town.
  - iv. Landscape setback to parking lots – fifteen feet from streets to provide a buffer between the street and parking areas.



- v. Screen loading areas –Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property must be screened from view with an opaque screen that is an integral part of the building architecture, or by landscaping. Chain link fencing with or without slats, tires, or used building materials is not acceptable as screening material.
  - vi. Utility Boxes, loading docks, outside trash receptacles and dumpsters, storage areas, and any other outdoor storage areas shall be screened in the following manner:
  - vii. Whenever plants are used as a screen the plants should be coniferous. They should provide an opaque screen within three (3) years of the time they are planted.
  - viii. Utility boxes, including, but not limited to, electric transformers, switch gear boxes, and telephone pedestals, and boxes should be screened on all sides not used for service access.
  - ix. The materials and colors of the screen should blend with the site and the surroundings.
  - x. Trash enclosures should be placed around dumpsters and any other proposed receptacles of trash. The dumpster should be screened entirely from view. The enclosure shall prevent trash from being scattered by wind or animals. The dumpster should be placed on a concrete pad, enclosed by an opaque wall at least six feet in height, with opaque gates. The enclosure should be sturdy and built quality wood and or/masonry materials. The trash enclosures should be sited so the garbage truck has convenient access to the enclosure and has room to maneuver without backing onto a public right-of-way.
2. The property owner or occupant shall be responsible for the area landscaping within adjacent road right-of-way in accordance with Town regulations, which includes the maintenance, removal, and replacement of trees, shrubs, and groundcover.
3. Parking lot landscaping standards. At least 5% of all parking lot area shall be landscaped (this requirement is in addition to the overall 15% landscaping requirement for the site. . Parking lot landscaping is intended break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development and enhance the overall appearance of each project. All parking lots with ten spaces or more shall be subject to these requirements. The developer or assigns shall provide:
- i. Site trees – a minimum of one tree per five parking spaces. Group trees together in islands which are a minimum of nine feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.
  - ii. Shrubs – a minimum of one shrub per one hundred square feet of landscaped area. Group plantings in landscape islands.
  - iii. Groundcover – limit areas of irrigated turf. Grass is discouraged in areas less than ten feet wide. Install a grass buffer (native grass where possible) around the perimeter to filter runoff and improve water quality.
  - iv. Landscape setback to parking lots – fifteen feet from all arterials, collectors, and other streets. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street.
  - v. Provide a mechanism for long-term maintenance of landscaping – all landscaping within and adjacent to parking lots shall be owned and maintained by the landowner.

- vi. Screening:** whenever there are more than three parking spaces on the property, the parking lot should be screened for at least two-thirds of the length of the parking lot, and shall satisfy the following standards:
  - a.** Berms, walls, fences, plants, planters or similar means should be used to create the parking lot screen. Whenever structures such as walls or fences are used to create a screen, plants should be located on the sides of the structure which can be seen from surrounding streets, walks, parks, trails and other properties which are used by the public.
  - b.** The screen around the parking area should be at least three (3) feet higher than the surface area of the parking lot. Whenever plants are used to create a screen, the plants should create a three-foot screen within three years from the time planted.
- vii. Landscape Islands:** Two feet at the end of each landscape island should remain unplanted, as the end points of islands are often run over by cars. The use of cobbles, patterned concrete, or brick pavers should be considered.
- viii. Landscape areas in parking lots** shall be no smaller than 80 square feet each, and shall contain at least one (1) tree and five (5) shrubs for each island. Islands larger than 80 square feet shall contain one (1) additional shrub for each additional 20 square feet of area, and one (1) additional tree for each additional 200 square feet of area.
- ix.** Pedestrian and/or vehicular access ways should be extended to the property line in order to interconnect with other adjacent commercial/industrial parking lots, sidewalks, and/or trails, with landscaping to enhance such connections.

**Figure 2.15: Small tree planting**

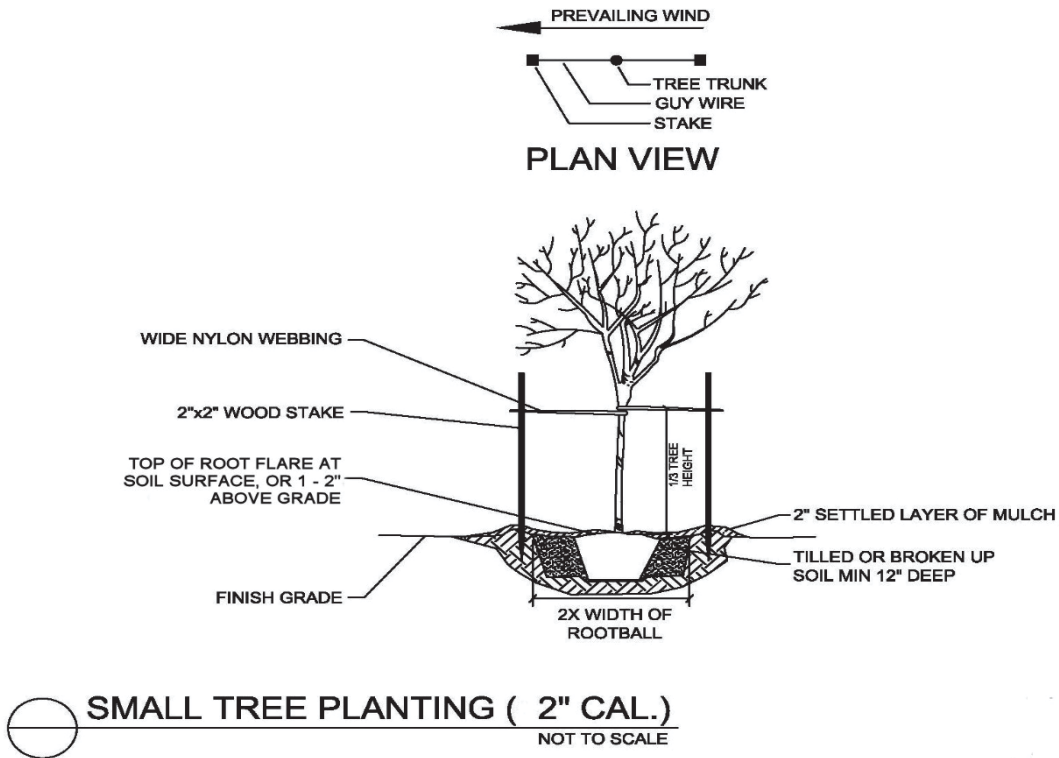


Figure 2.16: Evergreen planting

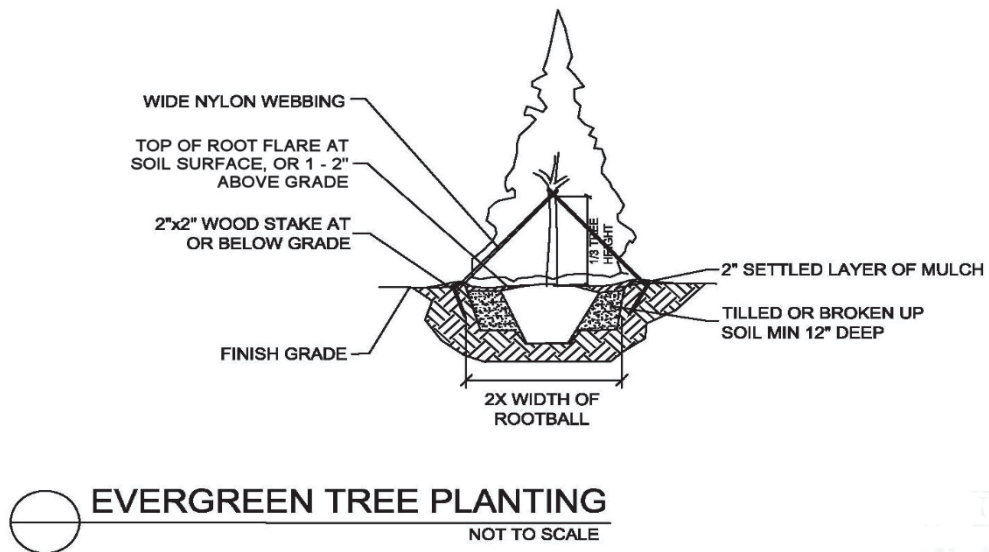
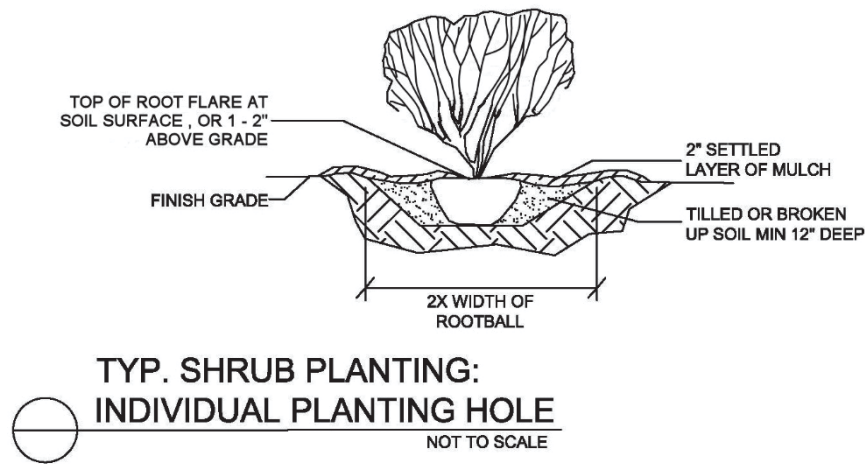


Figure 2.17: Shrub planting



4. Storm drainage facilities as public open space or park lands. For drainage facilities proposed and accepted as open space or park lands the following requirements apply.
  - a. If a proposal is made to dedicate a Detention basin or Retention basin to the Town, the Town shall determine if it serves the public interest. Public interest shall be based on ease of maintenance, potential use of the area for open space or recreation uses by the public, whether the area would complement the Town's park or greenway system, and/or whether the applicant shall provide for ongoing maintenance of the facility.
  - b. If the Town accepts dedication of a Detention basin or Retention basin, or if the Detention basin or Retention basin is intended to be part of a pocket park or common open space area, regardless of ownership or maintenance, the following standards shall apply:
    - i. The bottom of the pond shall be planted with turf grass or similar, in order to provide an active playing field, and irrigated at 3 AF/Ac.
    - ii. Slopes shall comply with Town standards but in no case shall exceed a slope of 6:1. Slopes shall be planted with either native seed or turf and irrigated according to Chapter 10.
    - iii. Trees shall be planted at the top of the retention pond at a distance of one tree every 40' linear feet, and irrigated at 1.33 AF/ac. Ground cover may included native seed and shrubs.
    - iv. Adequate access in the form of sidewalks and/or trails shall be provided to the detention basin or Retention basin for pedestrians, the physically disabled and for maintenance equipment.
    - v. Drainage structures shall be designed and located to facilitate maximum use of the detention

area for recreational use.

c. Amenities such as benches, play equipment, game courts and playing fields appropriate to the size and location of the detention pond shall be required and based upon proposed/existing adjacent uses unless the detention pond location or design does not reasonably accommodate the amenities. On one acre or less, fewer amenities are required. The applicant shall be responsible for installing all amenities per Town standards.

d. Submittal standards for landscape plans. Land development applications listed below will be accompanied by the appropriate landscape plan:

**Table 2.5: Submittals necessary for Landscape Plans**

TYPE OF APPLICATION	PRELIMINARY LANDSCAPE PLAN	FINAL LANDSCAPE PLAN
Preliminary Plat/PDP	Yes	
Final Plat/FDP		Yes
Minor Subdivision		At Town discretion
Conditional Use Review		Yes
Site Plan		Yes

1. Preliminary landscape plan. (submit with preliminary plat) Intent: to illustrate the master landscape plan for the development.

a. Describe the design intention and how the proposal is consistent with the purpose and intent of these regulations.

b. Information required on the plan is listed in Table 2.6 below.

2. Final landscape plan. (submit after final plat) Intent: to ensure each phase of the final landscape plan is consistent with the master landscape plan for the development and to illustrate the specific landscaping details for each phase.

a. Describe the design intention and how the proposal is consistent with the preliminary landscape plan.

b. The final landscape plan must be on a separate page from the final plat map and should be included with the final open space plan. The scale shall not greater than 1"=50'.

3. Landscape plans submitted shall include:

a. Accurate and clear identification of all applicable hydrozones using the following categories:

i. High Hydrozone (bluegrass): 3 acre feet.

- ii. Moderate Hydrozone (trees and shrubs): 1.33 acre feet.
- iii. Low Hydrozone (natural grasses): 0.8 acre feet.

b. Information required on the plan is listed in Table 2.6 below.

**Table 2.6: Information required on Landscape Plans**

INFORMATION REQUIRED	PRELIMINARY	FINAL
Scale, north arrow, site boundary.	Y	Y
Existing and proposed streets.	Y	Y
Existing and proposed utilities and easements.		Y
Existing and proposed contours (2' intervals).		Y
General grading concepts for improvements, typical cross-sections of streets and special treatment areas.	Y	
Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site. Indicate which plants will be preserved, the method of preservation and which will be removed.	Y	Y
General location of proposed trees, shrubs, groundcover, walks, and fences.	Y	
Indicate areas to be irrigated, the irrigation method, and zones of water usage (in Acre-feet) .		Y
Typical detail drawings at 1"=20' to illustrate perimeter treatment, buffering, typical front yard, and any special treatment areas on the site.		Y
Define areas to be considered open space and if public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management during and after construction.	Y	Y
Detailed planting plan indicating location, species, size, quantity, and ratio (percentage of total) of all proposed trees, shrubs, and groundcover.		Y

Improvements shall be shown in their final location and mature size. Include a plant list in chart form and description of the type and location of groundcover, walks, fences, and mulches. Include a cost estimate (separate sheet) for improvements.		
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**A. Purpose.** The Board of Trustees of Berthoud have determined that residential development is a primary component of land use in this community and that the appearance of single or multi-family dwellings from the street is intrinsically related to the preservation of neighborhood character and quality of life.

**B. Applicability.** The Design standards stated in this "section" are intended to implement strategies for residential development, and promote quality design of an urban environment. In an effort to avoid monotonous streetscapes, all residential development (including PUDs and development on individual lots or parcels) shall include a mixture of different lot sizes, dimensions, and housing models, as provided and described in this section, unless expressly exempt by this section. Repetitive front elevation dwellings shall not be located adjacent to or directly across the street. The requirements of this Section shall not apply to the rebuilding of a structure not in conformance with this Section that has been damaged or destroyed by fire or natural disaster.

**C. Compliance required for building permit.** Compliance with this Section, as determined by the Planning Director, shall be required as a condition of the issuance of a building permit for any single or multi-family residential dwelling. A decision by the Planning Director may be appealed by the Applicant to the Planning Commission on appeal, acting as the Board of Adjustment. Architectural elevations shall be submitted with all site plans. Block Diversity plans shall also be submitted as required herein, during the building permit process.

**D. Single-family dwelling standards.** The intent of this section is to foster new residential development with architectural designs that create diversity and variety along residential streets.

