

**TOWN OF BERTHOUD ORDINANCE  
NUMBER 1322  
(SERIES 2023)**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO AMENDING THE  
FOLLOWING SECTIONS OF THE LAND USE CODE:  
30-6-112 TO REFINE APPLICATION REQUIREMENTS FOR SITE PLANS; 30-1-116 AND  
TABLE 3.3 TO AMEND THE DEFINITION OF CHILD CARE HOME AND TO SEPARATE  
THE DEFINITIONS OF INN AND INTEGRATE; 30-5-102 TO UPDATE THE CONSTRUCTION  
SITE COMPLIANCE REGULATIONS; 30-3-106 TO CLAIFY THE PURPOSE OF A  
CONDITIONAL USE PERMIT; CHAPTER 30-7 TO CLARIFY THE INTENT OF THE SIGN  
CODE TO MEET INTERNATIONAL DARK SKY STANDARDS;  
AND AMEND SECTION 18-4-15.A TO CLARIFY DISPOSAL OPTIONS OF DECEASED  
ANIMALS**

**WHEREAS**, the Town of Berthoud is a municipal corporation possessing all powers granted to a statutory town by Title 31 of the Colorado Revised Statutes; and

**WHEREAS**, the Town wishes to amend sections of the Municipal Code to remain consistent with the intent of the 2021 Comprehensive Plan update and to clarify the intent of application requirements and development standards; and

**WHEREAS**, the Planning Commission, after proper notice, has held a public hearing on August 24, 2023 on this ordinance providing for a recommendation of approval from the Town Board of Trustees; and

**WHEREAS**, the Board of Trustees, after proper notice has held a public hearing on this ordinance providing for the adoption of said code amendments pursuant to C.R.S. Section 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 TOWN BOARD OF TRUSTEES OF THE  
TOWN OF BERTHOUD, COLORADO:**

**Section 1.** That Chapter 30, Sections 30-6-112, 30-1-116, Table 3.3, Sections 30-5-102, 30-3-106, Chapter 30-7, and Section 18-4-15.A as set forth in Exhibit A, attached is hereby adopted;

**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.

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other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.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

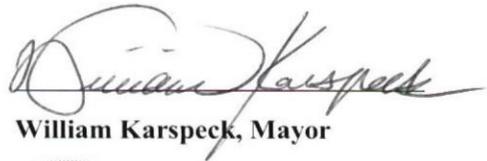
property actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

INTRODUCED, READ, ADOPTED, AND APPROVED on this 26<sup>th</sup> day of September, 2023.

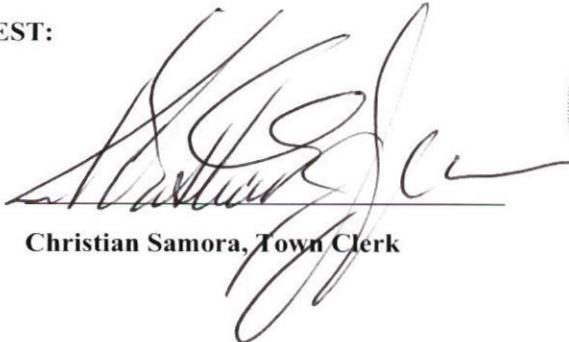
**TOWN OF BERTHOUD**

By

  
William Karspeck, Mayor

ATTEST:

By:

  
Christian Samora, Town Clerk



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**Note for the reader:** The narrative following each “Section” statement is information provided for background on the proposed amendment and is not intended as Code material.

**EXHIBIT A:**

**Section 1: To refine the intent, process and application requirements for administrative Site Plans.**

The Criteria for approval contains requirements for any new construction such as setbacks rather than reflecting on the goals and visions exemplified in the Comprehensive Plan update as well as the design and development standards of the Town. To refine the intent, process and application requirements for administrative Site Plans.

