

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1346**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO REPEALING AND
REENACTING SECTION 30-3-106 and 30-6-112 OF THE BERTHOUD MUNICIPAL CODE
REGARDING USE BY SPECIAL REVIEW AND SITE PLANS AND THE REQUIREMENTS
THEREOF.**

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 previously amended sections of the Municipal Code to remain consistent with the intent of the 2021 Comprehensive Plan update, to maintain consistency with State and Federal regulations, and to clarify the intent of application requirements and development standards; and

WHEREAS, the Planning Commission, after proper notice, held public hearings on August 24, 2023, September 28, 2023, and June 13, 2024 on ordinances 1322, 1326, and 1343 respectively and provided for a recommendation of approval from the Town Board of Trustees; and

WHEREAS, the Board of Trustees, after proper notice, held public hearings on September 26, 2023, November 28, 2023, and September 10, 2024 on ordinances 1322, 1326, and 1343 respectively providing for the adoption of said code amendments pursuant to C.R.S. Section 31-16-203; and

WHEREAS, this ordinance contains the changes to the Berthoud Municipal Code that were approved by the aforementioned ordinances; and

WHEREAS, the sole purpose of this ordinance is to combine said changes, specifically in Section 30-3-106, and readopt said Section to ensure that the intent of the changes is properly reflected in the Berthoud Municipal Code; 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; and

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

Section 1. That Chapter 30 regarding land use application processing requirements 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other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.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.

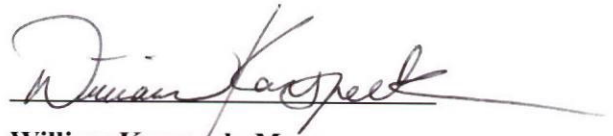
Section 5. The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

READ, ADOPTED, AND APPROVED on this 22nd day of October, 2024.

TOWN OF BERTHOUD

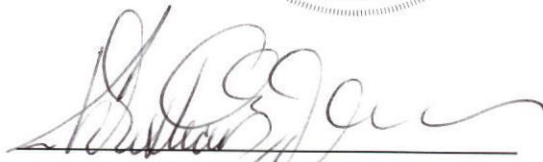


By


William Karspeck, Mayor

ATTEST:

By:


Christian Samora, Town Clerk

30-3-106 - 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 conditional use or use by special review permit. Refer to Table 3.3 for uses that may be contemplated through the Use by Special Review permit process. 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, 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 conditional uses, surrounding properties and the Town at large. Conditional uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any 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 conditional use permits shall be denied.

- B. *Use by Special Review process.*

1. The procedures found in Table 3.10 shall be followed.
2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
3. Unless otherwise stated in the Resolution, all Use by Special Review applications shall be commenced within six (6) months of the time of such approval, otherwise the Use by Special Review shall be null and void.
4. Use by Special Review application submittal. The applicant shall submit the complete application package to the Town and shall request that the application be reviewed by the Planning Commission and Board.
 - a. Land use application form.
 - b. Title commitment. The title commitment must be current and dated no more than 30 days from the date of conditional use application submittal.
 - c. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how 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.
 - e. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
 - f. Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.

- g. Surrounding and interested property ownership report — Provide the Town with a current 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.
- C. *Use by Special Review criteria.* The Town may approve a conditional use application if it finds that each of the following criteria are satisfied:
 - 1. The conditional use will satisfy all applicable provisions of the zoning code and subdivision regulations unless a variance is being requested.
 - 2. The conditional use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
 - 3. The conditional 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 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 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 use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen 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.

30-6-112 - Site plan

- A. *Site Plan Purpose.* Approval of a site plan review application is a prerequisite to applying for 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. Refer to Table 3.3 for uses that may be contemplated through the Use by Special Review permit process.
- B. *Site Plan process.*
 - 1. The procedures found in Table 3.10 shall be followed.
 - 2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
 - 3. *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 18 inches by 24 inches and shall provide the following information:

- h. 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.
 - 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.

LEGAL DESCRIPTION

(LEGAL DESCRIPTION)

OWNER and 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:

Community Development Director

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.
4. *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.

5. *Board consideration of appeals.* The Board of Trustees shall consider any appeal within 45 days of the close of the 14-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.
6. *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. Application materials are complete.
2. The proposed land use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulation unless a variance is being concurrently requested.
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. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.