**1. Lot diversity:**

- i. *Mix of Housing.* A mix of permitted housing types shall be included in any individual development plan, to the extent reasonably feasible, depending on the size of the parcel. In order to promote such variety, the following minimum standards shall be met:
  - (a) A minimum of two (2) lot diversity types as provided below in Section 30-2-116 (C)(1)(iii), shall be required on any project development plan containing twenty (20) acres or more, including such plans that are part of a phased overall development; a minimum of three for thirty (30) acres or more; and a minimum of four (4) housing types shall be required on any such project development plan containing (50) acres or more.
  - (b) To the maximum extent feasible, housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes. For example, providing distinct single-family detached dwellings or two-family dwellings on larger lots and on corners and providing small lot single-family dwellings on smaller lots abutting common open spaces fronting on streets are methods that accomplish the lot diversity requirements set forth in this subsection 1.
  - (c) The following list of housing types shall be used to satisfy this requirement:



1. Single-family detached dwellings with rear loaded garages.
  2. Single-family detached dwellings with front or side loaded garages.
  3. Small lot single-family detached dwellings (i.e. lots containing less than four thousand [4,000] square feet or with lot frontages of forty [40] feet or less) may be used to satisfy the lot diversity requirements if: 1) there is a difference of at least two thousand square feet between the average lot size for small lot single-family detached dwellings (insert that average size) and 2) the average lot size for single-family detached dwellings with front or side loaded garages
  4. Two-family dwellings.
  5. Single-family attached dwellings.
  6. Two-family attached dwellings, the placement of which shall be limited to no more than two (2) such dwellings per two (2) consecutive individual lots.
  7. Mixed-use dwelling units.
  8. Multi-family dwellings containing more than three (3) to four (4) units per building;
  9. Multi-family dwellings containing five (5) to seven (7) units per building.
  10. Multi-family dwellings containing more than seven (7) units per building (limited to twelve [12] dwelling units per building).
  11. Modular homes.
  12. Commercial uses.
- (d) A single lot diversity use or type as provided above in Section 30-2-116 D (1) (i) (a) shall not constitute more than eighty (80) percent or less than five (5) percent of the total number of lots or dwelling units in each development plan.

2. **Housing Model Diversity Detached:**

- i. Any development of one hundred (100) or more single-family detached dwelling units shall have at least four (4) different housing models. Any development containing fewer than one hundred (100) single-family or two-family dwelling units shall have at least three (3) different types of housing models.
- ii. In addition to having unique model types, each model shall have a minimum of two unique architectural elevations. Each elevation shall be distinguishable from one another and shall have at least four (4) of the listed building elements which clearly and obviously distinguish it from other elevations of the same model:
  - a. Unique porches and front entries that include different architectural styles, building materials, sizing, or placement;
  - b. Exterior materials (e.g. stucco, natural wood, cement fiberboard, rock, brick, etc);

c. Garage orientation and point of access. Unique garage styles will also be considered (e.g. carriage doors, raised panel, contemporary, etc);

d. Roof types (e.g. gable, hip, lean-to, dormer, etc);

e. Creative design alternatives not stated above

f. Any two elevations that are distinctly different architectural styles (e.g. colonial, cottage, craftsman, farmhouse, French country, modern, ranch, traditional, Tudor, Victorian, etc) shall be exempt from these requirements.

iii. The requirements for block diversity provided above shall not apply to developments containing five (5) or fewer dwelling units.

iv. Housing Model, Elevation and Floor Plan Requirements per street:

	<b># of Lots between on same side of street*</b>	<b>Lots Across the Street *</b>	<b>Cul-de-sacs</b>
<b>Floor Plan</b>	Must be at least one lot apart, including abutting lots (or lots separated by a street or an alley)	Not across the street	Every 3
<b>Elevation (must be distinct in nature to be considered a separate elevation—minor aesthetic changes will not be counted as separate elevations)</b>	Every 3	Not across the street	Spaced not across, plus one down (or cattycorner) left and right on each side
<b>Color (also must be a distinct color difference to be counted)</b>	Every 3	Not across the street	Not across, plus one down (or cattycorner) left and right on each side
<b>Front Porch/Staggered Setbacks</b>	Front porches can be utilized instead of line of house, for staggered setbacks	Not applicable.	Staggered setbacks not required on cul de sacs

\* Adjacent lots shall include abutting lots, or those lots separated by a street, alley, auto court, loop lane, or other common private drive.

### **3. Housing Model Diversity Single Family Attached:**

i. For any development containing at least three (3) and not more than five (5) buildings (excluding clubhouses/leasing offices), there shall be at least two (2) distinctly different building designs. For any such development containing more than five (5) buildings (excluding clubhouses/leasing offices), there shall be at least three (3) distinctly different building designs. For all developments, there shall be no similar buildings placed next to each other along a street or street-like private drive. Building designs

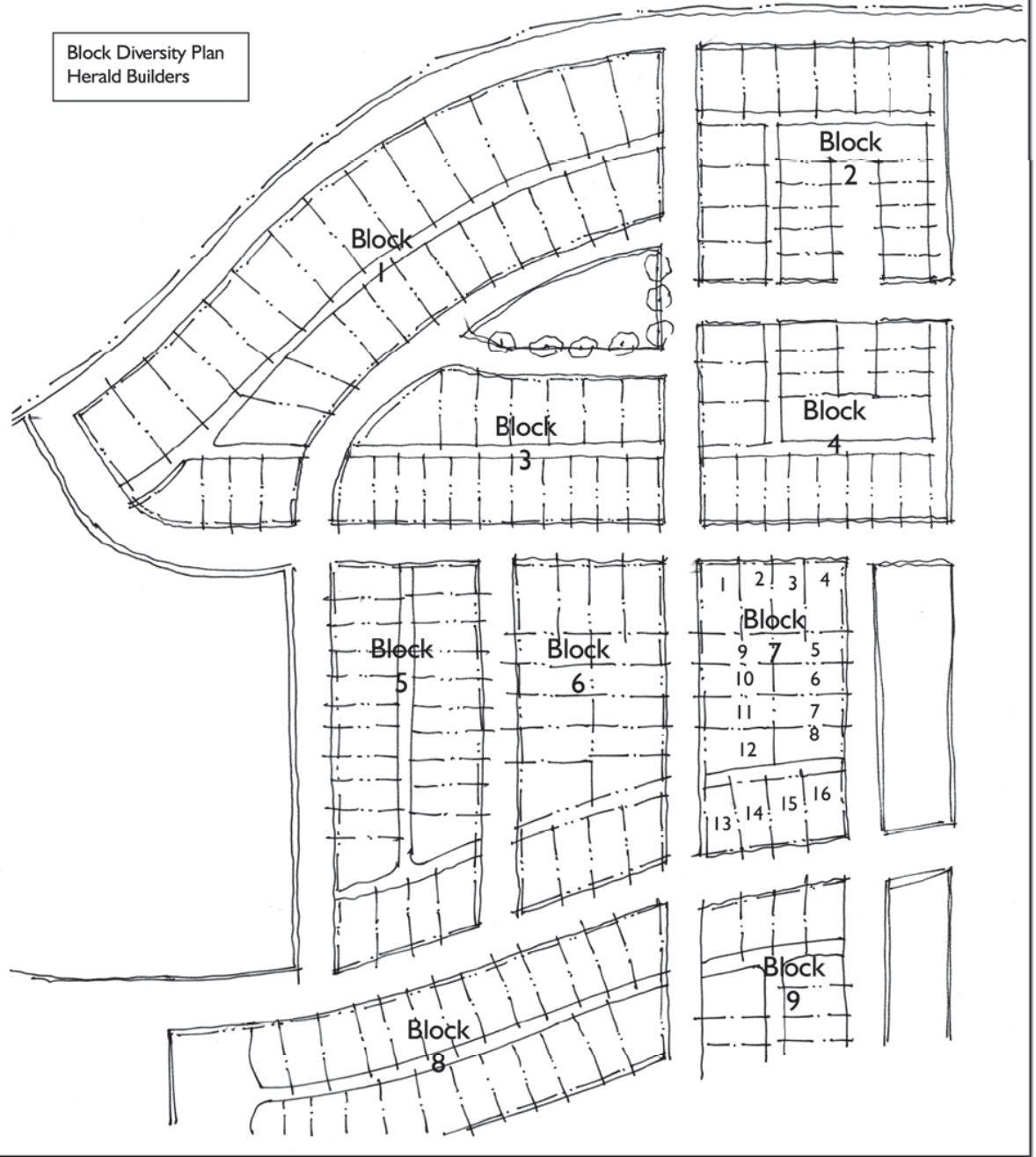
ii. Building designs shall be further distinguished by including unique architectural elevations and unique entrance features, within a coordinated overall theme of roof forms, massing proportions and other characteristics. Such variation among buildings shall not consist solely of different combinations of the same building features.

- i. Applicability. Every phase that would include 5 or more residential building permits must complete a Block Diversity Plan. The Block Diversity Plan will be submitted as part of the building permit process.
- ii. Review and Approval. Review of any Block Diversity Plan will be based upon conformance to the intent of the architectural and design policies found in this Section. Review and approval will be conducted and determined by Town Staff.

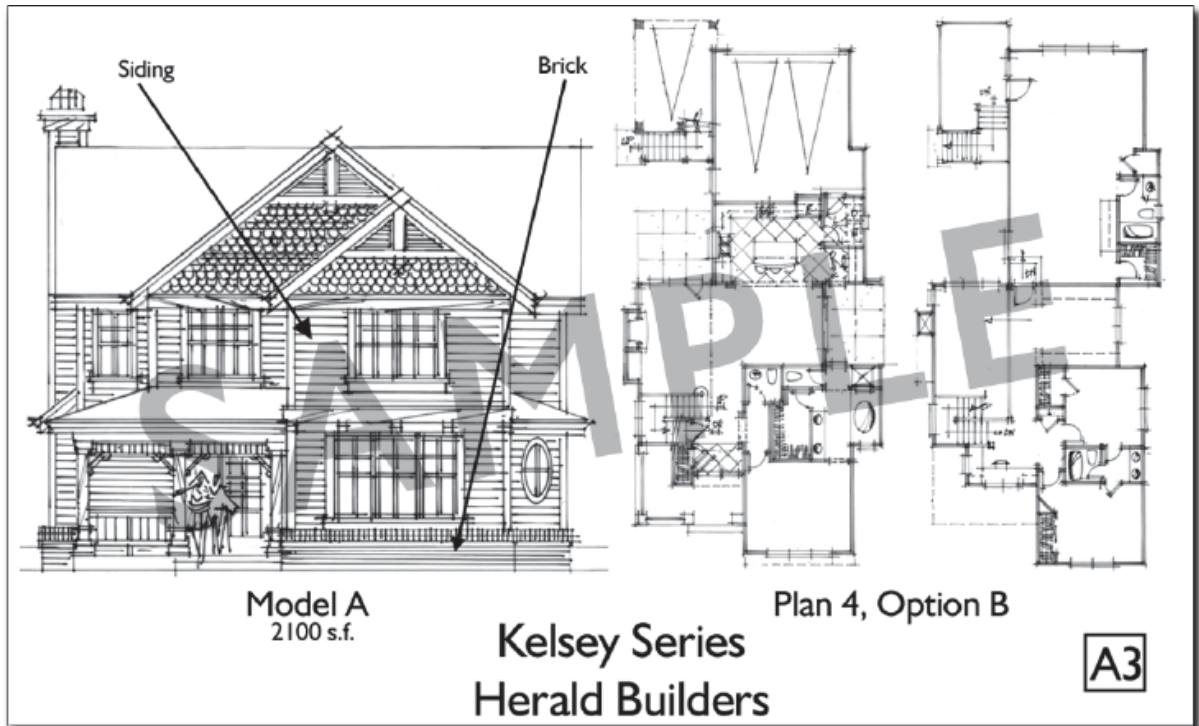
SAMPLE

Sample Block  
Diversity Key

Block Diversity Plan  
Herald Builders



Sample Block Diversity Map  
to be submitted by the Builder/  
Developer, to illustrate housing  
mix.



Sample Elevation  
and Floor Plan  
Submittal

5. **Exterior colors of residential dwellings.** Residential subdivisions and developments shall include a variety of exterior color palettes to provide diversity within the subdivision or development. Color palettes shall be included in the design guidelines submitted with a subdivision or development. Fluorescent or intense colors shall not be used on any wall or roof of any dwelling or accessory structure.
6. **Architectural design of dwellings.** All dwellings and accessory structures shall provide quality architectural design that takes into consideration building massing and style, roof lines, window and door placement, exterior materials and colors and other architectural features.
  - i. Dwellings on corner, end, or double frontage lots shall include architectural features, such as windows and doors, porches and entry features, building materials, and other features that complement the front of the dwelling, along the sides or back of dwellings that face streets, drives, or open space areas.
  - ii. New or replacement dwellings, dwelling additions and accessory structures shall be designed to be architecturally compatible with the surrounding neighborhood, as applicable, in terms of building materials and colors, roof forms, building massing and style and other architectural features.
7. **Front setbacks:** Front setbacks on adjacent lots shall vary by at least 2½ feet to provide

for a varied streetscape, and verification of this standard shall be provided by the Applicant in the Block Diversity Plan.

**8. Utility Services:**

- i. Utility Location. Utility services shall be located underground when practical. Exceptions to the requirements of underground utilities are:
  - ii) Major electric transmission lines responsible for transporting power through the area rather than to the area;
  - iii) Where the Community Development Director and/or Public Works Director determines that the underground utility location is not practical, above grade utilities shall be located behind structures in a utility "alley" easement approved by the applicable utility authority where practical.

**9. Garages.** To prevent residential streetscapes from being dominated by protruding garage doors, the following standards shall apply to all new residential development (including PUDs containing residential uses and development on individual lots or parcels).

- i. All garages shall be located a minimum of 20 feet from the back of sidewalk or property line, whichever is more restrictive.
- ii. Garages may make up no more than 65% of the length of the wall face of the building except when located on a lot within a cul-de-sac, or when such garage doors are located on the side of a dwelling facing a side yard street, wherein they may comprise up to two-thirds of the street-facing linear building frontage.
- iii. If there are 3 or more bays included in the façade, only 2 garage doors may be in the building plane. Additional bays must be offset at least 2 feet further back.
- iv. For any side-load garage orientation, a minimum of 2 windows of at least 4 sq. ft., each must be installed on the street-facing façade.
- v. Relationship of home & garage. The front façade of any home and the associated garage may be in the same building plane if a roofed porch integral to the architecture of the residence of at least 4 feet in width and 8 feet in length is constructed along the front façade. If no porch is present, the garage plane must shift at least 2 feet in any dimension from the residential portion of the structure.

**C. Multi-family stacked units, including condominiums and apartments.** Applicants seeking to build multi-family units shall achieve a balance between repetition and variety in the architecture of these buildings. Each multi-family dwelling containing more than 3 dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics. The following specific standards shall apply to multifamily stacked units, including condominiums and apartments:

1. **Individual building identity.** For all developments consisting 100 or more multi-family stacked dwelling units, a floor plan may be repeated; however, identical building facades must not be replicated more than twice within the development. During the site plan approval process, the applicant shall illustrate how the development will comply with the requirements set forth in this section.