**30-6-112 Site Plan Review**

- A. *Site Plan Review Purpose.* The site plan review process is a prerequisite to obtaining a building permit for all multi-family (excluding duplexes), commercial, and industrial developments in accordance with the land use table contained in the Zoning Section of this Chapter. The site plan review process shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with the Development Code and all overlay districts, standards and specification, and master plans affecting the property. all Town regulations and this Code.
- B. *Site Plan process.*
  1. *Site Plan application.*
    - f. Final landscape and open space, and buffer plan. Provide a plan illustrating an existing and proposed landscape materials, materials to be removed and those to be retained, a plan for open space and appropriate buffering for commercial and industrial properties. The buffer plan shall be made in accordance with the Commercial and Industrial Standards Section and the Commercial and Industrial buffering and screening techniques Standards of the Municipal Code and shall also contain an open space plan consistent with this Section. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the location of all proposed meters and backflow devices.
    - g. Final irrigation plan. Provide a plan illustrating how the proposed landscape material will be irrigated.
    - h. Hydrozone analysis. Provide an analysis of the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable uses.
    - ig. 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.
    - j. Development sign plan. Provide a plan illustrating a unified signage plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscape materials.

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

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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 ~~application materials site plan map~~ to ensure it is consistent with the site plan review criteria, ~~the Comprehensive Plan and any overlay districts affecting the property. Staff will forward the application materials to appropriate referral agencies.~~ 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 ~~application materials~~ and resubmit a revised copy to the Town.

5. *Development Agreement.* Staff may require that the applicant execute a Development Agreement as detailed in ~~this Chapter of the Municipal Code to assure the construction of on-site and off-site improvements as a condition of approval of the site plan.~~

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. *Application process conclusion.* ~~The applicant shall satisfy all conditions of approval and provide adequate information to Town Staff. Once materials have been completed to the satisfaction of Staff and in accordance with the approval, the applicant shall finalize the Development Agreement, if not completed, and shall provide materials requested by Staff to Staff for recording with the records of the County Clerk and Recorder.~~

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:the particular zoning district the project site is located within Zoning.~~
6. ~~The applicable provisions of this Chapter have been met and the proposed improvements conform to this Chapter and the Comprehensive Plan.~~
  1. ~~Application materials are complete.~~
  2. ~~The proposed land use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulations unless a variance is being concurrently requested.~~

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3. The proposed land use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
4. The proposed land use will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
5. The proposed land use will not substantially alter the basic character of the district in which it is in or impair the development or redevelopment potential of the district.
6. The proposed land use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
7. Potential negative impacts of the proposed land use on the rest of the neighborhood or of the neighborhood on the proposed land use have been mitigated through setbacks, architecture, screening, landscaping, site arrangement or other methods. The applicant shall, at a minimum, satisfactorily address impacts including: traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
8. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

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.

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**Section 2:** To clarify the permit intent, process and requirements for a Use by Special Review. A Use by Special Review may have conditions of approval and development standards. Uses by Special Review may be approved, denied, or approved with conditions. The changes proposed do not alter the permitting process. The changes proposed clarify the terminology and includes more robust review criteria and expectations for application materials as well as reflecting on the goals and visions exemplified in the Comprehensive Plan update and the design and development standards of the Town. Note for Muni Code, throughout Chapter 30, the words “Conditional Use(s)” shall be replaced with “Use by Special Review.”

**30-3-106 ~~Conditional Uses, Use by Special Review~~**

A. *Purpose.* In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a Use by Special Review ~~conditional use or use by special review~~ permit. ~~For purposes of this Section, the term conditional use applies to both conditional uses and uses by special review.~~ Because of their unusual or special characteristics, ~~these conditional~~ uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to assure compatibility and harmonious development between ~~adjacent land~~ conditional uses, surrounding properties, the vision of the Comprehensive Plan for the property and surrounding area, applicable overlay districts, and the Town at large. Use by Special Review permits Conditional uses may be permitted, denied or permitted subject to conditions of approval, such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses proposed in the permit application will be in accordance with the Conditional Use Use by Special Review criteria. The scope and elements of any Use by Special Review conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for a Use by Special Review Conditional Use Permits shall be denied.

B. *Conditional Use by Special Review process.*

1. *Optional Pre-application conference.* The applicant shall ~~may~~ attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the conditional proposed use, submittal requirements and review process.
2. *Conditional Use by Special Review application submittal.* The applicant shall submit the complete conditional use application package to the Town. The application ~~and~~ shall request that the application be reviewed by Town staff, the Planning Commission and Board. Application materials Conditional use requests shall include the following:
  - a. Land use application form.
  - b. Application fee and fee agreement.
  - c. Use by Special Review map – the map shall be a minimum of 18 inches by 24 inches and shall provide the following information:
    - i. Title of project.
    - ii. North arrow, scale (no greater than one inch equals 50 feet) 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.

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- 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 500 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. Refer to the Site Plan section of this Chapter for examples.

**db.** Title commitment. The title commitment must be current and dated no more than 30 days from the date of conditional use application submittal.

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ee. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how the criteria for approval of a Use by Special Review can be met all conditional use review criteria have been satisfied.

d. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.

fe. 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. Preliminary building plans and elevations. Provide sufficient detail to indicate the dimensions, general appearance and scale of all buildings to illustrate how the proposed structure(s) will be consistent with the Architectural Guidelines and any Overlay Districts identified in this Chapter.

g. Certified drainage report – A certified drainage report, including an erosion control study and plan.

h. Final landscape, open space, and buffer plan. Provide a plan illustrating existing and proposed landscape materials, materials to be removed and those to be retained, a plan for open space and appropriate buffering for commercial and industrial properties. The buffer plan shall be made in accordance with the Commercial and Industrial Standards Section and the Commercial and Industrial buffering and screening techniques Standards of the Municipal Code and shall also contain an open space plan consistent with this Section. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the location of all proposed meters and backflow devices.

i. Final irrigation plan. Provide a plan illustrating how the proposed landscape material will be irrigated.

j. Hydrozone analysis. Provide an analysis of the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable uses.

k. Development sign plan. Provide a plan illustrating a unified signage plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscape materials.

lg. Surrounding and interested property ownership report — Provide the Town with a current list and set of mailing labels (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners and mineral and oil and gas lessees of record for the property, and appropriate ditch companies. The applicant shall certify that the report is complete and accurate and provide the source of the information.

mf. Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.

3. Conditional Use by Special Review permit 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. The original application and all documents requiring a signature shall be signed in blue ink.

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4. Staff reviews application and prepares comments. Staff will review the application to ensure it is consistent with the review criteria. Referral agencies will also have the opportunity to review the application materials and provide comments to Town staff. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the application materials can be recommended for approval, conditional approval, or if staff will be recommending denial of the application. This report and all referral agency responses will be forwarded to the applicant.

5. Applicant addresses staff comments. Applicant shall make all necessary changes to the application materials and resubmit a revised copy to the Town.

6. Development Agreement. Staff may require that the applicant execute a Development Agreement as detailed in this Code to assure the construction of on-site and off-site improvements as a condition of approval of the Use by Special Review permit.

74. Set Conditional Use public meeting and hearing dates and notify public. The Town shall send notice of the public meeting with the Planning Commission and public hearing with the Town Board to the applicant, all property owners of record within 300 feet of the property in question, and all mineral interest owners of record, oil and gas lessees for the property, ~~and to the appropriate referral agencies per this Code~~. The notice referral information shall include the time and place of the public meeting and hearing, the nature of the meeting/hearing, the location of the subject property, appropriate background information and the applicant's name. The Town shall publish notice for both the meeting and hearing in a newspaper of general circulation. The Town shall also prepare a notification sign to be posted on the property by the applicant. If the ~~conditional use~~ request is accompanying another application which is scheduled for a public meeting or hearing, such public meeting or hearing may be combined on both applications.

85. Planning Commission review of the Conditional Use application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the ~~conditional use~~ review criteria. The Planning Commission will then recommend to the Board approval, approval with conditions or denial.

96. Board public hearing and action on the Conditional Use application. The Board shall hold a public hearing on the ~~conditional use~~ application. Following the public hearing, the Board may approve, conditionally approve or deny the ~~conditional use~~ application based on the ~~conditional use~~ review criteria. A ~~conditional use~~ permit may be revocable, may be granted for a limited time period, and may be granted subject to such other conditions as the Board may prescribe. Conditions may include, but shall not be limited to: requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, any standards for maintenance of buildings and grounds, and any development schedules.

10. Application process conclusion. The applicant shall satisfy all conditions of approval and provide adequate information to Town Staff. Once materials have been completed to the satisfaction of Staff and in accordance with the direction of the Board, the applicant shall finalize the Development Agreement, if not completed, and shall provide materials requested by Staff to Staff for recording with the records of the County Clerk and Recorder.