2. **Articulation.** Each multi-family dwelling or condominium shall be articulated with projections, recesses, covered doorways, balconies, box or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions. Each multi-family building shall feature walls that are articulated by a least 3 of any of the following elements within every 36 foot length of the facade:

- i. Recesses, projections or significant offsets in the wall plane;
- ii. Distinct individualized entrances;
- iii. Chimneys that project from the wall plane;
- iv. Balconies and/or other outdoor living space; or e. Bay or box windows.
- v. Height differentiation between buildings.

3. **Roofs.** Each multi-family building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least 1 of the following elements:

- i. Changes in plane and elevations;
- ii. Dormers, gables or clerestories;
- iii. Transitions to secondary roofs over entrances, garages, porches, or bay windows.

4. **Color.** For all developments, there shall be no more than two (2) similarly colored structures placed next to each other along a street or major walkway.

5. **Garages.** No street-facing facade shall contain more than 4 garage fronts. Resident garages or parking that is internal to the block is encouraged. Resident garages or parking that is internal to the development is encouraged. On-street parking should be made available for visitors.

i. **Articulation.** At a minimum, a vertical trim detail that subdivides the overall siding pattern shall be provided at intervals not to exceed two (2) internal parking stalls (approximately twenty [20] to twenty-four [24] feet).

ii. **Rear Walls of Multi-Family Garages.** To add visual interest and avoid the effect of a long blank wall with no relation to human size, accessibility needs or internal divisions within the building, the following standards for minimum wall articulation shall apply:

(i) Length. Any garage located with its rear wall along the perimeter of a development and within sixty-five (65) feet of a public right-of-way or the property line of the development site shall not exceed fifty-five (55) feet in length. A minimum of seven (7) feet of landscaping must be provided between any two (2) such perimeter garages.

(ii). Articulation. No rear garage wall that faces a street or adjacent development shall exceed thirty (30) feet in length without including at least one (1) of the following in at least two (2) locations:

- a. change in wall plane of at least six (6) inches,
- b. change in material or masonry pattern,
- c. change in roof plane,
- d. windows,
- e. doorways,
- f. false door or window openings defined by frames, sills and lintels, and/or
- g. an equivalent vertical element that subdivides the wall into proportions related to human scale and/or the internal divisions within the building.



**Table 3.1 Revised Lot and Density Standards Residential**

Dimensions	R-1	R-2	R-3	R-4	R-5	Traditional Neighborhood	AG
Maximum Density Per Gross Acre	8 Dwelling units	16 dwelling units	20 dwelling units	24 dwelling units	12 dwelling units	24 dwelling units	1 dwelling unit (unless on septic)
Maximum building height	40	40	40	50	16	50	40
Minimum lot width ① :	30	20	16	16		16	150
Minimum setback:							
Front yard Front loaded (with garage)	20*	20*	20*	20*	25 (entire park)	N/A	25
Front Yard Rear loaded (rear, or no garage)	15	10	10	10	25 (entire park)	0	25
Rear yard With front loaded garage	20	10	10	10	15 (entire park)	10	25
Rear yard With rear loaded garage	5-8	5-8	5-8	5-8	15 (entire park)	5-8	25
Side: MF: 3 Storeys	5	5	5	5	15 (entire park)	3	15
Corner Side	10	10	10	10	15 (entire Park)	10	15
Minimum lot area:	3,500	2,000	1,400	1,200	3,000	1,200	1 acre

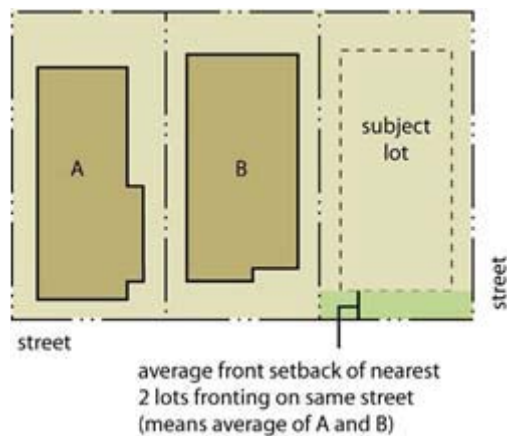
**Footnotes**

①	At required front yard setback line.
②	Zero lot line: Each residential unit, (20) ft. for R-2 (16 ft.) R-3; (16) ft. for R-4;
③	Height Transition required as provided in Section 30-3-104 D.
④	On building lots in R-2, R-3 and R-4, and Traditional Neighborhood, dwelling units may be located on the lot at zero feet from one side lot line, if there is a maintenance agreement agreed to by the owner of the lot adjacent to that zero-lot line. Off-setting setbacks, setbacks of 0 ft. and 10 ft. are allowed in each district.
⑤	Balconies that are at least ten (10) feet above the sidewalk may encroach into the front setback or right of way, up to 5 feet, and cantilevered or bay windows that are at least 10 feet above the sidewalk surface, may encroach five (5) feet into the required front setback, and no more than two (2) feet into the required side or rear setbacks. Fire-resistive rating and opening requirements of the building code shall be complied with for exterior walls.
⑥	<p>Buffer Areas:</p> <p>On Arterial: A 30' perimeter buffer is required from all arterial streets.</p> <p>On Collectors: A 20' perimeter buffer is required from all collector streets.</p> <p>Mixed Use: A permanent landscape buffer consisting of a hedge or evergreen plant material, or a solid wall or fence, is required screening for Mixed Use buildings or commercial uses</p>

	abutting a residential zoning district.
7	Infill Front setbacks as provided in Infill Setbacks 30-3-104 C
8	Accessory buildings. All unattached accessory buildings shall satisfy Section 30-116-1 a 2, and be five (5) feet from all property lines and no more than 30' in height except for garages with vehicle access on corner side lots, which will follow the regular setbacks of the zoning district; Accessory Dwelling Units must meet be no more than 850 sq. ft. in size, located not forward of the principal structure, match the principal structure, and must follow the district setback standards.
9	A 5' minimum rear setback for new lots/development; and an 8' minimum setback for development within existing lots of record abutting alleyways.
10	10' setback on rear yards to any deck, including covered decks and patios.
*	For residential properties with a 7 foot or wider tree lawn, the required front setback to a front porch may be reduced by 7 feet. Front covered porches are allowed a 10' front setback. Side-loaded garages are allowed a 10' front setback for the garage portion.
☆	Please see Section 30-3-105 for additional encroachments into required setbacks
☆☆	Additional Density for modular home, or tiny house/park model developments may be considered as a use by special review.

### C. Infill Requirements

i. *Infill Front Setback.*: Contextual front setbacks shall be as deep as the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:



ii. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;

**J. Table 3.2 Revised Lot and Density Standards Commercial and Industrial**

	C-1	C-2	M-1	M-2
Maximum Density Per Gross Acre	24 Dwelling units	20 dwelling units	N/A	N/A
Maximum building height	50	50	40	50 <sup>③</sup>
Minimum lot width ① :	25	50 <sup>②</sup>	50 <sup>②</sup>	50 <sup>②</sup>
Minimum setback:				
Front yard	0' <sup>②⑥</sup>	25 <sup>③⑥⑧</sup>	25 <sup>⑧</sup>	20 <sup>⑧</sup>
Rear yard	0'/20' <sup>④</sup>	35 <sup>⑤⑦⑧</sup>	20 <sup>⑤⑦⑧</sup>	20 <sup>⑦⑧⑦⑧</sup>
Side:	0/20' <sup>⑤⑦</sup>	0/25 <sup>⑤⑦⑧</sup>	0/20 <sup>⑤⑦⑧</sup>	0/20 <sup>⑤⑦⑧</sup>
Corner Side	0 <sup>⑦</sup>	0/25 <sup>⑤⑦⑧</sup>	20 <sup>⑦⑧</sup>	20 <sup>⑦⑧</sup>

**Footnotes**

①	At required front yard setback line
②	Building must be built on/to front/street facing setback line.
③	In the case of large buildings for employment, storage or auto-related uses, where greater setbacks are needed, a minimum of thirty percent of the building shall be brought forward to the front/street facing setback line
④	Rear setback from adjacent zoning district boundary.
⑤	Side setback from adjacent zoning district boundary.
⑥	Balconies that are at least ten (10) feet above the sidewalk may encroach into the front setback or right of way, up to 5 feet, and cantilevered or bay windows that are at least 10 feet above the sidewalk surface, may encroach five (5) feet into the required front setback, and no more than two (2) feet into the required side or rear setbacks. Fire-resistive rating and opening requirements of the building code shall be complied with for exterior walls.
⑦	A permanent landscape buffer consisting of a hedge or evergreen plant material, or a solid wall or fence, is required screening for commercial or industrial uses abutting a residential zoning district.
⑧	Buffer Areas from Residential: All C-2, M-1 and M-2 districts require a 30 foot setback buffer from the property line of a residential zoning district.

**C1 Neighborhood Commercial District.**

Intent. The Neighborhood Commercial District is intended to provide for the development of mixed use, retail, commercial and service businesses to support residential neighborhoods. New development or redevelopment in this district should be scaled in size to fit the adjacent neighborhood. This District does not support larger retail, public, religious or other uses commonly referred to as “big box” type uses.

**1.** Principal or Conditional uses. Principal or conditional uses for the C1 District are found on Table 3.3.

<b>Industrial land uses</b>											
Heavy industrial facility											■
Laboratory and/or research facility						□			□	■	■
Light industrial facility						□			■	■	■
Manufacturing plants incl. assembly, sales and service of commodities										■	■
	<b>AG</b>	<b>TN</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>R5</b>	<b>C1</b>	<b>C2</b>	<b>M1</b>	<b>M2</b>
<b>Comm., retail or service land uses, cont.</b>											
Warehouse, distribution and wholesale uses									□	■	■
Workshops and custom small industry including art studio with/without sales	□					■		■	■	■	■
■ <b>PRINCIPAL USE BY RIGHT</b>											
□ <b>CONDITIONAL USE</b>											

### 30-3-105

### Setbacks and encroachments – all districts

#### A. Setback requirements (all districts).

1. Permanent features allowed within setbacks shall include:
  - i. Cornices, canopies, eaves or other similar architectural features if they extend no more than two feet into a required setback and if they do not encroach into or overhang an easement;
  - ii. Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six feet into the required setback;
  - iii. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
  - iv. Fire escapes, provided they do not extend more than six feet into the required setback;
  - v. Uncovered patios, porches and decks not more than thirty inches above grade, provided they do not extend more than thirty percent of the required setback distance into the required setback area; and
  - vi. HVAC units may encroach up to 2 feet into the required setback.
2. Permanent features allowed within both setbacks and easements include:
  - i. Landscaping; and
  - ii. Fences and decorative walls, subject to height and other restrictions of this Chapter.

## **Section 30-2-131: Subdivision Identity and Place Standards:**

### **A. Intent:**

Subdivision identity and place elements shall be provided within all single-family and two-family residential or mixed-use and multi-family developments. The Subdivision identity and place standards are to create areas for gathering, recreation, and design features, intended to create a unique character or sense of identity within each subdivision. Subdivision identity and place elements may include a pocket park, trail system, pedestrian plaza and/or courtyard, community building or pool, community garden or pollinator garden, artwork/water features, playground or picnic/barbeque area, signage, fencing, and other approved elements which substantially improves the character of the subdivision.

Except as otherwise provided herein, no credit for one of the required features, shall be given for items that are otherwise required by other provisions of this Development Code, such as landscaping or open space. A mechanism shall be defined and established by the developer to ensure perpetual maintenance of all subdivision identity and place features. Where such mechanism involves a homeowners' association or metro district, there shall be clear language provided of their responsibility on all plats and development agreements.

### **B. Applicability**

Subdivision identity and place features are required in all developments which require a Major Subdivision plat (i.e. any development in which five or more lots are created), as required in Table 3.131, including un-platted phases of existing developments. In new developments, the required subdivision identity standards will be counted for the entire development; in existing developments with un-platted phases, all new phases will require elements as per the number of units/acreage of the remaining phase proposed. Where the number of acres and the number of dwelling units proposed in a development results in two (2) different numbers of required subdivision identity and place elements, the larger number of required elements shall be used.

**Subdivision Identity and Place Element Table 3.131**

<b>Number of Units/Acreage of Development</b>	<b>Elements Required (22 total possible)</b>
5 to 20 Dwelling units; or 2-5 acres	1
21 - 50 dwelling units; or 6-11 acres	4
51-100 dwelling units; or 11-50 acres	5
101-200 dwelling units; or 51-100 acres	6
201-300 dwelling units; or 101-200 acres	7
Over 301 dwelling units; or 201 acres or more	8

### **C. Elements**

1. **METRO/HOA Responsibility**: All elements shall be the responsibility of the Metro district or HOA, unless otherwise agreed upon by the Town.

**2. Element Category Eligibility:** Combining elements of one category or offering multiple elements in one of the element categories below, will not count towards the total required elements of Table 3.131 (ex. five playgrounds which satisfy the requirements below, will only be entitled for credit for one element for playground features, and not be credited for five elements); each element category may be counted towards the overall total only once.

### **3. Element Category Credits**

Credit shall be given for subdivision identity and place elements as follows:

**a. Trails:** shall be designed to provide areas for walking, bicycling and/or riding in areas separate from and in addition to traditional sidewalks. Trails are to be avoided along collector and arterial streets and should include meandering pathways or trails rather than linear sidewalk. Trails shall be designed and constructed using one (1) of the following designs appropriate for the location as determined by the Trails Master Plan in the Berthoud PORT Plan, and as determined by Town Staff:

i. Ten-foot-wide paved concrete multi-modal trail shall count as one element for trail systems less than 5,000 linear feet; if the trail is not required by the PORT plan, and over 5,000 linear feet, the trail shall count as two elements.

ii. Eight-foot-wide crusher fines trail with collared edges, or as per the parks master plan, whichever is greater shall count as one element.

**b. Pocket Park:** A pocket park(s) ranging from a third of an acre (1/3) to two acres in gross size, shall count as one element. Pocket Parks ranging from two acres to five (5) acres in size, shall count as ( ) 2 elements.

**c. Artwork:** Artwork such as sculptures, fountains, water features, informational placards, shall count as one element.

**d. Playground:** Any playground(s) with commercial grade playground equipment, picnic/barbeque areas with commercial grade equipment, or court games (tennis, volleyball or basketball), shall count as one (1) element provided the area is at least 1,000 square feet in size, and the detail of the playground equipment, must be included with the site plan/landscape plan.

**e. Community Gardens:** Community garden(s) with irrigation systems and collars to define garden edges, shall count as one (1) element. Community gardens require 1,000 square feet (aggregate) of size for 21-50 dwelling units and/or 11 acres or less; and 1,000 square feet of additional community garden area per the graduated subdivision dwelling unit and acreage size found on Table 3.131 above.

**f. Pollinator Gardens:** A pollinator garden(s) with collars to define edges, shall count as one (1) element. Pollinator gardens require 1,000 square feet (aggregate) of size for 21-50 dwelling units and/or 11 acres or less; and 1,000 square feet of additional pollinator garden area per the graduated subdivision dwelling unit and acreage size found on Table 3.131 above is required to satisfy the element.

**g. Pool:** An in-the-ground swimming pool at least twenty (20) feet by forty (40) feet in size shall count as two (2) elements.

**h. Community Building:** A community building at least four thousand (4,000) square feet in size to serve the subdivision with meeting rooms, restrooms, changing/locker rooms, and/or fitness facilities or any combination of the above, shall count as two (2) identity elements.

**i. Entryway:** An integrated entryway system, including retaining walls, walls, landscaped area, medians, lighting and/or subdivision signs crafted of brick, stucco or wrought iron shall count as one (1) element.

**j. Buffer Areas:** Buffer yards along arterial and collectors, adjoining subdivisions, and/or the perimeter of the subdivision of no less than thirty feet, shall count as one (1) element. Buffer areas shall be comprised of berms, turf, trees, and/or shrubs.

**k. Fencing and Walls:** Enhanced fencing or walls which may include masonry, brick, wrought iron and/or unique alignments such as serpentine, off-sets, sculptural effects and/or more frequent placement of columns or posts, shall be counted as one-half (1/2) of one element. For developments where the improved fencing/walls is located along any major corridor exceeding 500 linear feet, shall be counted as one (1) element. Vinyl fencing will not be eligible for element credit.

**l. Useable Detention Areas:** A useable or improved detention pond(s) a minimum of five thousand continuous (5,000) square feet in size, with turf, natural grass, trees, shrubs and other amenities such as benches or picnic tables that do not impede detention capacity, including a permanent irrigation system and higher quality construction materials (i.e., decorative rock for riprap), and/or ability for use as athletic fields, to be perpetually maintained by the development, shall count as one (1) element. Useable detention areas over 40,000 square feet shall count as two (2) elements.

**m. Existing Trees:** Protecting or retaining existing trees of sufficient calipers shall count as one element and will require the submittal of an existing tree survey to qualify.

**n. Useable Open Space:** Open space (above the already required 7%) that is comprised of a continuous 10,000 square foot turf area which can be easily utilized for recreational activities, shall qualify for credit as one (1) element. Useable Open Space over one (1) acre in size, shall count as two (2) elements. Pollinator garden and community garden areas may be included in the useable open space calculation.

**o. Alley Loaded Streets:** Alley loaded streets along any arterial, collector, or lots fronting onto a neighborhood park and/or open space shall qualify for two (2) elements only if maintained by the HOA or Metro District. If the alley loaded street is maintained by the Town, then it shall only qualify for one (1) element.

The provisions of this Section shall apply to any and all subdivision of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Section and the Code. The submittal of an application for approval pursuant to the provisions of these Subdivision Regulations constitutes consent to, and agreement to comply with all of its applicable provisions.

This Section establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Town Comprehensive Plan, the Parks, Open Space and Trails (PORT) Master Plan, this Code and applicable regulations, policies and other guidelines as amended. The submittal of an application for approval pursuant to the provisions of these Subdivision Regulations constitutes an agreement and the implied consent of the owner or applicant to comply with all of its applicable provisions.

Scheduling of the review of development applications before the Planning Commission or Town Board is at the discretion of the Town of Berthoud. Any change to a development application by an Applicant after formal submittal of that application to the Town constitutes a decision by the Applicant that may result in the Town deciding to vacate the Hearing and/or void the pending application. The Town may then reschedule or cancel the review of the development application at its discretion.

Prior to formal submittal of any subdivision application identified in this Section, the Planning Department will typically provide to an applicant an individualized submittal checklist indicating the documents and information needed, quantities of those documents to be submitted, and the referral agencies that will be involved in the review process. The applicants are responsible for being fully familiar with all applicable provisions of these Subdivision Regulations. At the time of submittal, the applicants will provide sufficient pre-packaged packets that are ready for mailing to the list of recipients provided by the Town. Upon determination by staff that a submittal constitutes a complete development application, the Town will forward the packets to each referral agency.



<b>30-6-102</b>	<b>Intent</b>
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This Section is designed and enacted for the purposes of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town by:

- A.Encouraging new subdivision developments that complement the Town’s historic development pattern.
- B.Promoting compact, well-defined, sustainable neighborhoods that enhance the Town’s character.
- C.Creating livable neighborhoods that foster a sense of community and reduce dependency on vehicles.
- D.Encouraging the proper arrangement of new streets in relation to existing or planned streets and ensuring streets facilitate safe, efficient and pleasant walking, biking and driving.
- E.Providing for:
  - 1.a variety of lot sizes and housing types in every neighborhood
  - 2.adequate roadways,
  - 3.utilities,
  - 4.access for fire apparatus,
  - 5.recreation,
  - 6.convenient open spaces,
  - 7.adequate storm water management,
  - 8.light,
  - 9.air quality
  - 10.educational facilities
  - 11.adequate commercial and industrial land uses where appropriate
  - 12.the protection of geologic hazards and flood prone areas
  - 13.the protection of the Town’s sensitive natural, historic and environmental areas
- F.Ensuring compliance with this Code and the Town Comprehensive Plan.
- G.Regulating such other matters as the Town may deem necessary in order to protect the best interest of the public.

<b>30-6-103</b>	<b>Subdivision types and process outlines</b>
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- A. **Methods of land subdivision.** There are two ways to subdivide land based on the magnitude of scale: Minor Subdivision and Major Subdivision. A third option, Conveyance Plats, is for the creation of subdivided lots for conveyance purposes only.

**1. Minor Subdivisions**

Definition. A Minor Subdivision is a subdivision, or amendment to a subdivision, which has been previously platted, includes no additional public right-of-way dedication, and includes one or more of the following:

- a. The boundaries of six or fewer lots are created from one parent tract or lot, cumulatively;
- b. Any lot line adjustment, consolidation of multiple lots into one.

## 2. Major Subdivisions

Definition. A Major Subdivision is a subdivision which includes one or more of the following:

- a. Dedication of public right-of-way, public infrastructure or other public tracts; or
- b. The subdivision consists of five (5) or more lots or tracts.
- c. The creation of lots on property that has never previously been platted.

## 3. Conveyance Plats

Definition: A conveyance plat is a subdivision of land that creates lots that can be conveyed by the property owner, but does not create new lots of record for purposes of development; conveyance plats are solely for the purpose of facilitating conveyance or sale of all or a portion of a subject property. Conveyance plats shall include all of the following:

- a. The property must be a minimum of thirty-five acres.
- b. Each lot created by any conveyance plat must be at least ten acres in size.
- c. No more than twelve lots may be created by any conveyance plat.

**B. Subdivision Process.** There are a number of process steps and application submittals required in order to subdivide land. These processes and applications are outlined in Table 6.1 below. For more detailed information pertaining to the process, refer to the Town of Berthoud Application Submittal Information Sheet.

**C. Application Types.** The following applications are required to be submitted in order to process subdivisions, per Table 6.1 below:

### 1. Preliminary Plat.

- a. Definition: A plat that depicts preliminary engineering studies and construction documents.
- b. Purpose/intent: To provide both the Applicant of a proposed subdivision and the Town with sufficient information to understand if a proposed subdivision will meet all applicable codes, regulations, and policies, and to plan for infrastructure, traffic and lot-layout.
- c. Review Criteria: The following criteria must be found by the Town Board of Trustees in order to approve a Preliminary Plat:
  - i. The Preliminary Plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code.
  - ii. The land use mix within the project conforms to the Town of Berthoud's Zoning Requirements, Zoning District Map, Development Code and Preferred Land Use Map and furthers the Goals and Policies of the Comprehensive Plan and PORT Plan.
  - iii. The utility and transportation design is adequate, given existing and planned capacities of those systems.
  - iv. Negative impacts on adjacent land uses, including, but not limited to: solar access, heat,

- dust, glare, traffic and noise, have been identified and satisfactorily mitigated.
- v. The Preliminary Plat represents a desirable development pattern, with a balance of land use and/or housing types that satisfies the Goals and Objectives of the Comprehensive Plan.
  - d. Submittal process: The applicant shall submit a completed development review application package to the Town.
  - e. Timeframe related to approval of Preliminary Plat. A Preliminary Plat is in full force and effect for a period of three (3) years from date of Town Board action to approve or approve with conditions. Approval will automatically expire at the end of three (3) years unless an Applicant requests a one (1) year extension prior to termination, or submits a completed Final Plat application for all or a portion of the property. An Applicant may request one (1) extension for a term of one (1) year.
  - f. Preliminary Plat Required: A Preliminary Plat is required for all subdivisions. No Final Plat will be processed or approved without prior Preliminary Plat approval.

## **2. Final Plat.**

- a. Definition: A complete and Final Plat with final engineering studies and construction documents, which is in conformance with the appropriate County requirements to record.
- b. Purpose/intent: A depiction of a subdivision that complies with all applicable codes, regulations, and policies, to be recorded.
- c. Review Criteria: The following criteria must be found by the Planning Commission in order to approve a Final Plat.
  - i. The Final Plat is in substantial conformance with the approved Preliminary Plat. For the purposes of this Code, “substantial conformance”, includes design adjustments made to meet any conditions of Preliminary Plat approval, and is determined as follows:
    - 1. Does not change any land use of the proposed plat.
    - 2. Does not contain changes which would render the Final Plat in nonconformance with requirements of this Code.
    - 3. Does not contain significant changes in street alignment and/or access points, or other public elements such as drainage improvements, utility lines or facilities.
    - 4. Does not change any measurable standard (other than above) by more than 10%.

Final Plats determined by the Planning Director to have changes that exceed the definition of “substantial conformance” as above shall be processed as a Preliminary Plat and shall be reviewed and acted upon as identified in Section 30-6-104 B1 unless withdrawn by the Applicant.

- ii. The Final Plat complies with this Code, the Comprehensive Plan and the PORT Plan.
- iii. All applicable technical standards including the provision of water in sufficient amount and quality have been met.
- d. Submittal process: The Applicant shall submit a completed development review application package to the Town.

- e. Timeframe related to approval of Final Plat. A Final Plat is in full force and effect for a period of three (3) years from date of or unless Public Improvements are completed and accepted on all or a portion of the Final Plat. Applicants may request a single, one (1) year extension from the Town prior to termination of Final Plat approval. Prior to the expiration of the original three (3) year timeframe or the extension (four-year total) timeframe, an Applicant may request an additional extension if substantial progress has been made on installation of Public Improvements.
- f. Construction drawings and final landscape plans required before recording. Construction drawings and final landscape plans are required to be submitted before the Final Plat process or concurrently with the Final Plat process. These documents must be deemed to be in substantial conformance to the appropriate sections of this ordinance prior to recordation of the Final Plat.

### **3. Conveyance Plat.**

- a. Definition: A process of subdividing land for the purposes of conveying land only; this method of subdividing does not provide any entitlement or development rights.
- b. Purpose/intent: To provide an Applicant with the ability to sell off portions of property. For example, a land developer selling a portion(s) of property to different home builders, each of which will need to continue through the entitlement process until they create buildable lots through a Final Subdivision before they can build.
- c. Review Criteria: The following criteria must be found by the Planning Commission in order to approve a Conveyance Plat.
  - i. Conformance with an approved Concept Plan for the property. All Conveyance Plats must be based upon and conform to a Concept Plan.
  - ii. Access. All lots created by a Conveyance Plat shall have frontage and access to an existing or proposed public street.
  - iii. Reservation of rights-of-way. Conveyance plats must provide for the reservation of future rights-of-way of planned roadways. Reservation of right-of-way does not grant any right or interest in the property to the Town or other entity. The final alignment may be adjusted upon final platting in order to meet engineering design standards.
  - iv. Dedication of rights-of-way. Dedication of a right-of-way shall be required where a Conveyance Plat is used to record the remainder of a tract created by the final platting of a portion of the property.
- d. Submittal process: The applicant shall submit a completed development review application package to the Town.
- e. Timeframe related to approval of Conveyance Plat. A Conveyance Plat is in full force and effect for a period of two (2) years from date of Planning Commission action. Approval will automatically expire at the end of two (2) years unless the applicant conveys property, or requests a one-year extension at least thirty (30) days prior to the expiration date.

**A. Application submittal requirements:** The following table outlines the submittal requirements and standards required for each application type.

**Table 6.1**

<b>APPLICATION REQUIREMENTS AND STANDARDS</b>				
	<b>Preliminary Plat</b>	<b>Final Plat</b>	<b>Conveyance Plat</b>	<b>Minor Subdivision</b>
Application form	X	X	X	X
Fee & MOU	X	X	X	X
Title Commitment	X	X	X	X
Neighboring Property owner list	X	X	X	X
Title of project	X	X	X	X
North arrow, scale, date of prep	X (1:100 scale)	X (1:100 scale)	X (1:100 scale)	X (1:100 scale)
Vicinity map	X	X	X	X
Names and addresses of owners, applicant, designers, engineers, and surveyors	X	X	X	X
Legal description	X	X	X	X
Acreage of property	X	X	X	X
Basis for establishing bearing	X	X	X	X
Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements	X	X	X	X
USGS topographic contours, 2' intervals	X	X	X	X
Name and location of abutting subdivisions or owners of abutting property (if land is not platted)	X	X	X	X
Lots, blocks, and street layout (with cross-sections), dimensions and square footage for each lot. Dimensions and square footages may be rounded to nearest whole number for Preliminary Plat, and must be to two decimal places for Final, Conveyance, and Minor Subdivision.	X	X	X	X
Parcels excepted from inclusion should be noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.	X	X	X	X
Consecutive numbering of all lots and blocks		X	X	X
Location and approximate acreage of proposed land uses	X	x	x	x
Existing and proposed easements including r/ws on or adjacent to property (labeled and dimensioned)	X	X	X	X
Existing and proposed streets for all streets on or adjacent to property.	X	X	X	X
Proposed street names.		X		X
Location and description of monuments		X	X	X

Note or table indicating how public dedication requirements will be met	X	X		
Table providing the following info for each proposed land use area: total acreage, proposed density, proposed floor area ratio, proposed square footage, and proposed number of dwelling units	X	X		X
Location and acreage of proposed parks, trails, regional trail connections, playgrounds, schools or other public uses.	X	X	x	
Location, function, ownership and manner of maintenance of any private open space.	X	X		X
General locations of existing utilities on or adjacent to property	x	x	x	
Approximate location and size of existing sewer lines, water lines and fire hydrants. Approximate location of proposed sewer lines, water lines, and fire hydrants.	X	X		X
Graphic and/or written explanation of how the property will be served with utilities including any issues or proposed changes to the service provider boundaries		x	x	
Location by field survey or aerial photography of existing and proposed water courses and bodies of water such as irrigation ditches and lakes. Water courses shall include direction of flow.	X	X	X	X
Floodplain boundary with a note regarding the source of information (if no floodplain, state as such)	X	X	X	X
The boundaries of proposed phases of the subdivision if the final plat is intended to be submitted in multiple phases.	X			
General location of existing surface improvements such as buildings, fences, oil or gas facilities, or other structures which will remain on the property as part of the subdivision.	X	X	X	X
Geologic hazard areas	X	X	X	X
Existing and proposed zoning on and around the property	X	X	X	X
An AutoCad drawing file of Preliminary Plat	X	X	X	X
Certification language and signing blocks *see section below for template.		X	X	X
Surveyor's Certificate	X	X	X	X
Explanation of consistency with previous related approvals, Comprehensive Plan, Development Code, PORT Plan.	X	X		X

Discuss compliance with lot area size, dispersion of lots, setback variation and garage placement in proposed residential subdivisions as identified in Section 30-2-116 of Code	X	X		X
General description of plan for drainage and storm water management	X	X		X
Water supply info including: number of taps needed, amount of raw water, and source of water	X	X		X
Initial road and traffic impact study/evaluation of the street system, road connectivity and road impacts of the proposal	X	X		X
Utility info including capacity and any line extensions or upgrades that may be necessary	X	X		X
Statement indicating whether or not any commercial mineral deposits are located on site	X	X	X	X
Grading and drainage plan and report.	Preliminary	Final		Final
Construction drawings	80%	100%		100%
Water and sewer plan and study.	Preliminary	Final		Final
Geologic study.	Preliminary	Final		Final
Landscape and open space plan	Preliminary	Final		Final
Traffic study	Preliminary	Final		General memo
Mineral, oil and gas rights documentation	X	X	X	X
CHS records search (at discretion of Town)	X			X
General ecological resource survey	Preliminary	Final		General memo
Documentation identifying who will own and maintain open spaces		X		X
Deed for public lands for dedication of public sites for open space or other civic purposes.		X		X
Shall be prepared by or under direct supervision of a registered land surveyor and meet applicable State of Colorado requirements	X	X	X	X
Except for parcels separated by public rights-of-way, public tracts, or railroads, any parcels not contiguous shall not be included in one plat; nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgement.	X	X	X	X

Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.	X	X		X
The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in ten thousand.	X	X	X	X
Bearings, distances, and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.	X	X	X	X
All signatures shall be made in black drawing ink.	X	X	X	X

## B. Certificate language:

### LEGAL DESCRIPTION AND DEDICATION:

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, being the owners of \_\_\_\_\_, Township \_\_\_\_\_ N, Range \_\_\_\_\_ W of the 6th Principal Meridian, Town of Berthoud, County of \_\_\_\_\_, State of Colorado, more particularly described as follows:

### (LEGAL DESCRIPTION)

Have laid out, platted, and subdivided the above described land, under the name and style of \_\_\_\_\_, and by these presents do dedicate to the Town of Berthoud in fee simple the street and public “rights-of-way” as shown on the plats, and grant to the Town of Berthoud such easements and rights-of-way, and all right, title and interest in real property to the above described lands, including all surface interests and all minerals within or underlying said lands, as are created hereby and depicted or, by note, referenced hereon, along with the right to install, maintain, replace and operate mains, transmission lines, service lines, and appurtenances, either directly or through the various public utilities, as may be necessary to provide such utility, cable television, water, electric, natural gas and sanitary services within this subdivision or property contiguous thereto, through, over, under, and across streets, utility and other easements, and other public places as shown on the plat.

*If owner is an individual(s):*

Owner: John Doe

*If owner is a corporation, limited liability company, partnership, association or other business entity:*

Owner: The ABC Corporation, a Colorado corporation

By: John Doe, President

*If owner is a trust:*

Owner: The Jane Smith Trust



By: (John Doe, as trustee of the Jane Smith Trust)

LIENHOLDER'S DEDICATION: The undersigned mortgagee, for good and valuable consideration does by these presents, hereby subordinate all of its rights to such fee simple dedications and grants of easements to the Town of Berthoud as are depicted and referenced hereon and to the terms and conditions of the development agreement and this final plat and agrees that the development agreement and this final plat shall constitute a first and prior lien upon the (project name) to the same extent as though it were actually executed and recorded prior to said lien or deed of trust.

DATE: \_\_\_\_\_

LENDER'S NAME

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

SURVEYOR'S CERTIFICATE: I, \_\_\_\_\_ a Registered Land Surveyor in the State of Colorado, do hereby certify that the survey of \_\_\_\_\_ was made under my supervision and the accompanying plat accurately and properly shows said subdivision and is in compliance with the Subdivision Regulations of the Town of Berthoud.

\_\_\_\_\_  
(Name, Registered Land Surveyors)

(Number)

RIGHT TO FARM STATEMENT: The Town of Berthoud has adopted a "Right to Farm" policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

#### SITE SPECIFIC DEVELOPMENT PLAN:

This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 328 Massachusetts Avenue, Berthoud, Colorado 80513.

#### APPROVAL CERTIFICATES:

Approved by the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST: \_\_\_\_\_

Town Clerk

**30-6-106****Concept plan**

**A. Concept Plan purpose.** The Concept Plan is a broad conceptual design of the development submitted with a Rezoning of Major Subdivision application, that depicts what the applicant envisions, including zoning, transportation network, open space and amenities. A Concept Plan is informational in nature, and not required as part of the development process.

**B. Previously Approved Concept Plans**

Concept Plans approved before the amendment of this section of the ordinance are not entitled to any vested development right.

**30-6-107****Preliminary plat**

**A. Preliminary Plat purpose.** The purpose of the preliminary plat is to provide the Town with an overall plat and the associated preliminary engineering for the proposed development.

**B. Preliminary Plat application process.**

1. Pre-application conference. A pre-application conference with a representative from the Town is required before the applicant may submit a preliminary plat application. Topics to be discussed will include:
  - a. The provisions of this Code and the applicable requirements;
  - b. The application and review process;
  - c. Submittal requirements; and
  - d. Changes or modifications based on direction from the Town at concept plan.
2. Preliminary Plat application submittal. Following approval or conditional approval of the concept plan and rezoning application, the applicant may submit the complete preliminary plat application to the Town. The preliminary plat application package shall be formatted and packaged per the application submittal checklist provided by the Town and include the following items in both printed and electronic formats:
  - a. Development application form.
  - b. Application fee.
  - c. Title commitment. The title commitment must be current and dated no more than thirty days from the date of preliminary plat application submittal.
  - d. Surrounding property ownership report. Provide the Town with a list and set of mailing labels not more than thirty days old, of the names and addresses of the surrounding property owners within three hundred feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
  - e. Preliminary Plat. The preliminary plat shall provide the following information:

- i.** Title of project.
- ii.** North arrow, scale (not greater than 1" = 100') and date of preparation.
- iii.** Vicinity map.
- iv.** Names and addresses of owners, applicant, designers, engineers and surveyors.
- v.** Legal description.
- vi.** Total acreage of property.
- vii.** Existing contours at two foot intervals (based on USGS datum).
- viii.** Name and location of abutting subdivisions or owners of abutting property (if land is not platted)
- ix.** Lots, blocks, and street layout (with cross-sections), dimensions and square footage for each lot. Dimensions and square footages may be rounded to the nearest whole number.
- x.** Consecutive numbering of all lots and blocks.
- xi.** Residential developments shall provide information identifying compliance with Section 30-2-116 of this Code.
- xii.** Existing and proposed easements (including rights-of-way) on and adjacent to the property.
- xiii.** Existing and proposed zoning on and adjacent to property.
- xiv.** Approximate location and size of existing sewer lines, water lines and fire hydrants.  
Approximate location of proposed sewer lines, water lines, and fire hydrants.
- xv.** Location by field survey or aerial photography of existing and proposed water courses and bodies of water such as irrigation ditches and lakes. Water courses shall include direction of flow.
- xvi.** Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, state this on the plan).
- xvii.** The boundaries of proposed phases of the subdivision if the final plat is intended to be submitted in multiple phases.
- xviii.** General location of existing surface improvements such as buildings, fences, oil or gas facilities, or other structures which will remain on the property as part of the subdivision.
- xix.** Location and acreage of proposed parks, trails, playgrounds, schools or other public uses.
- xx.** Location, function, ownership and manner of maintenance of any private open space.
- xxi.** Land use table including: land uses, approximate acreage of each land use type, percentage of each land use type density (net and gross) and how public dedication requirement will be met.
- xxii.** Total number of lots.
- xxiii.** Number of each type of dwelling unit proposed.
- xxiv.** An AutoCad drawing file of the Preliminary Plat on compact disc in a format specified by the Town Engineer.
- xxv.** Surveyor's certificate.

- f.** Preliminary Plat drawing standards. The preliminary plat drawing shall comply with the following standards:
- i.** The preliminary plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor, and shall meet applicable State of Colorado requirements.
  - ii.** Except for parcels separated by easements (including public rights-of-way), public tracts, or railroads, parcels not contiguous with each other shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.
  - iii.** Lengths on the preliminary plat boundary shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.
  - iv.** The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in ten thousand.
  - v.** Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
  - vi.** Names and signatures of all owners of equitable interest in the property shall be on the preliminary plat and shall be made in black drawing ink.
- g.** General development information. A written description of the existing conditions on the site and the proposed development, including the following items:
- i.** Explanation of how the plan is consistent with this Code, the Comprehensive Plan and the PORT Plan.
- h.** Preliminary grading and drainage plan and report. This plan and report must be certified by a Colorado registered professional engineer and include approximate earthwork quantities (how earthwork on the site is “balanced”), storm drainage concepts such as locations of pipe and other conveyance facilities, locations for on-site detention or downstream structural improvements, and soil erosion and sedimentation control plans & specifications. It must also discuss the impacts on and to any existing floodways and/or floodplains both on and adjacent to the site as well as any FEMA applications or approvals that may be required.
- i.** Preliminary water and sewer plan & study. This plan shall be prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision.
- j.** Geologic study. If upon referral to the Colorado Geologic Survey (CGS), the CGS requires a geologic study; then this report must be prepared by a registered professional engineer or professional geologist and shall address: site conditions, geologic conditions, engineering considerations and any limitations or additional investigations that might be necessary.
- k.** Preliminary landscape and open space plan. The landscape plan must address the treatment of all exterior spaces. Landscape plans are to be designed to meet the requirements of this Code and show approximate locations of trees, shrubs, groundcovers, turf, buffering, fences,

walls and other site amenities that will be included in the plan. Applicants are to consult with the Town arborist regarding tree planting schemes and the Berthoud Tree Board will be given an opportunity to review and comment upon the tree plan for the property.

- l. Traffic study.** This study must be prepared by a professional traffic engineer and identify the projected impacts to the local and regional traffic system. The direct roadway impacts and proposed share in the cost of regional improvements and intersections must be identified for the project.
- m. Mineral, oil and gas rights documentation.** Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site. Included in the evidence must be the name of the current contact person, their phone number, and mailing address for each of the mineral owners or lessees. Said evidence may be provided in a mineral interests report prepared by a certified landman, title company, or attorney.
- n. Colorado Historical Society (CHS) records search.** At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPC), an applicant may be required to provide the Town with a CHS records listing historically or archaeologically significant findings on the property being subdivided at their expense. If a listing shows a significant finding, a site-specific historic survey per the requirements of the CHS is required. If, in coordination with the applicant, the Town Board decides to protect any historic resource, a protection plan must be developed in consultation with the HPC.
- o. General ecological resource survey.** Prepared by a qualified biologist, geologist, ecologist, or similar qualified professional, a survey identifying the potential/absence/habitat of a threatened or endangered species and wetlands or other ecologically sensitive area. Said survey shall make practical recommendations regarding treatment or mitigation of the findings.

**3. Application certification of completion.** Within a reasonable time period, generally five working days, Staff shall typically certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town.

**4. Public Comment Requirements:** Within five days of a complete application, the Town shall send notice of public comment to the neighboring property owners within five hundred feet of the subject property, as part of the review process. This notice shall include a summary of the project, along with a copy of the Preliminary Plat. The Public shall have three weeks to submit comments back to the Town. All Public comments received, will be sent to the developer, and be part of the record for the Planning Commission and Town Board meetings. The Developer shall address all public comments in a report to be included with the record, before the Preliminary Plat shall be scheduled for a hearing.

**5. Schedule Preliminary Plat public meeting at Planning Commission and public hearing at Town Board and complete public notification process.** The Town shall schedule a public meeting before the Planning Commission for the purpose of developing a recommendation for consideration at a public hearing before the Town Board. The Town shall publish notice in a

newspaper of general circulation and post the property with at least one sign clearly visible from a public roadway. Publication and posting shall be consistent with this Code.

**6. Refer application to parties of interest.** The Town shall send summary information about the application by regular mail to the mailing list provided by the applicant that includes neighboring property owners, utility and service providers and other parties of interest. The referral information shall include the time and place of the Planning Commission meeting and Town Board public hearing, the nature of the meeting or hearing, the location of the property, the applicant's name, and background information about the proposal.

**7. Staff review and report to Planning Commission.** Staff will complete a final review of the application and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the preliminary plat review criteria.

**8. Planning Commission public meeting and recommendation.** The Planning Commission shall hold a public meeting to review the application based on the preliminary plat review criteria. The Planning Commission shall then make a recommendation to the Town Board to approve, conditionally approve, or deny the application.

**9. Town Board public hearing and action.** The Town Board shall review and act on the Preliminary Plat as part of a public hearing. The Town Board may choose to approve, approve with conditions, or deny the Preliminary Plat.

**10. Applicant addresses any conditions placed on the proposal.** The applicant shall revise the preliminary plat based only on conditions of approval (if any) placed on the proposal by the Town Board.

**B. Preliminary Plat review criteria.** In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant's request:

1. The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code.
2. The application is consistent with the approved concept plan and incorporates the Town's recommendations and any conditions of approval.
3. The land use mix within the project conforms to Berthoud's Zoning District Map and Preferred Land Use Map and furthers the goals and policies of the Comprehensive Plan and PORT Plan.
4. The utility and transportation design is adequate, given existing and planned capacities of those systems.
5. Negative impacts on adjacent land uses including, but not limited to: solar access, heat, dust, glare, traffic and noise have been identified and satisfactorily mitigated.

6. There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within Berthoud.

7. How the Applicant has addressed comments received from the public, during the Public Comment portion of the process.

**D. Phasing.** A preliminary plat shall designate the boundaries of phases for which separate final plats will be presented for approval. Each phase, either alone or in conjunction with previously approved and recorded phases, must meet all of the requirements of this Code.

**E. Early grading.** After approval of a Preliminary Plat, Applicant may proceed with preliminary grading of the project area if a construction plan set for grading and drainage is approved and memo authorizing grading work is issued by the Town Engineer. Early grading is at the risk of the Applicant and no presumption of any Final Plat approval at the Planning Commission is expressed or implied by any authorization of early grading.

**F. Timeframe related to approval of Preliminary Plat.** A preliminary plat is in full force and effect for a period of three years from date of Town Board action to approve or approve with conditions. Approval will automatically expire at the end of three years unless an applicant formally requests a one-year extension from the Town Board prior to termination or submits a completed final plat application for all or a portion of the property. An applicant may request one extension of one year.

<b>30-6-108      Final plat</b>
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**A. Final Plat purpose.** The purpose of the final plat is to complete the subdivision of land consistent with the technical standards of the Town.

**B. Final Plat application process.**

1. Final Plat application submittal. The final plat application shall substantially conform to the preliminary plat as approved at the public hearing and shall meet all conditions of approval. The applicant shall submit the completed final plat application package to the Town. The final plat application shall be formatted and packaged per the application submittal checklist provided by the Town and include:

a. Development application form.

b. Application fee.

c. Title commitment. An updated title commitment, dated no more than thirty days from the date of final plat application submittal.

d. Final Plat. The final plat drawing shall comply with the following standards:

i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor, and shall meet applicable State of Colorado requirements.

ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one plat, nor shall more than one plat be



made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.

- iii. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.
- iv. The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in ten thousand.
- v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
- vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- vii. The final plat shall provide the following information:
  - a) Title of project.
  - b) North arrow, scale (not greater than 1"=100') and date of preparation.
  - c) Vicinity map.
  - d) Legal description.
  - e) Basis for establishing bearing.
  - f) Names and addresses of owners, applicant, designers, engineers and surveyors.
  - g) Total acreage of subdivision.
  - h) Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements.
  - i) Lot and block numbers, numbered in consecutive order, and square footage or acreage to two decimal places of each lot or tract.
  - j) Parcels excepted from inclusion should be noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
  - k) Existing and proposed easements (including rights-of-way) in and adjacent to property (labeled and dimensioned).
  - l) Existing and proposed street names for all streets on and adjacent to the property.
  - m) Location and description of monuments.
  - n) Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).
  - o) The following certification language, completed with signature lines and including any amendments required by the Town:

#### **LEGAL DESCRIPTION AND DEDICATION:**

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, being the owners of \_\_\_\_\_, Township \_\_\_\_\_ N, Range \_\_\_\_\_ W of the 6<sup>th</sup> Principal Meridian, Town of Berthoud, County of \_\_\_\_\_, State of Colorado, more particularly described as follows:

#### **(LEGAL DESCRIPTION)**



Have laid out, platted, and subdivided the above described land, under the name and style of \_\_\_\_\_, and by these presents do dedicate to the Town of Berthoud in fee simple the street and public “rights-of-way” as shown on the plats, and grant to the Town of Berthoud such easements and rights-of-way as are created hereby and depicted or, by note, referenced hereon, along with the right to install, maintain, replace and operate mains, transmission lines, service lines, and appurtenances, either directly or through the various public utilities, as may be necessary to provide such utility, cable television, water, electric, natural gas and sanitary services within this subdivision or property contiguous thereto, through, over, under, and across streets, utility and other easements, and other public places as shown on the plat.

*If owner is an individual(s):*

Owner: John Doe

---

*If owner is a corporation, limited liability company, partnership, association or other business entity:*

Owner: The ABC Corporation, a Colorado corporation

---

By: John Doe, President

*If owner is a trust:*

Owner: The Jane Smith Trust

---

By: John Doe, as trustee of the Jane Smith Trust

**LIENHOLDER’S DEDICATION:** The undersigned mortgagee, for good and valuable consideration does by these presents, hereby subordinate all of its rights to such fee simple dedications and grants of easements to the Town of Berthoud as are depicted and referenced hereon and to the terms and conditions of the development agreement and this final plat and agrees that the development agreement and this final plat shall constitute a first and prior lien upon the (project name) to the same extent as though it were actually executed and recorded prior to said lien or deed of trust.

DATE: \_\_\_\_\_

LENDER’S NAME

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**SURVEYOR'S CERTIFICATE:**

I, \_\_\_\_\_ a Registered Land Surveyor in the State of Colorado, do hereby certify that the survey of \_\_\_\_\_ was made under my supervision and the accompanying plat accurately and properly shows said subdivision and is in compliance with the Subdivision Regulations of the Town of Berthoud.

\_\_\_\_\_  
(Name, Registered Land Surveyors)

(Number)

**RIGHT TO FARM STATEMENT:** The Town of Berthoud has adopted a "Right to Farm" policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

**SITE SPECIFIC DEVELOPMENT PLAN:**

This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 807 Mountain Ave., Berthoud, Colorado 80513.

**APPROVAL CERTIFICATES:**

Approved by the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST: \_\_\_\_\_  
Town Clerk

- e. General development information. Provide a written description confirming that the final plat conforms to the preliminary plat. In addition, the description shall address how the proposed development conforms to this Code, the Town Comprehensive Plan and the PORT Plan.
  - f. For developments with single-family or two-family residential lots, show that the Final Plat is in conformance with Section 30-2-116 of this Code.
  - g. Update of any plans or reports provided with the Preliminary Plat for which there is a change of conditions.
  - h. Special documents (as needed)
    - i. Special agreements.
    - ii. Oil & gas surface use agreement.
    - iii. Floodplain use permit from the Town.
    - iv. Prior to commencement of construction; a State Highway utility permit from CDOT.
    - v. Prior to commencement of construction, a State Highway access permit from CDOT.
    - vi. Prior to commencement of construction, a construction dewatering permit from the Colorado Department of Public Health and Environment.
    - vii. Prior to commencement of construction, a 404 Permit from the Army Corps of Engineers.
    - viii. Prior to commencement of construction, an Air Pollution Emission Notice (APEN) from the Colo. Department of Public Health and Environment.
    - ix. Prior to commencement of construction, a permit for work in any ditch right-of-ways from individual ditch companies.
    - x. Development Agreement (DA).
    - xi. Prior to commencement of construction, acceptable collateral in the amount and form stipulated in the DA.
    - xii. Prior to commencement of construction, an approved adjudication of water rights and a plan of augmentation.
    - xiii. Prior to commencement of construction, a FEMA approved application (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
    - xiv. Documentation identifying who will own and maintain open spaces.
    - xv. Deed for public lands for dedication of public sites for open space or other civic purposes.
  - i. Notification mailing list. Provide one set of mailing labels for appropriate referral agencies and property owners of record within three hundred feet of the property.
2. Application certification of completion. Within a reasonable timeframe, typically five working days, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.

3. Notice. In order to provide an opportunity for referral agencies and the public to review any final plat for changes, the Town shall send a notice of the Planning Commission public hearing, with appropriate final plat materials for review.
4. Public Comment Requirements: Within five days of a complete application, the Town shall send notice of public comment to the neighboring property owners within five hundred feet of the subject property, as part of the review process. This notice shall include a summary of the project, along with a copy of the Final Plat. The Public shall have three weeks to submit comments back to the Town. All Public comments received, will be sent to the developer, and be part of the record for the Planning Commission meeting. The Developer shall address all public comments in a report to be included with the record, before the Final Plat shall be scheduled for a hearing.
5. Staff review and report to Planning Commission. Staff will complete a final review of the application and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the final plat review criteria.
6. Planning Commission public hearing and action. The Planning Commission shall hold a public hearing to review the final plat based on the Town's final plat review criteria. It shall then approve, conditionally approve, or deny the final plat application by resolution. The applicant may appeal a decision to deny the application by the Planning Commission to the Town Board.
7. Applicant addresses Planning Commission conditions. The applicant shall revise the final plat based on any Planning Commission conditions of approval and submit it to the Town.
8. Original plats. The applicant shall submit to the Town Clerk three original, signed mylars of the final plat ready for the Mayor and clerk to sign and record, and final executed copies of all agreements. Original mylars and documents shall become the property of the Town.
9. Complete engineering plans and specifications. After Final Plat approval the applicant shall prepare and submit the following for administrative approval by the Town prior to commencement of construction:
  - a. Construction plans and profiles. The plans and profiles shall be prepared by a registered professional engineer licensed in the State of Colorado. Plans shall be twenty-four inches high by thirty-six inches wide and provide the following information:
    - i. The horizontal to vertical scales shall be chosen to best depict the aspects of the design.
    - ii. Minimum horizontal scale: 1"=100'.
    - iii. Minimum vertical scale: 1"=10'.
    - iv. The typical road geometric and structural cross-section is to be shown on each plan sheet.
    - v. The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii, and all other features to enable construction in accordance with approved

standards and standard engineering practice. Stationing may be centerline if approved by the Town Engineer. Construction plans shall include water lines and appurtenances, sewer lines and appurtenances, and storm water lines and appurtenances and any other wet utilities such as non-potable water systems and irrigation ditches.

- vi.** The profiles shall include existing and proposed grade at curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections, grade breaks, point of curb return (PCR), point of reverse curve (PRC), and other critical points, structures, and all other features required to enable construction in accordance with the Larimer County Urban Area Street Standards (LCUASS), as amended, or as the Town Engineer may approve.
- vii.** Signature blocks for all utility providers unless otherwise provided in agreement form.
- viii.** Structure details. Sufficient data shall be given to construction of major structures and road appurtenances such as bridges, culverts, gutters, drives, walks, cross pans, etc; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc., or as the Town Engineer may approve.
- ix.** Final Water Report. A final water report including hydraulic analysis and pipe sizing calculations.
- x.** Final Sanitary Sewer Report. A sanitary sewer report including hydraulic analysis and pipe sizing calculations.
- xi.** Sewage collection and water supply distribution plans, profiles and specifications. The plans, profiles and specifications shall be prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
- xii.** Final drainage plans and reports. Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with Larimer County Drainage & Design Criteria, as amended or as the Town Engineer may approve. The plan and report must provide:
  - a)** Cross-sections of each water carrier showing high water elevations for one hundred year run-off and adjacent features that may be affected thereby.
  - b)** Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Larimer and Weld County, ditch companies).
  - c)** Supporting calculations for run-offs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
  - d)** Erosion control plans, when required.
  - e)** Sizing of all pipes, inlets, conveyance ways, and other appurtenances.
- xiii.** Final grading plan. The final grading plan shall be twenty-four inches high by thirty-six inches wide and illustrate existing and proposed contours and lot and block grading details.

**xiv.** Soils report. The soils report shall detail pavement design and construction requirements and shall be submitted after overlot grading is complete.

**b.** Final landscape and open space plan. The landscape plan must address the treatment of all exterior spaces. Landscape plans are to be designed to meet the requirements of this Code and PORT Plan and show trees, shrubs, groundcovers, turf, buffering, fences, walls and other site amenities that will be included in the plan. All plant materials must be adapted to the physical limitations of the local climate and specific conditions of the landscape plan. All plant materials must meet specifications of the American Association of Nurseryman for number one grade. All street trees must be selected from the Town of Berthoud recommended tree list.

- 1.** Landscape Plan drawn to scale (not greater than 1" = 50') on twenty four by thirty six inch sheets which includes:
  - a.** Project name.
  - b.** Scale, north arrow and date of preparation.
  - c.** Existing and proposed streets and street names.
  - d.** Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
  - e.** Location of proposed building footprints and parking areas.
  - f.** Location of storage, loading and service areas.
  - g.** Existing and proposed 2' contours (based on USGS datum).
  - h.** Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
  - i.** The location of existing and proposed utilities. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
- 2.** All existing trees within the proposed site and adjacent to the site must be accurately identified on the plan. Existing trees must be labeled as to their size, species and if they are intended to remain, be removed or transplanted. All replacement mitigation trees will need to be shown separately on the plan. Tree protection standards for existing trees to remain shall be included on the plan.
- 3.** The extent and location of proposed trees, shrubs and perennials and quantities of each species. Plant materials are to be drawn at two-thirds of its mature size.
- 4.** Landscape schedule including the represented plant symbol, Latin name, common name, planting size and number of individual plants. All plant materials are to meet the minimum size requirements as provided in this Code.
- 5.** Proposed treatment of all ground surfaces must be clearly indicated, including turf, paving, mulch, native grass, seeded grass, etc. Grass areas are to be specified as seed or sod, and a seed mix/rate specified.
- 6.** Sight distance triangles must be shown at street intersections pursuant to this Code.

7. Project specific landscape notes and details to ensure the proper planting, establishment and survival of plant materials. Additional notes detailing the warranty for plant materials and continued maintenance shall be included.
  8. Open space trail network and pedestrian circulation system.
  9. Areas to be irrigated and method of irrigation.
  10. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.
  11. Notes for conservation and retention of top soil and landscape soil preparation.
  12. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.
  13. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.
- c. A “pdf” file and an AutoCad drawing file of the final plat in an electronic format specified by the Town Engineer.
- 10. Development Agreement.** Prior to commencement of construction, the applicant shall provide to the Town collateral in a form approved by the Town, guaranteeing adequate safe closure or completion of all public improvements for each phase of construction necessary for the subdivision. The amount of the security shall be either a Payment and Performance Bond in the amount of 100% of the estimated cost of public improvements or a Letter of Credit or other acceptable collateral in the amount of twenty-five percent of the estimated cost as approved by the Town Engineer for constructing all public improvements, unless otherwise provided for in an approved Development Agreement as described in Section 30-6-112 of this Code.
- 11. Deed for public lands.** The applicant shall submit to the Town a warranty deed and title insurance for all lands dedicated on the final plat and accepted by the Town.
- 12. Raw water dedication.** Prior to the issuance of a building permit, the applicant shall provide to the Town funds to purchase sufficient raw water or rights thereto for that permit. At the time of final plat, all water necessary for irrigation of parks, open space, golf courses, playing fields, and similar public areas shall be dedicated to the Town per this Code.
- 13. Post approval actions.** Prior to issuance of a building or grading permit, the applicant shall submit the following documentation to the Town:
- a. List of contractors. List of all contractors that will be performing the improvements.
  - b. Proof of insurance. Proof of workman’s comprehensive insurance and liability insurance for each contractor.
  - c. Open space deed restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space until the use is modified by the Town.



- d. Construction traffic control plan. Applicant will develop a plan for Town Engineer review that addresses construction traffic, construction water, temporary road closures, street repairs, dust, noise and other construction-related concerns.
- e. Funding mechanism for maintenance of open space including type of management of such open space.
- f. Other certificates, affidavits, enforcements or deductions as required by the Town.

**C. Final Plat review criteria.** In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant's final plat application:

1. The Final Plat is in substantial conformance with the approved Preliminary Plat. For the purposes of this Code, "substantial conformance", includes design adjustments made to meet any conditions of preliminary plat approval, and is determined as follows:
  - a. Does not change any land use of the proposed plat.
  - b. Does not change the number of lots or residential density by more than 5%.
  - c. Does not contain changes which would render the final plat in nonconformance with requirements of this Code.
  - d. Does not contain significant changes in street alignment and/or access points, or other public elements such as drainage improvements, utility lines or facilities.
  - e. Does not change any measurable standard (other than above) by more than 15%.
  - f. How the Applicant has addressed comments received from the public, during the Public Comment portion of the process.

Final Plats determined by the Planning Director to have changes that exceed the definition of "substantial conformance" as above shall be processed as a Preliminary Plat and shall be reviewed and acted upon as identified in Section 30-6-105 unless withdrawn by the applicant.

2. The development complies with this Code, the Comprehensive Plan and the PORT Plan.
3. All applicable technical standards including the provision of water in sufficient amount and quality have been met.

**D. Timeframe related to approval of Final Plat.** A final plat is in full force and effect for a period of three years from date of recordation unless a longer timeframe is specifically allowed by the Town in an approved Development Agreement or unless public improvements are completed and accepted on all or a portion of the final plat. Applicants may formally request a single, one year extension from the Town prior to termination of final plat approval. Prior to the expiration of the original three year timeframe or the extension (four year total) timeframe, an applicant may formally request an additional extension if substantial progress has been made on installation of public improvements.



**A. Minor Subdivision Plat purpose.**

1. The purpose of the Minor Subdivision Plat is to complete the subdivision of land consistent with the technical standards when the following conditions exist:
  - a. The property has previously been platted within the Town; and
  - b. The resulting subdivision will produce six or fewer lots.

**B. Minor Subdivision Plat application process.**

1. Pre-application conference. A pre-application conference with a representative from the Town is required before the applicant may submit a Minor Subdivision Plat application. Topics to be discussed will include:
  - a. Town regulations and standards.
  - b. The application and review process.
  - c. Submittal requirements.
  - d. Proposed schedule.
2. Minor Subdivision plat application submittal. The applicant shall submit the complete Minor Subdivision plat application package to the Town and request that the application be reviewed by the Planning Commission. The application shall be formatted and packaged per the application submittal checklist provided by the Town and include:
  - a. Development application form.
  - b. Application fee and MOU.
  - c. Title commitment. A current title commitment, dated no more than thirty days from the date of minor subdivision plat application submittal.
  - d. Minor Subdivision plat. The plat drawing shall comply with the following standards:
    - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor and meet applicable State of Colorado requirements.
    - ii. Except for parcels separated by public rights-of-way, public tracts, or railroads, parcels not contiguous shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.
    - iii. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.
    - iv. The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown

shall not have an error greater than one part in ten thousand.

- v.** Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
- vi.** All signatures shall be made in black drawing ink.
- vii.** The Minor Subdivision plat shall provide the following information:
  - a)** Title of project.
  - b)** North arrow, scale (not greater than 1"=100') and date of preparation.
  - c)** Vicinity map.
  - d)** Legal description.
  - e)** Basis for establishing bearing.
  - f)** Names and addresses of owners, applicant, designers, engineers and surveyors.
  - g)** Total acreage of subdivision.
  - h)** Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements.
  - i)** Lot and block numbers, numbered in consecutive order, and square footage or acreage to two decimal places of each lot or tract.
  - j)** Parcels excepted from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
  - k)** Existing rights-of-way in and adjacent to subject property (labeled and dimensioned).
  - l)** Existing and proposed street names for all streets on and adjacent to the property.
  - m)** Existing easements and their type in and adjacent to subject property (labeled and dimensioned).
  - n)** Location and description of monuments.
  - o)** Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).
  - p)** Single-family or two-family residential developments shall provide tables and other information identifying compliance with Section 30-2-116 of this Code.
  - q)** Certificates blocks for signatures of owner, surveyor, utility providers, and Town approval, as applicable.

**LEGAL DESCRIPTION AND DEDICATION:**

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, being the owners of \_\_\_\_\_, Township \_\_\_\_\_ N, Range \_\_\_\_\_ W of the 6<sup>th</sup> Principal Meridian, Town of Berthoud, County of \_\_\_\_\_, State of Colorado, more particularly described as follows:

**(LEGAL DESCRIPTION)**

Have laid out, platted, and subdivided the above described land, under the name and style of \_\_\_\_\_, and by these presents do dedicate to the Town of Berthoud in fee simple the street and public rights-of-way as shown on the plat, and grants to the Town of Berthoud such easements as are created hereby and depicted or, by note, referenced hereon, along with the right to install, maintain, and operate mains, transmission lines, service lines, and appurtenances, either directly or through the various public utilities, as may be necessary to provide such utility, cable television, and sanitary services within this subdivision or property contiguous thereto, through, over, under, and across streets, utility and other easements, and other public places as shown on the plat.

*If owner is an individual(s):*

Owner: John Doe

---

*If owner is a corporation, limited liability company, partnership, association or other business entity:*

Owner: The ABC Corporation, a Colorado corporation

---

By: John Doe, President

*If owner is a trust:*

Owner: The Jane Smith Trust

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*By: (John Doe, as trustee of the Jane Smith Trust)*

**DEED OF TRUST’S DEDICATION:** The undersigned mortgagee, for good and valuable consideration does by these presents, hereby subordinate all of its rights to such fee simple dedications and grants of easements to the Town of Berthoud as are depicted and referenced hereon and to the terms and conditions of the development agreement and this final plat and agrees that the development agreement and this final plat shall constitute a first and prior lien upon the (project name) to the same extent as though it were actually executed and recorded prior to said deed of trust.

DATE: \_\_\_\_\_

LENDER’S NAME

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**SURVEYOR’S CERTIFICATE:**

I, \_\_\_\_\_ a Registered Land Surveyor in the State of Colorado, do hereby certify that the survey of \_\_\_\_\_ was made under my supervision and the accompanying plat accurately and properly shows said subdivision.

\_\_\_\_\_

(Name, Registered Land Surveyors)

(Number)

**RIGHT TO FARM STATEMENT:** The Town of Berthoud has adopted a “Right to Farm” policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

**SITE SPECIFIC DEVELOPMENT PLAN:**

This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 328 Massachusetts Avenue, Berthoud, Colorado 80513.

**APPROVAL CERTIFICATES:**

Approved by the Planning Commission of the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

\_\_\_\_\_  
Chairman

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

ATTEST: \_\_\_\_\_  
Planning Technician

- e. General development information. A written description addressing how the proposed Minor Subdivision conforms to this Code, the Comprehensive Plan and the PORT Plan.
  - f. Additional materials. At Town discretion and depending on the size of the Minor Subdivision and its potential impact to the community, the Town may request the following additional materials:
    - Traffic study
    - Geotechnical report
    - Drainage map and study
    - Utility map and study
  - g. Surrounding property ownership report. A list and set of mailing labels not more than thirty days old of the names and addresses of the surrounding property owners within three hundred feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
3. Application certification of completion. Within five working days, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town.
4. Public Comment Requirements: Within five days of a complete application, the Town shall send notice of public comment to the neighboring property owners within five hundred feet of the subject property, as part of the review process. This notice shall include a summary of the project, along with a copy of the Minor Subdivision Plat. The Public shall have three weeks to submit comments back to the Town. All Public comments received, will be sent to the developer, and be part of the record for the Planning Commission meeting. The Developer shall address all public comments in a report to be included with the record,

before the Minor Subdivision Plat shall be scheduled for a hearing.

5. Refer application to parties of interest. Within an appropriate timeframe, staff shall send information about the application by regular mail to: surrounding property owners within three hundred feet, mineral interest owners of record, mineral and oil and gas lessees for the property, and other parties of interest.
6. Schedule Planning Commission public hearing and complete public notification process. The Town shall schedule a public hearing for the purpose of taking action on the Minor Subdivision. The Town shall publish notice and post the property with a sign legible from an adjacent public right-of-way within a reasonable time prior to the hearing. All notices and posting shall be consistent with this Code.
7. Planning Commission public hearing and action. The Planning Commission shall hold a public hearing to review the application based on the Minor Subdivision review criteria. The Planning Commission shall then move to approve, conditionally approve, or deny the application by resolution. An applicant may appeal denial by the Planning Commission to the Town Board.
8. Applicant addresses Planning Commission conditions. The applicant shall revise the Minor Subdivision plat based on any Planning Commission conditions of approval and submit it to the Town.
9. Record Minor Subdivision Plat. Three original signed mylars of the minor subdivision plat shall be delivered to the Town. The Town will record the minor subdivision plat in the office of the Larimer or Weld County Clerk and Recorder.

**C. Minor Subdivision Plat review criteria.** The Town shall use the following criteria to evaluate the request:

a. The minor subdivision plat is in compliance with this Code, the Town Comprehensive Plan, and the PORT Plan.

b. The Planning Commission shall also consider how the Applicant has addressed comments received from the public, during the Public Comment portion of the process when considering the request.

<b>30-6-110      Conveyance plat</b>
--------------------------------------

**A. Conveyance Plat purpose.**

A conveyance plat is a subdivision of land that creates lots that can be conveyed by the property owner. Any conveyance plat must conform to and be based upon an approved concept plan processed concurrently with the conveyance plat. The property must be a minimum of thirty five

acres. Each lot created by any conveyance plat must be at least ten acres in size. No more than twelve lots may be created by any conveyance plat.

Conveyance plats do not require satisfaction of the full raw water requirement applicable to the lots created. Final approval authorizing development of any portion of the property including but not limited to: a final plat, subdivision, final development plan, or site plan requires satisfaction of all water dedication requirements in accordance with the Berthoud Development Code as amended.

The conveyance plat does not create new lots of record for purposes of development and is intended only to facilitate conveyance or sale of all or a portion of the subject property. Approval of a conveyance plat does not provide the subject property to any development entitlements. Subsequent development of the property will require Town approval of a preliminary and final plat, preliminary and final development plan, and/or a site plan under this Code.

## **B. Conveyance Plat application process.**

The Planning Commission shall hold a public meeting on the conveyance plat and shall recommend approval, denial, or conditional approval to the Town Board. If the recommendation is for conditional approval, the conditions under which the conveyance plat would be acceptable shall be set forth. Following the public meeting by the Planning Commission, the Town Board shall hold a public hearing on the conveyance plat and shall adopt a resolution of approval, deny the application, or refer it back to the Planning Commission for further consideration. Staff shall give notice per the Minor Subdivision provisions in this Code.

Amendments to any conveyance plat of less than twenty five percent of any measurable area or dimension may be processed administratively. Amendments of twenty five percent or more of any measurable area or dimension shall be reviewed in accordance with the above process to originally adopt that conveyance plat.

## **C. Submittal Requirements**

1. Conveyance Plat submittal based upon Concept Plan. A conveyance plat shall be based upon a concept plan submitted concurrently with the conveyance plat application. Please refer to Section 30-6-104-B-2 of this Chapter for Concept Plan application submittal requirements.
2. Conveyance Plat drawing requirements:
  - Title block
  - Legend, if abbreviations or symbols are used
  - Contact information for owner, applicant, surveyor
  - Location/vicinity map

- North arrow and written & graphic scale
- Legal description and total acreage
- Property boundary with dimensions and bearings
- Property tie to original survey and abstract corner
- Lot dimensions
- Lot identification numbers
- Location of proposed streets and alleys with right-of-way widths
- 100 year floodplain or language “no floodplain exists on the site”
- Right-of-way dedications or reservations
- Utility easements including separate instruments
- Filing information for all existing easements or rights-of-way
- Complete curve data
- Locations, material, and size of all monuments
- Outline of all property proposed for dedication for public use
- Adjacent properties – subdivision name or owner name
- Surveyor’s certificate
- Town approval signature block
- Certificate of Ownership and notary block
- Dedication language for easements
- Additional documents or information as requested
- Plat notes to be added to any conveyance plat include:

- i.** Right to Farm statement

- ii.** All conveyance plats must be titled “Conveyance Plat” and carry the following wording:

“A conveyance plat is a record of property approved by the Town of Berthoud, Colorado, for the purpose of sale or conveyance in its entirety or interests thereon defined. No building permit shall be issued for a conveyance plat parcel until a final plat is



approved, filed of record and public improvements accepted in accordance with the provisions of the Development Code of the Town of Berthoud. Selling a portion of this property by metes and bounds is a violation of Town ordinances and Colorado law and is subject to fines and withholding of utility services and building permits.”

**3. Standards for Approval.**

- a.** Conformance with concept plan for property. All conveyance plats must be based upon and conform to a concept plan for the entire parcel being placed under a conveyance plat.
- b.** Access. All lots created by a conveyance plat shall have frontage and access to an existing or proposed public street.
- c.** Reservation of rights-of-way. Conveyance plats must provide for the reservation of future rights-of-way of planned roadways. Reservation of right-of-way does not grant any right or interest in the property to the Town or other entity. The final alignment may be adjusted upon final platting in order to meet engineering design standards.
- d.** Dedication of rights-of-way. Dedication of a right-of-way shall be required where a conveyance plat is used to record the remainder of a tract created by the final platting of a portion of the property.

<b>30-6-111      Administrative adjustment to recorded plats</b>
--

- A. Administrative Adjustment purpose.** The purpose of the administrative adjustment is to allow adjustments to recorded final plats where there is anticipated to be no significant impact to the Town. The Town Administrator may determine that the Planning Commission should make the decision as to the adjustment of internal or external boundary lines if the adjustment would have a significant impact on the Town or the neighborhood.
- B. Administrative Adjustment allowed.** The Town Administrator is authorized to approve, execute and record plats where the following occur:
  - a.** Merger of any number of lots into a single lot,
  - b.** Division of any lot into multiple lots,
  - c.** Modification or reduction of interior lot lines to reflect the generally recognized use of the property, or
  - d.** Boundary line adjustments where they conform to the historic usage of the property and are agreed to in writing by all parties.

- C. Administrative Adjustment prohibited. The Town Administrator is not authorized to approve, execute and record plats where the following occurs:
- a. Where there is a change in land use or in the intensity of residential land use including for example:
    - i. From single-family to multi-family,
    - ii. From residential to commercial,
    - iii. From commercial to industrial, or
    - iv. Any other like change in land use.
  - b. Where lots are created that will require a zoning change or a zoning variance.
- D. Administrative Adjustment process. In order to process any request for an administrative adjustment, the following steps shall be completed:
- 1) Proof of ownership. All owners of the property shall provide evidence satisfactory to the Town Administrator that they are the holders of equitable title to the property. Evidence of ownership required by the Town may include, but not be limited to: the recorded deed, or the title policy to the property and a copy of the billing by Larimer or Weld Counties for real property taxes. It shall not be necessary to have the holders of the legal title to the property included as petitioners with those persons holding equitable title to the property.
  - 2) Petition for administrative adjustment. All owners of legal and equitable title shall execute before a Notary Public a petition stating they are the owners of equitable title to the property and that they wish to merge two or more adjoining lots into one lot. The petition shall also contain such additional information that the Town may deem appropriate.
  - 3) Procedure for administrative adjustment.
    - a. Upon compliance with the above requirements, the Town Administrator or his duly designated representative is authorized to execute the document merging any number of lots into one lot. The petition for an administrative adjustment shall specify the subdivision, lot and block numbers (where applicable) and the number of the lot created as a result of the proposed action.
- D. Additional measures. Any administrative adjustment shall be recorded with the Clerk and Recorder of the proper county, and the appropriate adjustment shall be made to the Final Plat retained at the Town of Berthoud. If additional documentation as to the authority of the Town

Administrator is required by the Clerk and Recorder's office or by a title company, the Town Administrator is also authorized to execute these documents or such other documents as may be required to formalize the administrative adjustment.

<b>30-6-112      Site plan</b>
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- A.      Site Plan Purpose.** The site plan is a prerequisite to a building permit for all multi-family (excluding duplexes), commercial, and industrial developments. The site plan shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with all Town regulations and this Code.
- B.      Site Plan process.**
- 1.      Site Plan application.**
- a.**      Land use application form.
  - b.**      Application fee and fee agreement.
  - c.**      Site Plan map - The site plan map shall be a minimum of eighteen inches by twenty-four inches and shall provide the following information:
    - i.**          Title of project.
    - ii.**        North arrow, scale (no greater than 1"=50') and date of preparation.
    - iii.**        Vicinity map.
    - iv.**        Address of project.
    - v.**         Legal description of property.
    - vi.**        Name, address and phone number of property owner.
    - vii.**       Name, address and phone number of person or firm responsible for plan.
    - viii.**      Lot size (square footage).
    - ix.**        Bearings and distances of all lot lines.
    - x.**         Existing and proposed easements and rights-of-way.
    - xi.**        Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and buildings.
    - xii.**      Gathering areas for people.
    - xiii.**      Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
    - xiv.**      Existing and proposed two foot contours.
    - xv.**        Existing waterways on or adjacent to the site.
    - xvi.**      Finished floor elevations for all structures.
    - xvii.**     Footprint (including roof overhangs and eaves, decks, balconies,

outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.

- xviii.** Existing structures and their use.
- xix.** Square footage of the proposed building(s) and the footprint of the proposed building(s).
- xx.** Proposed structure height.
- xxi.** For commercial and industrial uses, the type of activity and number of employees.
- xxii.** For multi-family residential, the number of residential units and bedrooms per unit.
- xxiii.** Location of proposed signs and lights.
- xxiv.** Specifications for the signs and lights, including type, height and general conformance to the Code. For commercial and industrial uses, a photometric plan prepared by a qualified electrical or lighting engineer shall be submitted that depicts all lighting fixtures and the light spread (in footcandles) of these fixtures across the site to all property boundaries.
- xxv.** Proposed traffic controls and striping for parking areas (all lanes, driveways, and parking spaces must be dimensioned).
- xxvi.** Trash disposal areas and enclosures including specifications for enclosures.
- xxvii.** Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
- xxviii.** Location and size of water and sewer lines to which the service connections will be or are made.
- xxix.** Location and size of water meter(s).
- xxx.** Location and size of backflow-prevention devices.
- xxxi.** Indication of how and where perimeter drain will drain (if one exists).
- xxxii.** Location of existing electrical lines and poles on or adjacent to the site.
- xxxiii.** Location of proposed electrical service connection and meter location.
- xxxiv.** Location of electric transformer.
- xxxv.** Location of all fire hydrants. If none exist on site, note distance and direction of the closest hydrant adjacent to the site within five hundred feet.

- xxxvi.** Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
- xxxvii.** The distance from the proposed building(s) or structure(s) to adjacent lot lines, easements, and adjacent structures.
- xxxviii.** A land use chart (table).
- xxxix.** Certificate blocks for signatures of owner, surveyor, utility providers, and Town approval, as applicable.

## **LEGAL DESCRIPTION**

(LEGAL DESCRIPTION)

## **OWNER & PROFESSIONAL INFORMATION:**

OWNER	ENGINEER	ARCHITECT	OTHER
Name	"	"	"
Address	"	"	"
Phone #	"	"	"

**RIGHT TO FARM STATEMENT:** The Town of Berthoud has adopted a “Right to Farm” policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

## **APPROVAL CERTIFICATES:**

Approved by the Town Administrator of the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_\_.

\_\_\_\_\_  
Town Administrator

Approved by the Engineer of the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

\_\_\_\_\_  
Engineer

The foregoing plan is approved for filing and accepted by the Town of Berthoud, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Planning Technician

**SITE SPECIFIC DEVELOPMENT PLAN:**

This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 328 Massachusetts Avenue, Berthoud, Colorado 80513.

- d. Community design standards - Demonstrate in written or graphic form how the proposed structure(s) is consistent with Chapter 30, Section 2 of this Code.
  - e. Certified drainage report - A certified drainage report, including an erosion control study and plan, as applicable, must be reviewed and approved by the appropriate sanitation district (if applicable) prior to submittal of the report to the Town as part of the site plan application.
  - f. Final landscape and open space plan. Provide an existing and proposed landscape and open space plan consistent with this Section.
  - g. Exterior elevations of proposed structures/graphic visual aids. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s). In addition, Staff may require building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
2. Application certification of completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal

requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.

3. Staff reviews application and prepares comments. Staff will review the site plan map to ensure it is consistent with the site plan review criteria. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the site plan can be recommended for approval. This report will be forwarded to the applicant.
4. Applicant addresses staff comments. Applicant shall make all necessary changes to the site plan and resubmit a revised copy to the Town.
5. Development Agreement. Staff may require that the applicant execute a Development Agreement as detailed in Section 30-6-114 of this Code to assure the construction of on-site and off-site improvements as a condition of approval of the site plan.
6. Review and action. The Town Administrator and Planner shall be responsible for processing all applications for Site Plan Reviews within the Town of Berthoud. The Town Administrator and Planner shall also have the responsibility of ensuring that all applications and submittal requirements are met prior to initiating any official action as listed above. The authority and responsibility for making the decision to approve, disapprove or approve with conditions all requests for a site plan review will rest with the Town Administrator.

The Town Administrator may refer a site plan application to the Planning Commission for the Commission's review and action, based on a determination that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action. The application and notice of the referral shall be sent to the Planning Commission for its review within a Public Hearing and action. Appeals of any Planning Commission final decision may be made to the Town Board acting as the Board of Appeals using the appeal procedures found in Section 30-3-108 B and C

7. Board consideration of appeals. The Board of Trustees shall consider any appeal within forty-five days of the close of the fourteen day appeal period, except an appeal associated with a concurrent development application requiring Board review or approval, shall be considered with final action on the concurrent development application. The Board shall apply the site plan review criteria to uphold, modify, or reverse an earlier decision.

**8. Post approval actions.**

- a.** Building Permit. A building permit shall be issued only when a site plan has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the site plan application. Building permits shall not be issued for any development that is not in conformance with the approved site plan.
- b.** Phasing and expiration of approval. The site plan shall be effective for a period of three years from the date of approval, unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than three years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three years from the date of Phase I approval.

**C. Site Plan review criteria.** In addition to all requirements of this Code, the site plan must meet the following review criteria:

- 1.** All of the information required on a site plan is shown.
- 2.** The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- 3.** No buildings or structures infringe on any easements.
- 4.** The proposed site grading is consistent with the requirements of any applicable adopted storm drainage criteria or master drainage plans.
- 5.** The density and dimensions shown conform to Section 3: Zoning.
- 6.** The applicable provisions of this Chapter have been met and the proposed improvements conform to this Chapter and the Comprehensive Plan.

**D. Amendments to approved Site Plans.**

- 1.** Minor variations in the location of structures, improvements, or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff. Such changes shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
- 2.** Changes to approved site plans that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. Such amendments shall require Planning Commission review and approval to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.



<b>30-6-113</b>	<b>Amendments and exceptions</b>
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- A. Amendments. Amendments to any lots, tracts or parcels, or the relocation or addition of streets within a previously recorded subdivision, shall be considered a resubdivision (also known as a “replat”) and shall be prepared and submitted in compliance with the requirements as set forth in this Code. Concept plan, preliminary plat and final plat requirements related to a replat may be waived in part at the discretion of the Town Board of Trustees.
- B. Exceptions. The Town Board after providing public notice including mailed notice to property owners within three hundred feet of the property, posting notice of a public hearing and publishing notice in the newspaper of record; may in its discretion, grant exceptions, modifications and/or waivers (“Exceptions”) from the regulations set forth in this Chapter 30, Section 6 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 and will consistent with the purposes and objectives of the Town Comprehensive Plan and PORT Plan.

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

<b>30-6-114</b>	<b>Development agreements</b>
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- A. Agreements and Improvements. A Development Agreement stating that the applicant agrees to construct any required public improvements shown in the final plat documents together with security in a form approved by the Town is required. No subdivision plat (except for Conveyance) shall be signed by the Town or recorded at the office of the Larimer or Weld County Clerk, and no building permit shall be issued for development until a Development Agreement between the Town and the applicant has been executed. Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Board to ensure that all improvements will be completed in a timely, quality and cost-effective manner.

- B. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plat documents may also be required.
- C. As required by this Code and all applicable laws, rules and regulations, the applicant shall apply to the Town for inspection of improvements.
- D. The following improvements shall typically be constructed as determined by the Town:
1. Road grading and surfacing.
  2. Curbs.
  3. Street lights.
  4. Sidewalks.
  5. Sanitary sewer collection system.
  6. Storm sewers or storm drainage system, as required.
  7. Potable water distribution.
  8. Non-potable water distribution.
  9. Fire hydrants.
  10. Utility distribution system for public parks and open space.
  11. Street signs at all street intersections.
  12. Permanent reference monuments and monument boxes.
  13. Underground telephone, electricity and gas lines.
  14. Berm or fence along major arterial and collector streets.
  15. Required landscaping including on open space.
  16. Required landscaping including park improvements.
  17. Tree lawns.
  18. Under drains.
  19. Trails, trail heads and associated improvements.
  20. Required floodway improvements.
  21. Required irrigation ditch improvements.
  22. Required off-site improvements.
- E. **Time for completion.** Commencement of construction of all or a portion of the approved final plat shall occur within three years from the date of recordation of said final plat. The required time for the completion of all required improvements for all or a portion of said final plat shall be three years from Town's issuance of a grading or other permit to commence construction. However, the Board may, for good cause shown, extend such time for commencement or completion of the required improvements upon request from the applicant. Upon completion of such improvements within the required time and approval thereof by the Town, the Town shall cause the cash or letter of credit to be released within thirty days of the Town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the Town may cause

the proceeds of the cash, letter of credit or other financial guarantee to be used to close or complete the required improvements in accordance with the terms and provisions of the Development Agreement.

- F. Type and amount of security.** The Town will accept security or collateral in the following types and amounts:
1. Payment and performance bonds in the amount of 100% of the cost of improvements plus 15% contingency, or
  2. Cash, certified funds, irrevocable letter of credit, or other form of security as approved by the Town in the amount of 25% of the cost of improvements plus contingency.
- G. No partial release of security.** No portion of the security for improvements will be released until the expiration of the warranty period. The required warranty period shall commence upon completion and initial approval of all required improvements and landscaping in accordance with the terms and provisions of the Development Agreement.
- H. Warranty.** All workmanship and materials for required improvements shall be warranted for a minimum period of two years as specified in the Development Agreement and this Code.
- I. Exception for trees within public right-of-way.** Builders or owners of residential properties shall plant street trees per this Code prior to the issuance of any certificate of occupancy. If weather prevents timely planting of street trees, funds in an amount and form acceptable to the Town for planting of such trees at a later time must be placed in escrow with the Town prior to issuance of a certificate of occupancy. Warranty for all street trees shall be one year from date of planting.
- J. Platting Required.** No final plat shall be recorded until the Developer and, if applicable, the Metropolitan District have executed a satisfactory Development Agreement with the Town providing for the installation of all public infrastructure required for the development as set forth in the Plat. In addition, no Development Agreement shall be recorded until all on and off-site easements and rights of way necessary for all public improvements have been acquired, and a Landscape Plan has been approved by the Town.

<b>30-6-115      Sales prior to recording of Final Plat</b>
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- A. Applicability.** Except as provided in this section, it is unlawful for any subdivider or agent of a subdivider to transfer or sell or advertise, offer, or agree to transfer or sell any separate interest in property before a conveyance plat or final plat for such subdivided property has been approved in accordance with the provisions of this article and recorded in the office of the County Clerk and Recorder.

- A. Agreements and Improvements. A Development Agreement stating that the applicant agrees to construct any required public improvements shown in the final plat documents together with security in a form approved by the Town Administrator is required. No subdivision plat (except for Conveyance) shall be signed by the Town or recorded at the office of the Larimer or Weld County Clerk, and no building permit shall be issued for development until a Development Agreement between the Town and the applicant has been executed. Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by Town staff to ensure that all improvements will be completed in a timely, quality and cost-effective manner.
- B. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plat documents may also be required.
- C. As required by this Code and all applicable laws, rules and regulations, the applicant shall apply to the Town for inspection of improvements.
- D. The following improvements shall typically be constructed as determined by the Town.
1. Road grading and surfacing.
  2. Curbs.
  3. Street lights.
  4. Sidewalks.
  5. Sanitary sewer collection system.
  6. Storm sewers or storm drainage system, as required.
  7. Potable water distribution.
  8. Non-potable water distribution.
  9. Fire hydrants.
  10. Utility distribution system for public parks and open space.
  11. Street signs at all street intersections.
  12. Permanent reference monuments and monument boxes.
  13. Underground telephone, electricity and gas lines.
  14. Berm or fence along major arterial and collector streets.
  15. Required landscaping including on open space.
  16. Required landscaping including park improvements.
  17. Tree lawns.
  18. Under drains.
  19. Trails, trail heads and associated improvements.
  20. Required floodway improvements.
  21. Required irrigation ditch improvements.
  22. Required off-site improvements.
- E. **Time for completion.** Commencement of construction of all or a portion of the approved final plat shall occur within three years from the date of recordation of said final plat. The required time for the completion of all required improvements for all or a portion of said final plat shall be three years from Town's issuance of a grading or other permit to commence construction. However, the Town Administrator may, for good cause shown, extend such time for commencement or completion of the required improvements upon request from the

applicant. Upon completion of such improvements within the required time and approval thereof by the Town, the Town shall cause the cash or letter of credit to be released within thirty days of the Town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the Town may cause the proceeds of the cash, letter of credit or other financial guarantee to be used to close or complete the required improvements in accordance with the terms and provisions of the Development Agreement.

- F. Type and amount of security.** The Town will accept security or collateral in the following types and amounts:
1. Payment and performance bonds in the amount of 100% of the cost of improvements plus 15% contingency, or
  2. Cash, certified funds, irrevocable letter of credit, or other form of security as Approved by the Town in the amount of 25% of the cost of improvements plus contingency.
- G. No partial release of security.** No portion of the security for improvements will be released until the expiration of the warranty period. The required warranty period shall commence upon completion and initial approval of all required improvements and landscaping in accordance with the terms and provisions of the Development Agreement.
- H. Warranty.** All workmanship and materials for required improvements shall be warranted for a minimum period of two years as specified in the Development Agreement and this Code.
- I. Exception for trees within public right-of-way.** Builders or owners of residential properties shall plant street trees per this Code prior to the issuance of any certificate of occupancy. If weather prevents timely planting of street trees, funds in an amount and form acceptable to the Town for planting of such trees at a later time must be placed in escrow with the Town prior to issuance of a certificate of occupancy. Warranty for all street trees shall be one year from date of planting.

<b>30-6-117      Construction Activities</b>
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### **Grading/Construction Activities**

- A. Early grading.** After approval of a Preliminary Plat, Applicant may proceed with preliminary grading of the project area if a Construction Plan set for grading and drainage is approved and memo authorizing grading work is issued by the Town Engineer. Early grading is at the risk of the Applicant and no presumption of any Final Plat approval at the Planning Commission is expressed or implied by any authorization of early grading.

<b>30-6-118      Sales prior to recording of Final Plat</b>
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- A. Applicability.** Except as provided in this section, it is unlawful for any subdivider or agent of a subdivider to transfer or sell or advertise, offer, or agree to transfer or sell any separate interest in property before a conveyance plat or final plat for such subdivided property has

been approved in accordance with the provisions of this article and recorded in the office of the County Clerk and Recorder.

**30-6-114 to 30-6-xxx          Reserved.**