C. *Conditional Use review Review* criteria. The Town may approve a conditional use application if it finds that each of the following criteria are satisfied:

1. Application materials are complete.
2. The conditional proposed land use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulations unless a variance is being concurrently requested.
2. The conditional proposed land use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
3. The conditional proposed land use will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
4. The conditional proposed land use will not substantially alter the basic character of the district in which it is in or impair the development or redevelopment potential of the district.
5. The conditional proposed land use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
6. Potential negative impacts of the conditional proposed land use on the rest of the neighborhood or of the neighborhood on the conditional proposed land use have been mitigated through setbacks, architecture, screening walls, landscaping, site arrangement or other methods. The applicant shall, at a minimum, satisfactorily address impacts including: traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
7. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

#### **30-3-104 - Principal and conditional uses permitted by zoning district**

A. *General application of uses.* Uses designated as "principal uses" are allowed in a zone district as a matter of right. Uses classified as a Use by Special Review "conditional uses" are permitted upon approval of a Use by Special Review conditional use permit per this Code. Unless a use is designated as a "principal use" or " conditional useUse by Special Review" or is classified as a legal "non-conforming" structure or use, it is not permitted.

Land uses not otherwise identified in this Code may be proposed. In order to allow such uses, the new or unlisted land use must be determined to be "similar" to either a principal or Use by Special Review conditional use listed within that zone district. "Similar" shall mean that the use can be reasonably interpreted to fit into a similar use category as identified in this Code. Town Administration will make a written determination regarding any request for a land use not listed in this Code. If a determination is made that the proposed use is similar to either a listed principal or Use by Special Review conditional use, it will be processed as a Use by Special Review conditional use under the provisions of this Code.

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**Section 3:** Amend the definition section of the Land Use Code to incorporate changes to child care rules and regulations enacted by the State of Colorado.

30.1.116.A

65. *Child care home* means a residential home providing care to no more than ~~twelve~~ ~~six~~ children.

66. *Child care home, large* means a family child care home that provides care for seven to 12 children.

Table 3.3

	AG	TN	R1	R2	R3	R4	R5	C1	C2	M1	M2
<input checked="" type="checkbox"/> Principal Use by Right											
<input type="checkbox"/> <u>Conditional Use by Special Review</u>											
<i>Residential land uses</i>											
Child care home (up to <del>12</del> <del>6</del> persons)	<input checked="" type="checkbox"/>										
Child care home, large	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>							

**Section 4:** To clarify the intent of Section 18.4-15 for animal disposal following death.

18-4-15 Disposal of Dead Animals

- A. If any animal dies in the Town, it shall be the duty of the keeper of the animal to cause the animal to be at once ~~removed from the Town and~~ buried at a sanitary landfill, cremated, or rendered at a professional rendering service facility. No person shall dispose of any dead animal by dumping said animal on any public or private property or disposing of the animal by any means other than those set forth in this Section B. In the event the owner of any such animal shall neglect or refuse to remove the same within 24 hours after its death, the Town may cause the animal to be removed at the expense of such owner.

**Section 5:** To separate the definition of "Inn" and "Integrate" found in Section 30-1-116. 208 and renumber subsequent definitions accordingly.

- 208. Inn means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are less than 12 guest rooms.
- 209. Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

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**Section 6:** To clarify the intent of keeping construction sites in compliance with State regulations regarding stormwater management, sites clear of debris, and to establish standards mitigating common construction impacts.

### **30-5-102 Construction Rules and Regulations**

A. *Applicability and Purpose.* This section shall apply to all new development or re-development construction projects that include work visible to the public within the Town except for the renovation of an individual single-family home.

To ensure ~~all that any~~ Construction Activity conducted within the Town is done in the most sensitive manner possible and to minimize impacts ~~to guests and Owners~~, the following Construction Regulations shall be enforced during the construction period of all development projects unless otherwise approved by the Town. This document shall be known as the "Construction Rules and Regulations" and may be referred to herein as the "Regulations." The Town has the power to amend these Regulations from time to time, ~~following notice requirements outlined in this Chapter without notice~~. Each Owner shall ensure that all Construction Activity ~~that is performed~~ on their Construction Site shall be performed in accordance with the following requirements. Anyone found in violation of these ~~Regulations~~ shall be subject to citation, fines and other enforcement actions as allowed by the Town Municipal Code and Development Code.

1. Construction Activity is defined as any building, infrastructure, and/or construction related activity conducted outdoors at any time. Interior construction activity ~~in no way~~ conducted ~~entirely indoors~~ ~~outdoors~~, such as painting and some finishing work, is exempt from the requirements of this ordinance.
2. Large Construction Vehicle is defined as vehicles with more than two axels engaged in activity related to Construction Activity.

B. *Drainage, Erosion Control, and Vegetation Management.* ~~The Town requires the owner or operator of a construction site to receive permit certification issued by the State of Colorado for any proposed construction activity that falls under the category of a General Construction Stormwater Permit as defined by the Colorado Department of Public Health and Environment (CDPHE). In addition, the Town must review, approve and permit a site-specific Stormwater Management Plan (SWMP) submitted by the owner of the construction site prior to the Town approving the construction activity.~~ The ~~o~~wner of the ~~c~~onstruction ~~s~~ite is responsible for preparing and submitting ~~the SWMP to the Town~~ ~~such plans~~. In no event shall silt, mud, debris, or other stormwater related issues be allowed to accumulate on lots, roads, Rights-of-Way (ROW), or other public areas for more than 72 hours.

1. In addition to implementing, monitoring, and updating the SWMP throughout construction, the Owner shall not allow standing water ~~exceeding an area of areas over~~ 25 square feet to remain in place longer than 72 hours. Temporary pumps and associated piping may be used to remove areas of standing water ~~and but shall must~~ conform to ~~any~~ best practices identified in the SWMP.
2. All open space areas in each phase ~~of a development shall are to~~ be seeded or landscaped pursuant to ~~the~~ approved SWMP, ~~erosion control plan, and approved or~~ Landscape Plans prior to ~~the time when~~ 51 percent of the ~~building~~ permits ~~are being~~ issued in said phase. Delays associated with weather will not be granted.
3. Any material storage on site shall be done in such a way that proper vegetation management can continue unimpeded.

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C. *Construction Equipment and Material Storage.* Each Owner or Owner's Representatives and their contractors shall ensure ~~that~~ all construction material is stored in a designated materials storage area. Such storage area shall only be located on lots with approved permits and shall be located to minimize the visual impact from adjacent properties and roadways. Construction materials shall not be stored in the Right-of-way for more than 72 hours without prior approval from the Town. Any materials stored within Right-of-way shall not impede pedestrian and/or vehicular traffic and shall be marked with high visibility cones or other signage.

D. *Debris and Trash Removal.* Owners, Owner's Representatives, and their contractors shall be responsible for assuring ~~that~~:

1. At the end of each day, all trash and debris on the Construction Site is cleaned up and stored in proper containers ~~or organized piles~~ and not permitted to be blown about the Site or adjacent property, and
2. At least once a week, all trash and debris are removed from the Construction Site to a proper dumpsite located off the Property.
3. All trash and debris containers shall be located on the Construction Site, kept off the road right-of-way, ~~and not on including~~ sidewalks ~~or~~, ~~and~~ adjacent property except for in pre-approved storage areas. Any trash and debris containers shall be set in such a way that they do not create visual barriers for traffic and pedestrians. Determination of such barriers shall be at the sole discretion of the Town.

E. *Construction Hours and Noise.* Construction Activities shall be limited to the following hours of operation:

1. Monday through Friday: 7:00 a.m.; 7:00 p.m. or Sundown, whichever occurs earlier
2. Saturday: 8:00 a.m. — 7:00 p.m. or Sundown, whichever occurs earlier
3. Sunday: 9:00 a.m. — 4:30 p.m.;
4. Entrance to Construction Sites work site for SET-UP only, is permitted one half hour prior to hours of operation. (e.g. M—F 6:30 a.m.—~~Sat. 7:30 a.m.~~) During the half-hour set-up, the operation of heavy equipment, compressors, impact tools, or any activity that creates loud noise shall be prohibited. At all times each Owner shall use reasonable efforts to minimize external noise resulting from Construction Activity. No loud music shall be permitted.

F. *Large Construction Vehicle Routes.* Delivery and haul routes for all vehicles with more than two axels shall avoid all local or neighborhood roads outside of the construction site. Large Construction Vehicles as defined herein must obey all posted speed limits and traffic regulations within the Town.

G. *Prohibited General Practices.* All Owners will be responsible for the conduct and behavior of their Owner's Representatives in the Town. The following practices are prohibited within the Town and will result in an automatic fine:

1. Changing oil on any vehicle or equipment on the Construction Site ~~without spill protection, containment and safeguards. This activity shall take place in an approved containment area;~~
2. Allowing concrete suppliers and contractors to clean their equipment on any property within the Town of Berthoud lot, roadway, right-of-way, ditch, easement, or other property without prior approval;
3. Removing ~~any~~ rocks, plant material, topsoil, or similar items from ~~the any~~ property of others within Town;
4. Using disposal methods or units other than those approved by the Town;

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- 5. Careless disposition of cigarettes and other flammable materials;
- 6. Disturbing or removal of any native plant materials not identified for removal on the approved construction plans;
- 7. Disruptive activity including, but not limited to, public drinking, public nuisances, and disturbing the peace;
- 8. Working before or after the scheduled construction hours without prior permission;
- 9. Driving haul trucks with uncovered loads in the Town.
- 10. Storing building or landscape materials within the right-of-way ROW, even prior to Town acceptance, for more than 72 hours.

H. *Roadway Maintenance.* Owners and their contractors and sub-contractors shall keep all Town roads and road rights-of-way free and clear of all materials, rubbish, and debris resulting from Owner's Construction Activity and shall repair and revegetate any damage to roads, road rights-of way, landscaping, and other streetscape improvements within the Town caused by Construction Vehicles used in connection with Construction Activity by Owner's or Owner's Representative. ;

**Construction Activity.** No road cuts, deletions, or additions shall be made without a permit from the Town EngineerPublic Works Director, or their designee. Contractors must keep the Site driveway and all adjacent roads clean from dust, dirt, mud, and debris at all times. If a contractor fails to keep roads clean and if the Town arranges for cleaning, the cost of cleaning will be billed to the Owner, in care of the contractor, at a rate then set by the Town.

- I. *Sanitary Facilities.* On-Site, enclosed, chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be located to minimize any adverse impacts on adjacent lots. In no instance shall chemical toilets be placed within any road right-of-way or on the road.
- J. *Signage.* At least one temporary construction sign, a minimum of 12 square feet and a maximum of 32 square feet in size, shall be located within the Site boundary and shall be easily visible and readable from the adjacent roadway or entry to the Site. The sign shall be either attached to construction fencing in a secure method; or posted separately with stable sign supports. Sign posting shall be done in a manner to withstand weather including wind. The sign is temporary and shall be removed following construction completion. The sign must contain the information shown below.

- 1. Project logo and/or name PROJECT LOGO AND/OR NAME
- 2. Work site address
- 3. Developer/Owner name and phone number: [Name and Phone #]
- 4. -Contractor name and phone number Contractor: [Name and Phone #]
- 5. Builder name and phone number: [Name and Phone #]
- 6. CDPHE Number and phone number for CDPHE Inspector
- 7. Work Site Rules

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**Section 7:** To clarify the Sign Code to meet International Dark Sky requirements.

**30-7-101 Purpose and intent**

- A. The regulations in this Section are intended to coordinate the use, placement, physical dimensions, and design of all signs within the Town. The purpose of these regulations is to:
  - 3. Provide a reasonable balance between the right of an individual to identify ~~their his or her~~ business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
  - 8. Ensure signs adhere to the Town's Dark Sky regulations.

**30-7-102 Sign permits and administration**

- C. *Application for a sign permit.*
  - 1. *Sign permit application requirements.* Applications for sign permits shall be made in writing on forms furnished by the Town. The application shall contain:
    - f. A description of the lighting to be used, if applicable and a narrative detailing how the proposed lighting will be compliant with the Town's Dark Sky regulations;
- D. *Sign permit review criteria.* The following review criteria will be used by the Town to evaluate all sign permit applications:
  - 7. Sign would not detract from the pedestrian quality of a street or area, if applicable; ~~and~~
  - 8. Sign meets the Town's Dark Sky standards; and
  - 9 8. Sign would not add to an over-proliferation of signs on a property or area.

**30-7-105 Prohibited signs**

- A. *Prohibited signs.* The following privately owned or sponsored signs are inconsistent with the purposes and standards in this Section and are prohibited in all zoning districts.
  - 1. Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement, except for time and temperature devices, and signs which convey a static digital message such as a price sign at fueling stations.
  - 2. Electronic messaging signs are prohibited in the Town of Berthoud.

*Renumber subsequent sections accordingly.*

154. Any sign or sign structure which:

- a. Is internally illuminated.

*Renumber subsequent sections accordingly.*

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### 30-7-107 Sign design

#### A. Design compatibility.

1. *Creative design encouraged.* Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The Town encourages imaginative and innovative sign design.
2. *Proportionate size and scale.* The scale of signs shall be appropriate for the building or property on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted upon.
- 4 5. *Landscaping.* Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer. A landscape plan for the sign base shall be provided.
- 5 6. *Reduce sign impact.* Because residential and commercial uses generally exist in close proximity, signs shall be designed, located and/or screened with landscaping so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.

#### B. Sign Illumination

9. Signs shall not be internally illuminated.

10.9. All commercial signs within 150 linear feet of a pre-existing residential structure or use, and visible from that structure, shall be dimmed to one-half the standard illumination level between the hours of 11:00 p.m. and 6:00 a.m. unless the hours outside those listed above are part of the normal business operation. A residence shall be deemed "pre-existing" for purposes of this Section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of this Section. Signage facing residential property must be able to extinguish or dim any lighting during the period listed above in order to avoid an unreasonable impact to residential properties. 30-7-109 Allowable sizes and specifications by type of sign

*Note to Reader, not for Code: Section 30-7-109 provides details on different types of signage. Each sign type narrative in the Code is followed by a table containing information such as quantity, width and the zone district where the particular sign type is allowed, for example. Electronic signs are described however, Section 30-7-109.F.1 indicates electronic signs are permissible in all zone districts where allowed. This sign type does not have a table containing information such as quantity, width, zone district allowance, etc. The Zone District tables found in Section 3 of Chapter 30 do not include an electronic sign as a permissible use. Staff has deducted that because there are no Zone Districts listed in the Municipal Code where an electronic sign may be permitted that electronic signs are not permitted. Therefore, the following Code Sections are proposed to be deleted to provide clear intent of the City to meet International Dark Sky standards.*

30-7-109. F. *Electronic signs. An electronic sign uses display techniques that contain alphanumeric characters, graphics or symbols defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination device within the display area, including computer programmable, microprocessor controlled electronic displays and projected images or messages with these characteristics onto the sign face. Any sign*

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utilizing electronic display techniques in whole or in part must meet Berthoud Dark Sky standards as well as the following operational standards.

1. *Duration.* In all zone districts where allowed, the full sign image or any portion thereof must have a minimum duration of 15 seconds and must be a static display. No portion of the image may flash, scroll, twirl, change color, in any manner imitate movement, or meet the characteristics of a flashing sign.
2. *Transition.* In all zone districts where a sign image changes, the change sequence must be accomplished by means of instantaneous re-pixelization.
3. *Brightness.* Any electronic sign may not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 600 nits (candelas per square meter) between 11:00 p.m. and 6:00 a.m. as measured from the sign's face. If normal business hours are outside of those listed above then the higher level of illumination may be allowed until close of business but no later than 1:00 a.m.
4. *Dimmer control.* Electronic signs must have an automatic dimmer control to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes as traffic hazard or is otherwise detrimental to the public health, safety or welfare.
5. *Audio or pyrotechnics.* Audio speakers or any form of pyrotechnics are prohibited.
6. *Fluctuating or flashing illumination.* No portion of any sign may fluctuate in light intensity or use intermittent, strobe or moving light or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any manner creates the illusion of movement.
7. *Video display.* No portion of any sign may change its message or background in a manner or by a method of display characterized by motion or pictorial imagery, or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphies displayed in a special effect to imitate movement, or the presentation of pictorials or graphies displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes.