

---

## SECTION 5 SUBDIVISION AND LAND USE REGULATIONS

### 30-5-101 Intent

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. The regulations contained in this Section shall be known and cited as the Berthoud Subdivision and Development Regulations and referred to in this Section 5 as the "Regulations". The term development when used in these Regulations means new development and redevelopment. Each new development application and each redevelopment application shall include a narrative describing how the proposal will:

- A. Complement the Town's historic development patterns and fit into the context of the existing and planned development on surrounding properties.
  1. Street, sidewalk and trail alignment with adjoining developments and properties to ensure safe, efficient and pleasant walking, biking and driving experiences.
  2. Decrease dependency on vehicles.
  3. Existing and planned parks and open spaces in the development as well as in Town shall be connected by sidewalks and trails.
  4. The Parks, Trails and Open Space Master Plans were utilized in the development of the project.
  5. Compact, well-defined, sustainable neighborhoods to enhance the Town's character, complements the existing neighborhood and surrounding area.
- B. Adhere to the vision established in the Comprehensive Plan, Land Development Code, Overlay Districts and Master Plans covering the property including:
  - a. The Land Use Code and underlying zone district.
  - b. The Land Use Code development and design standards.
  - c. Architectural Guidelines.
  - d. Landscape Design Guidelines.
  - e. Engineering Standards and Specifications.
  - f. Flood hazard mitigation.
  - g. Geologic hazard mitigation.
  - h. Other plans, specifications and guidelines that may impact the property.
- C. Ensure there is sufficient provision for public utilities, services and facilities. The development shall be designed with consideration of the future needs as well as adequately managing the impact of the proposed development on the surrounding area and Town in general. Hazardous conditions on- and off-site shall not be created by the proposal.
  - a. Water
  - b. Sanitary Sewer
  - c. Stormwater
  - d. Electric and Natural Gas
  - e. Schools

---

- f. Fire Protection and Emergency Response
- g. Public Transit
- h. Traffic circulation
- i. Pedestrian movement
- j. Irrigation practices

D. Mitigate negative impacts of the development on the surrounding property:

- a. Light
- b. Air quality
- c. The Oil and Gas regulation section of this Chapter
- d. Sensitive natural, historic and environmental areas and properties
- e. Compatibility of uses

E. Address a need or desirability within Berthoud and the development proposal will help achieve a balance of land use, create a specific sense of place through place-making in each distinct neighborhood, provide a variety of housing types, meet architectural diversity standards, and integrate meaningful neighborhood identity features into the development according to Town goals.

F. Meet all applicable local, state and federal permits have been or will be obtained.

G. Address such other matters as the Town may deem necessary in order to protect the best interest of the public.

### **30-5-102 General procedures**

- A. The procedures of this Section shall apply to any and all proposals for the subdivision and the development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No subdivision or development shall be undertaken without prior approval or authorization pursuant to the terms of this Code. All subdivision and development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Section and the Municipal Code. The submittal of an application for approval pursuant to the provisions of these Regulations constitutes consent to, and agreement to comply with all of its applicable provisions.
- B. This Section establishes procedural and substantive rules for reviewing applications for necessary approvals to develop land and construct buildings and structures. Development applications will be reviewed for how they conform to the vision of the Town Comprehensive Plan, Master Plans affecting the property, and applicable guidelines and policies, and how they comply with the Zoning Code, overlay districts applicable to the property, Engineering standards and specifications, and applicable regulations as amended. The submittal of subdivision application for consideration 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.
- C. The application requirements for each development and subdivision type can be found in the Application Materials Tables and the following descriptions in this Section. Where site specific circumstances warrant a deviation from one or more specific application requirement, the Community Development Director may grant a waiver of such requirement(s).
- D. The applicants are responsible for being fully familiar with all applicable provisions of these regulations. At the time of submittal, the applicant shall submit application materials in a form acceptable by the

---

Town. The application review process for each development and subdivision type can be found in the Land Use Processes and Procedures Table in this Section.

- E. Should the applicant not provide a material response to staff comments within six months of the date of the most recent comments, the application shall be automatically closed and the applicant shall be required to reapply. Any unused development review fee funds shall be reimbursed within ninety (90) days of the application closure.
- F. Should the application be approved, except where a vested right has been established in accordance with the Berthoud Development Code, and activity toward commencement of the project does not proceed forward within twelve (12) months of the date of the approving Resolution, approving Ordinance, or the Notice of Decision found in the Staff Report for an Administrative Approval, the application shall be automatically voided.
- G. The applicant shall provide the Town with finalized documents within thirty (30) days of the final public hearing or the date found on the Notice of Decision found in the Staff Report for an Administrative Approval. Final documents shall be inclusive of plans, plats, mapping products, construction documents, easements, agreements and the Development Agreement.

### **30-5-103 Application Processes**

The Town has many different application processes for land development and the subdivision of land. Applications for land development and applications for subdivision are also referred to in these Regulations as land use applications. This Section of the Development Code provides a reference to what the common application process steps are and the Subdivision and Land Use Processes and Procedures Table is a guide to the required application processes. The description of each process or procedure is described below.

- A. Pre-application meeting: A pre-application meeting is required. The intent is to provide applicants with insight which may impact their applications, establish the process for application submittal, review application requirements and expectations, and to determine if the proposed use is consistent with the intent of the Land Use Code. The applicant shall provide an overview of their project and how the proposal meets the Town guidelines, standards, specifications and overlay district requirements. Staff may waive this requirement if the following applies:
  - 1. The required pre-application meeting for either a Preliminary Plat or a Final Plat may be waived if the preceding application is in process and close to completion, or received no material comments; and
  - 2. The required pre-application meeting for a Preliminary Plat is within four months of the approval of a Neighborhood Master Plan and the Neighborhood Master Plan received no material comments; or
  - 3. The required pre-application meeting for a Final Plat is within four months following the approval of a Preliminary Plat and the Preliminary Plat received no material comments.
- B. Administrative Review: Several land use applications may be reviewed through an Administrative Review process. Land use applications that may have an Administrative Review option are listed in the Subdivision and Land Use Processes and Procedures Table.
- C. Application Submittal: The applicant shall submit the application materials required. Refer to the required application materials be submitted as part of the application. The materials shall be submitted in a format and in the quantity required by the Town.
- D. Certification of Completeness: Within a reasonable period of time and upon receipt of a land use application, staff shall review the submitted materials in conformance with the pre-application meeting specifications, the Code requirements, requirements in Master Plans and applicable overlay districts, and to ensure materials are complete. Staff shall either certify the application is complete and in compliance with all submittal requirements or reject the submittal as incomplete and notify the applicant of any deficiencies. The Applicant shall then correct any deficiencies in the application package, if necessary, and resubmit the application to Town Staff who will review the submittal for completeness.

---

- E. Notice to Surrounding/Affected Property Owners: Staff shall provide notice of a pending application and/or public hearing within the period of time established in the Hearing and Notification Section of this Chapter. The applicant shall provide a mailing list of all surrounding and affected property owners to the Town along with the source of information used to generate the mailing list. Staff shall determine the format of the mailing list to be submitted. The mailing list shall be updated and provided to Staff within the time frame determined by Staff in accordance with the Hearing and Notification Section of this Chapter.
- F. Public Review. The public may view the application and provide comments which shall be reviewed by Staff, provided to the Applicant, and provided in packet materials for the public hearing process. When written comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.
- G. Notice of the mineral estate is the responsibility of the applicant. The applicant shall provide notice according to C.R.S. §§ 24-65.5-101, et seq. The Town shall be provided with the list of the mineral estate owners, source of the generated list (attorney or certified landman), and a copy of the notice provided prior to the hearing and included with hearing materials.
- H. Referral Period: Within an appropriate timeframe following Certification of Completeness, Staff will send information about the application to parties of interest such as an established referral agency. Referral agencies shall have a set period of time to make comments. Comments shall be reviewed by Staff, provided to the applicant, and provided in packet materials for the public hearing process. When comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.
  - 1. The applicant shall address staff and referral agency comments within six (6) months of the date of the Staff Report. Should six months' time pass without adequate response from the applicant, the application shall be determined to be withdrawn. Remaining development fees shall be refunded.
  - 2. Technical Review Meeting. Staff may determine if a meeting with specific referral agencies or with the Town is required prior to proceeding forward with submittals or public hearings. In the event Staff determines that a meeting with specific referral agency or agencies is needed, such meeting is required to be held before Staff proceeds forward with development review. The applicant may request a Technical Review Meeting and staff shall accommodate this request. If requested by the applicant, the applicant shall coordinate the attendance of referral agencies that are not part of the Town organization.
  - 3. Criteria for Approval: Criteria for Approval is found in the Code section relative to each application process. Each new development application and each redevelopment application shall include a narrative describing how the proposal will meet the Intent section of these Regulations as well as the Criteria for Approval for specific application types.
- I. Public Hearing Publication: The Town shall publish notice in a newspaper of general circulation of the upcoming public hearing(s) according to the Hearing and Notification Section of this Chapter.
- J. Sign Posting: After providing the Town with a sign deposit, the Applicant shall post a sign along all public road frontages. Timing for the sign posting can be found in the Hearing and Notification Section of this Chapter. The Applicant shall return the sign to the Town following the last Public Hearing concerning the proposed application. If the sign is damaged, the deposit shall not be returned to the Applicant.
- K. Planning Commission Hearing: If required, the Planning Commission shall hold a Public Hearing to review the land use application. The Planning Commission shall make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application. The Planning Commission is the final Public Hearing on final plats. Notwithstanding that, the applicant may request the Board of Trustees notice and hold a public hearing and such public hearing on the final plat is necessary for purposes of creating a vested right pursuant to the Berthoud Development Code.
- L. Town Board of Trustees Public Hearing: If required for the purpose of establishing a vested right, the Board of Trustees shall, after receiving the report and recommendation from the Planning Commission, hold a public hearing, after proper notice is given and act upon the proposed land use application. Following the Public Hearing, the Board shall consider the comments and evidence presented at the hearing, evaluate

---

---

the application in accordance with the Criteria for Approval found in this Chapter and approve, approve with conditions or deny the application, in whole or in part.

M. Ordinance or Resolution: Land use applications receiving a Public Hearing shall be approved by either a Resolution or Ordinance as outlined in the Subdivision Land Use Processes and Procedures Table.

- N. Conditions of Approval and Recording: Prior to recording the documents for a land use application eligible for an administrative approval or those applications requiring a Public Hearing, the Applicant shall address all Conditions of Approval contained in the Staff Report and the Ordinance or Resolution, as required. Once staff is satisfied that the Conditions of Approval have been met, appropriate documents shall be recorded with the office of either the Larimer or Weld County Clerk and Recorder.
- O. Upon approval of any subdivision or land use application, the applicant has thirty days to finalize the materials and return documents to the Town for recording. If materials are not provided within this timeframe, the applicant may be considered void.

**Subdivision and Land Use Processes and Procedures Table**

Application Process	Pre-application meeting	Application Submittal	Certification of Completeness	Notice, Publication and Sign Posting	Mineral Notice	Referral Period	Administrative Option	Planning Commission	Town Board of Trustees	Criteria for Approval	Ordinance/Resolution	Conditions of Approval Addressed & Development Agreement	Record documents
<b>Application Type</b>													
Use by Special Review for Allowed Marijuana Business	Yes	Yes	Yes	Refer to the Hearing and Notification requirements Section of this Chapter of the Municipal Code	Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Wireless Communication Facilities, use by right	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Wireless Communication Facilities, Use by Special Review	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wireless Communication Facilities, Eligible Facilities	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Site Plan	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	Administrative	Yes	Yes
Variance	Yes	Yes	Yes		No	Yes	No	Acting as BOA	Optional	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Waiver	Yes	Yes	Yes		No	Yes	Optional	Yes	No	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Annexation	Yes	Yes	Yes		Yes	Yes	No	No	Yes	Yes, also see C.R.S.	Ordinance	Yes	Yes
Zoning Amendment	Yes	Yes	Yes		No	Yes	No	Yes	Yes	Yes	Ordinance	Yes	Yes
Text Amendment to the Development Code	No	Yes	Yes		No	Optional	No	Yes	Yes	Yes	Ordinance	No	No
Neighborhood Master Plan	Yes	Yes	Yes		Yes	Yes	No, Minor Amendment Optional	Yes	Yes	Yes	Resolution	Yes	Yes
Preliminary Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Final Plat See additional steps for vesting	Yes	Yes	Yes		No	Yes	Yes	Optional	No	Yes	Optional	Yes	Yes
Minor Sub Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	No	Yes	Resolution	Yes	Yes
Administrative Adjustment to recorded plats	Yes	Yes	Yes		No	Optional	Yes	No	No	Yes	No	Yes	Yes
Replat	Yes	Yes	Yes		No	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Home Occupation	No	Yes	Yes		No	Optional	Yes	No	No	No	No	Yes	No
Short-term Rental	No	Yes	Yes	Refer to the Short Term Rental Section of this Chapter	No	No	Yes	No	No	Yes	No	No	No

NOTE: Processes with an "Optional" notation are for staff to determine the outcome of the step.

---

## 30-5-104 Subdivision Application materials

A. Application submittal requirements: The following table outlines the submittal requirements and standards for each subdivision application type. A description of the application item follows the table below. At the discretion of the Community Development Director, and depending on the particular project and potential impacts to the community, the Town reserves the right to waive certain requirements and request additional materials based upon the details of the specific project. Waiver or the request of additional materials may be made at the Pre-Application meeting or during the development review process.

**Subdivision Application Materials Table**

Application item	Preliminary Plat	Final Plat	Minor Subdivision	Neighborhood Master Plan	Administrative Adjustment	Replat	Zoning
Application Forms and Fees	X	X	X	X	X	X	X
Property Ownership	X	X	X	X	X	X	X
Neighboring Property owner list	X	X	X	X	X	X	X
Plat/Mapping Products	X	X	X	X	X	X	X
Grading plan and drainage report	Preliminary	Final	Final	Concept	X		
Construction drawings	80%	100%	100%				
Landscape, irrigation, and open space plans	Preliminary	Final	Final	Concept			
Architectural Diversity Plan	Preliminary	Final	Final	Concept			
Narrative materials	X	X	X	X	X	X	X
Supporting Documents	Preliminary	Final	Final	Preliminary			X
Agreements	Preliminary	Final	Final	Concept			X

B. Descriptions of application materials for all Subdivision processes. The Town reserves the right to waive certain requirements and request additional materials based upon the details of the specific project. Waiver or the request of additional materials may be made at the Pre-Application meeting or during the development review process. All application materials shall be submitted in a method and format acceptable to the Town.

1. Application Forms and Fees
  - a. Application Form provided by the Town
  - b. Memorandum of Understanding for Development Review fees on a form provided by the Town
  - c. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
2. Evidence of property ownership
  - a. Title Commitment: Dated no more than 30 days from the date of application submittal.

---

3. Neighboring Property owner list
  - a. A list of property owners and the source of the list in a format acceptable to the Town.
  - b. Refer to the public hearing and general notice provisions section of this Chapter.
4. General standards for all mapping and platting products. All Plat/Mapping products shall contain the following elements and follow the standards listed below:
  - a. Preparation
    - a. Prepared by a Professional Land Surveyor licensed to do business in the state and shall be a neat, clear, legible and reproducible document. The plat/map submitted for recording shall contain the original signatures and seals in permanent ink. If the County recording the document will accept electronic signatures, these may be provided.
    - b. All work shall comply with C.R.S. 38-50-101 and 38-51-101, et seq.
    - c. All work shall comply with the requirements of the Bylaws and Rules of Procedure of the State Board of Registration for Professional Engineers and Professional Land Surveyors and the Rules of Professional Conduct of the State Board of Registration for Professional Engineers and Professional Land Surveyors – Board Policy Statement.
  - b. Form for maps, plats, plans, engineering documents and report
    - a. The document to be recorded should the project be approved shall be delineated in permanent black ink on a dimensionally stable polyester sheet such as Mylar, or other material as approved by the Town.
    - b. Sheet specifications
      - a. Each sheet shall be twenty-four (24) inches in height and thirty-six (36) inches in width.
      - b. Drawn at a scale of one inch equals one hundred feet (1" = 100') or one inch equals two hundred feet (1" = 200').
      - c. Project title shall be at the top of each sheet including:
        - a. Project name
        - b. Section, Township, Range, County of either Larimer or Weld, State of Colorado
      - d. North arrow
      - e. A statement of known engineering scale and a bar-type scale
      - f. A statement defining lineal units
      - g. Date of preparation
      - h. Revision block which is updated with each submittal
      - i. A legend designating all abbreviations, line types and symbols
      - j. Names, telephone numbers, and addresses of the applicant, developer, engineer, surveyor and property owner. Application materials shall be signed by each prior to submittal
      - k. A scale drawing of all boundaries of the entire subject property on one sheet and written property description of the exterior boundary of the subject property.
      - l. Include acreage to the nearest one-hundredth (0.01) of an acre.
      - m. All distances shall be shown to the nearest one hundredth (0.01) of a foot and bearings to the nearest second. All distances shall be given in ground, not grid, distance.
      - n. All field-measured dimensions necessary to establish the boundaries on the ground and all dimensions for newly created lots necessary to establish the boundaries on the ground.
      - o. Bearing, distance, and curve data for all lot boundaries. All curve data shall include arc length, radius, central angle, chord bearing and chord distance. Boundaries shall be clearly indicated on the plat. Recorded bearings and distances that vary with measured bearings and distances shall be shown in parentheses along with measured bearings and distances.
      - p. The survey shown shall not have an error greater than one part in 10,000.

---

- q. A basis of bearing statement.
- r. The exterior boundary shall be tied to two (2) or more monumented public land survey monuments.
- s. Location and a description of all monuments, both found and set, that mark the boundaries of the property.
- t. Any conflicting boundary evidence (fences, conflicting monuments, physical features, etc.).
- u. All recorded, proposed and apparent easements and rights-of-way, including the purpose, width, and location of all existing and proposed easements located on the property and adjacent to the property. A plat note may be necessary to provide complete information of the purpose of the easement. Proposed easements shall have bearings, distances, and curve data sufficient to allow them to be established on the ground. These shall be labeled and dimensioned.
- v. All existing and proposed trails and sidewalks on and adjacent to the property (labeled and dimensioned).
- w. The location of any oil and gas facilities within two thousand feet (2,000) of the project boundary, described by latitude and longitude.
- x. Hydrologic features, including, but not limited to, irrigation canals and ditches on the subject property.
- y. The limits of any Special Flood Hazard Area on the subject property, and the source of the information provided.
- z. Limits of any areas of Geologic Hazard on the subject property, and the source of the information provided.
- aa. Parcels excepted from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
- bb. The names of property owners with the parcel boundary, parcel number and zoning classification of adjoining properties.
- cc. Applicable plat certificates and notes provided by the Town.
- dd. Topography at 2' contour intervals. Source may be from the United States Geological Survey (USGS).
- ee. Metes and bounds legal description of the subject property with closure statement and total acreage. The exterior boundary of the project and boundaries of all lots, tracts and outlots shall have a closure accuracy of one-hundredth (0.01) foot.
- c. A land use table that details the following:
  - a. Total project acreage
  - b. Total number and total acreage of each lot, outlot, tract and block
  - c. Total acreage of each proposed zone district/character district
  - d. Total acreage of road rights-of-way
  - e. Total number of dwelling units for residential lots and dwelling density per acre and character district
  - f. Acreage of each different land use or zoning classification proposed
  - g. For commercial/industrial developments, include the floor area ratio and identify compliance with the Commercial and Industrial Standards section of this Code.
  - h. For residential developments include the housing diversity counts and percentages and identify compliance with the Residential Design Standards section of this Code.
  - i. Lot, track, outlot and block numbers shall be:
    - a. Numbered in ascending numerical and consecutive order beginning with "Lot 1," for example

---

- b. Include square footage or acreage to two decimal places of each lot or tract
- d. Vicinity map
  - a. Minimum scale of one inch equals two thousand feet (1" = 2,000')
  - b. Illustrate adjoining properties for a distance of one-quarter (1/4) mile
  - c. Provide a north arrow
  - d. Delineate the project boundary
  - e. Identify adjacent roads, municipal boundaries, ditches and irrigation systems, railroads, etc. which shall be labeled
  - f. Location of oil and gas facilities on the property and within one-half mile of the property boundary. The distances shall be dimensioned. If there are no facilities within this distance, note the source of findings.
  - g. The section and dashed quarter section lines shall be included and labeled
- e. Development Overview Sheet. One sheet shall contain the following:
  - a. Street layout
  - b. Lot and Block arrangement
  - c. Floodplain/Floodway
  - d. Trails and sidewalks in relationship to neighboring properties and master plans impacting the project
  - e. Project phasing plan, if proposed.
- f. Index sheet shall be one sheet and contain the following:
  - a. Street names
  - b. Block and Lot arrangement and numbers
  - c. Outlot and Tract numbers and arrangement
  - d. Overlapping match lines, if necessary
- g. Existing site conditions map.
  - a. Show and label the physical characteristics and natural site constraints of the property and existing on-site structures, irrigation equipment, ditches, or laterals, utility lines, natural gas pipelines, overhead lines, railroads, easements and rights-of-way listed in title work, etc.

5. Construction Drawings

- a. Completeness expectations. Unless specified otherwise, all Construction Drawings and engineering documents shall be prepared according to the following expectations:
  - a. 80% Plans will contain most civil engineering design elements such as site grading, drainage, utilities and roadways.
  - b. 100% plans are fully detailed with all civil engineering components finalized including precise calculations, material specifications and complete annotations for construction. All documents are to be fully-coordinated across disciplines inclusive of acreage cross-referencing, finalized alignment, profiles and details for elements like storm drains, roadways or retaining walls, for example.
- b. Site improvements plan.
  - a. Show and label the anticipated amenities including but not limited to mailbox pedestals, development identification signs, bus stop locations and shelters, parks, trails, sidewalks, common open space, conservation areas, art, fixtures, neighborhood identity features, etc.
  - b. Street network and connectivity to the existing road network including all proposed access points; alley and road classification, plans and profiles.
  - c. Include a table indicating the name of the entity who will maintain and own the amenities after the site has been released of warranty.
  - d. Include an installation schedule.
  - e. Provide a draft deed for public lands for dedication of public sites for open space or other civic purposes.

---

- c. Utility plan. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
- d. Grading Plan and Drainage Report. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
- e. Lighting Plan prepared in accordance with the Outdoor Lighting and Dark Skies Section of this Chapter.
- f. Geotechnical Report.
- g. 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 the following:
  - a. Site conditions
  - b. Geologic conditions
  - c. Engineering considerations and limitations
  - d. Additional investigations necessary per the CGS

6. Landscape, Irrigation, Parks and Open Space and Parking plan prepared in accordance with the Town's Landscape Design Guidelines and the Design Section of this Chapter and shall include:

- 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 two-foot contours (based on USGS datum).
- h. General grading concepts for improvements, typical cross-sections of streets and special treatment areas.
- i. Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site.
- j. 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.
- k. Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
- l. 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.
- m. The location of existing and proposed utilities and easements. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
- n. Acreage and percentages of parks, trails and open spaces.
- o. Landscaping around signage, structures and site amenities.
- p. The extent and location of proposed trees, tree strips, shrubs, groundcovers, perennials, turf, fences, walls, and other site amenities, for example. Plant materials are to be drawn at two-thirds of its mature size.
- q. Landscape schedule [i.e. a table] 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. Provide the percentage of each material to illustrate how the diversity standards are met.
- r. Location of fences, walks, etc.

---

- s. 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.
- t. Detail drawings at 1" = 20' to illustrate typical perimeter treatment, buffering, front yard and any special treatment areas on site.
- u. Sight distance triangles must be shown at street intersections pursuant to this Code.
- v. 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.
- w. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.
- x. Notes for conservation and retention of top soil and landscape soil preparation.
- y. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.
- z. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.
- aa. Buffering plan
  - a. Dimensioned buffer areas
  - b. Acreage of buffer areas
  - c. Proposed use of buffer areas
- bb. Park and open space plan
  - a. Park and open space distribution and location with acreages and percentages
  - b. Neighborhood identity features
  - c. Required buffer areas
  - d. Connection to regional trails, and trails and sidewalks located on adjacent properties
- cc. Pedestrian network
  - a. Location of all trails and sidewalks, and connection to the regional trails system and sidewalks and trails on adjacent properties
  - b. **Plan for off-site sidewalk or trail improvements including  $\frac{1}{4}$  mile pedestrian shed beyond the project boundary.**
  - c. Depiction of bike lanes or other multi-modal features.
- dd. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Refer to the Landscape Guidelines. The landscape maintenance plan shall be submitted with the Final Plat.
- ee. Irrigation Plan shall be prepared in accordance with the Town's Irrigation Plan Guidelines. The Irrigation Plan shall be submitted with the Final Plat.
- ff. Neighborhood identity features shall be identified and precedent images or product specifications are to be provided.
  - gg. Parking plan in compliance with the parking section of the Design Standards found in this Chapter.
- hh. Hydrozone analysis shall detail 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 water uses. A table shall be created and placed on the Landscape Plan illustrating acreage per consumption type outlined in the Water Rights Dedication section of this Chapter. A sample table is included below as an illustration of the data required:

Project Name Hydrozone for landscaping common spaces prepared by: Proposed source of water:										
	Project acreage	X	Water demand in acre feet/ acre	=	Total Acre-feet of water needed	Project acreage	X	Water demand in SFE/acre	=	Total number of SFE needed
Natural areas, open water, impervious surface			0					0		
Native seed area			0.8					2		
Lawn grass, playing fields, tree/shrub beds, etc.			3					7.5		
Non-turf vegetation			1.33					3.25		
Total quantity of acre-feet of water needed					Total quantity of SFE needed					

To complete the following table, refer to the Water Rights Dedication section of this Chapter and list the proposed lot sizes in the right hand column and then complete the table per the column titles.

Project Name Water Calculation for potable use prepared by: Proposed source of water:			
	If non-potable water is proposed for irrigation on individual lots, provide the quantity required in this column	If non-potable water is proposed for lot irrigation, provide the quantity of potable water required in this column	If potable water is proposed for both outdoor and indoor uses, provide the water required in this column
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Total SFE required			

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.

7. Architectural diversity plan/common architectural guidelines for non-residential projects inclusive of signage shall be provided.
  - a. Graphics or illustrations of proposed exterior elevations.
  - b. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s).
  - c. Building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
  - d. Architectural standards for the development. Standards in addition to those found in the Town's Architectural Guidelines and Design Standards section of this Chapter shall be provided to illustrate a sense of place for individual developments.
  - e. Development sign plan.

---

- i. Provide a plan illustrating a unified sign plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscaping, sight distance, etc.
- 8. Narrative materials.
  - a. The applicant shall state how the requirements of the Intent Section will be met if not exceeded.
  - b. General description of the plan to manage drainage and stormwater
  - c. Statements regarding utility provision (potable and non-potable water, sanitary sewer, stormwater management, dry utilities). Describe utility capacity and the need to extend or upgrade lines. Describe the source of water and the quantity of water needed.
  - d. Duplicate the landscape plan hydrazone analysis in narrative materials.
  - e. Describe how the landscape and irrigation plans meet the requirements of this Chapter, the Landscape Design Guidelines, and any overlay district the property is located within.
  - f. Describe key findings in the Traffic Impact Study inclusive of anticipated on- and off-site improvements and phasing for these improvements.
- 9. Supporting documents.
  - a. Traffic Impact Study. This study must be prepared by a professional traffic engineer and identify the project 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.
  - b. Mineral, oil and gas 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. See C.R.S. . §§ 24-65.5-101, et seq.
  - c. Colorado Historical Society (CHS) records search. At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPAC), 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 HPAC.
  - d. 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.
  - e. 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 to be accepted by the Town.
- 10. Agreements. The following agreement shall be secured and provided to the Town when requested.
  - a. Development Agreement. Prior to recording the final subdivision approval document, the applicant shall enter into a Development Agreement with the Town for all public improvements including on-site and off-site improvements which may include and not be limited to water, sanitary sewer, non-potable water, stormwater, sidewalks, street trees, traffic improvements, for example. The Town Board of Trustees hereby delegates to the Town Administrator the authority to approve and sign all development agreements between the applicant and the Town. See the Development Agreement and the Construction of Public Improvements Sections of this Chapter.
  - b. Floodplain use permit from the Town.
  - c. Agreement with irrigation companies.
  - d. Other agreements that may be necessary to allow the subdivision of land to occur.
- 1. Additional materials. At the Town's discretion and depending on the proposed subdivision and its potential impact to the community, the Town may request additional materials.

---

## 30-5-105 Subdivision types

The Town of Berthoud has many different application types of subdivisions, each of which will be described in this section. The required application materials will be listed in the Subdivision Application Materials Table and narrative found in this section.

A. For all subdivisions, the following applies:

1. Application Process. Refer to the Land Use Processes and Procedures Table and narrative section.
2. Public Notice. Refer to the Public Hearing and General Notice Provisions Table.
3. Application Materials. Refer to the Subdivision Application Materials Table and narrative section.

4. Criteria for Approval. Refer to the Intent section as well as additional Criteria for Approval in each individual application type found below. The Criteria for Approval is used to evaluate if the application can be approved.

B. Minor Subdivision.

1. The Minor Subdivision provides a streamlined land division process that allows the creation of no more than six total lots, from one parent tract or lot that meet the requirements of this Code.

2. To be eligible for the Minor Subdivision process, the following shall apply:

- a.
  - a. The property has been previously platted within the Town; and
  - b. The proposed project includes no additional public right-of-way dedication necessary for access to the development.

3. If denied, the applicant may appeal the Planning Commission's decision to the Town Board of Trustees.

*4 Timeframe related to approval of Minor Subdivision.* A Minor Subdivision is in full force and effect for one year from date of recordation. Applicants may request a single, one-year extension from the Town prior to termination of Minor Subdivision approval.

C. Neighborhood Master Plan.

1. The Neighborhood Master Plan is a concept design of the development and shall be submitted with a Zoning, Rezoning or Preliminary Plat application that includes a residential component, and depicts what the applicant envisions for the overall development, including zoning, transportation, pedestrian network, parks, open space, subdivision identity standards and other amenities, as well as precedent images. The Neighborhood Master Plan shall convey how the applicant has integrated the Town's master plans, architectural guidelines, landscape design guidelines, residential diversity standards, and neighborhood identity features, for example into their development proposal. The Neighborhood Master Plan is the method to describe how a proposed development fits into the context of Berthoud as a whole and the immediate surrounding areas. A Neighborhood Master Plan is not required for a Minor Subdivision.

*a. Previously approved concept plans.* Concept plans approved before the amendment of this section of the ordinance shall not be entitled to any vested development rights.

*b. Timeframe related to approval of Neighborhood Master Plan.* A Neighborhood Master Plan is in full force and effect for one year from date of Town Board action. Applicants may request a single, one-year extension from the Town prior to termination of the Neighborhood Master Plan approvalNeighborhood Master Plan and the Preliminary Plat approval.

*c. Minor amendments.* Minor amendments to the Neighborhood Master Plan may be approved administratively under the following conditions:

1. Does not change any land use, or location of any land use.
2. Does not change the number of lots or density by more than ten percent.

---

3. Does not contain significant changes in arterial or collector street alignment and/or access points, or other major public elements such as drainage improvements, utility lines or facilities.

4. Does not change any measurable standard (other than above), such as open space, or park area, by more than ten percent.

D. Preliminary Plat.

1. A Preliminary Plat is used to depict preliminary engineering studies, lot lines and construction documents. A Preliminary Plat illustrates how a subdivision meets the design and development requirements found in the Town Code inclusive of infrastructure, landscaping, traffic and lot lay-out.

2. *Preliminary Plat Required:* A Preliminary Plat is required for all subdivisions. No Final Plat will be processed or approved without prior Preliminary Plat approval.

3. *Phasing.* A Preliminary Plat shall designate the boundaries of phases for which separate Final Plats may 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.

4. The Preliminary Plat shall be in substantial compliance with the approved Neighborhood Master Plan. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the Neighborhood Master Plan approval, and is determined as follows:

- a. Does not change any land use.
- b. Does not change the number of lots or residential density by more than 5%.
- c. Does not contain changes which would render the preliminary plan 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 percent.
- f. Preliminary Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall not be processed until a new Neighborhood Master Plan has been approved.

5. Every approval of a Preliminary Plat by the Board of Trustees shall constitute the Board's delegation to the Mayor to sign the final plat accepting the dedications set forth therein.

6. In order to establish the three-year statutory vested right, the applicant must request a required public hearing on a site specific development plan before the Board of Trustees. The public hearing on the Preliminary Plat satisfies this requirement provided that the Final Plat is identical to the approved Preliminary Plat. This means that the Final Plat is identical to the Preliminary Plat as submitted for the Public Hearing and incorporates only those modifications and conditions expressly provided for in the Preliminary Plat approving resolution. Notwithstanding any contrary provision, a Preliminary Plat is not a site specific development plan and no vested right is established by the approval of a Preliminary Plat.

E. Final Plat.

1 A Final Plat is used to complete the final engineering studies, lot lines and construction documents. A Final Plat illustrates how a subdivision meets the design and development requirements found in the Town Code inclusive of infrastructure, landscaping, traffic and lot lay-out.

2 The Final Plat must be in substantial conformance with the approved Preliminary Plat to receive an administrative review. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the preliminary plan approval, and is determined as follows:

- a. Does not change any land use.

---

- b. Does not change the number of lots or residential density.
- 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 parks, open space, public spaces, drainage improvements, utility lines or facilities.
- e. Does not change any measurable standard (other than above) by more than 5 percent.
- f. How the Applicant has addressed conditions of approval, if any were imposed during the Preliminary Plat by the Planning Commission and/or the Town Board of Trustees.
- g. Final Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall be processed through to the Planning Commission for a public hearing for a Preliminary Plat. .

1. The Final Plat must be in substantial conformance with the approved Preliminary Plat when proceeding forward with a traditional public hearing. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the preliminary plan approval, and is determined as follows:
  - a. Does not change any land use.
  - b. Does not change the number of lots or residential density by more than five (5) percent.
  - 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 parks, open space, public spaces, drainage improvements, utility lines or facilities.
  - e. Does not change any measurable standard (other than above) by more than 15 percent.
  - f. How the Applicant has addressed conditions of approval, if any were imposed during the Preliminary Plat by the Planning Commission and/or the Town Board of Trustees.
2. Final Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall be processed through to the Planning Commission for a public hearing for a Preliminary Plat. .
3. *Timeframe related to approval of Final Plat.* Unless a vested right is established in accordance with the Berthoud Development Code, a Final Plat is in full force and effect for one year from date of recordation. Final Plat Applicants may request a single, one-year extension from the Town prior to termination of Final Plat Subdivision approval.
4. *Vesting: Final Plat Identical to Preliminary Plat.* In the event the Final Plat is identical to the approved Preliminary Plat, no additional public hearing is needed for the purposes of establishing a vested right. In such cases the Final Plat may be administratively approved and a vested property right of three years shall be deemed established upon the administrative approval of the Final Plat except that the period of time permitted by law for the exercise of rights or referendum and judicial review shall begin to run until the date of publication, in a newspaper of the Town granting the approval.
5. *Vesting: Final Plat Not Identical to Preliminary Plat.* In the event the Final Plat is not identical to the approved Preliminary Plat, and the applicant desires that the Final Plat establish a vested right, the applicant may request the Board of Trustees notice and hold a public hearing on the final plat and where applicable in cases where the applicant request rights exceeding three years, the proposed development agreement, for purposes of establishing a vested right pursuant to the Berthoud Development Code.
  - i. The following application materials are required:
    - i. Application Forms and Fees

---

1. Application Form provided by the Town
2. Memorandum of Understanding for Development Review fees on a form provided by the Town
3. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.

- ii. Evidence of property ownership
  1. Title Commitment: Dated no more than 30 days from the date of application submittal.
- iii. Neighboring Property owner list
  1. A list of property owners and the source of the list in a format acceptable to the Town.
  2. Refer to the public hearing and general notice provisions section of this Chapter.
- iv. Letter of request for vesting
- v. Approved Final Plat
- vi. Approved Development Agreement
  1. Where the applicant requests rights be vested for a period exceeding three years, a Development Agreement providing for such rights to be vested for a period exceeding three years may only be approved by the Town Board in its legislative discretion pursuant to the factors provided in C.R.S. Section 24-68-104.

- ii. The following process shall be followed for a vesting request of a Final Plat:
  - i. The standards established in the Public Hearing and General Notice Provisions Table shall be followed.
  - ii. After proper notice, a public hearing shall be held before the Town Trustees. The Town Board of Trustees may approve, approve with conditions, or deny the final plat.

5. *Early grading.* After submittal of the Final Plat, an applicant may request approval to proceed with preliminary grading of the project area under the following circumstances. The Town reserves the right to approve or deny the request. This is an option to be approved by the Town.

- a. The construction documents must be signed and stamped by a professional engineer licensed to practice in the State of Colorado. The plans shall include a construction plan set for grading and drainage and approved by the Town Engineer; and
- b. The Town Engineering issues a memo authorizing specific grading work; and
- c. The applicant accepts the risk of early grading and stormwater management / water quality feature installation; and
- d. The applicant understands there is no presumption of any Final Plat approval expressed or implied by any authorization of early grading; and
- e. The applicant shall enter into an Agreement with the Town including posting surety in a form acceptable to the Town along with a cost estimate of the work to be performed, the cost of restabilizing the disturbed property, and other work should the applicant not proceed with the development post disturbance; and
- f. The applicant shall provide the Town with a Stormwater Management Plan approved by the Town Engineer and an approved Construction Stormwater Discharge Permit issued by the State of Colorado, if needed; and

---

g. The applicant shall hold a Pre-Construction meeting with Town representatives two weeks prior to work proceeding on site.

F. Replat

1. The Replat process provides for modifications to recorded plats. This process shall not be used to convey or create additional lots or tracts than originally existed.

2. This process shall be required for the following modifications to a recorded plat:

- a. Any change to a condition or note on a plat;
- b. The vacation of any right-of-way that results in a new lot configuration;
- c. The vacation of rights-of-way and easements of record over which the Town Board of Trustees have jurisdiction that are no longer needed after complete review by all appropriate agencies; or
- d. The relocation or dedication of new right-of-way within a previously recorded subdivision.

### **30-5-106 Administrative adjustment to recorded plats**

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. Consolidation of any number of lots into a single lot,
- b. Modification or reconfiguration of the common property line between contiguous legal lots to reflect the generally recognized use of the property, or where they conform to the historic usage of the property.
- c. Minor corrections to recorded plats that do not involve lot consolidations or changing lot boundaries.

C. *Administrative Adjustment prohibited.* The Town Administrator is not authorized to approve, execute and record plats where the following occurs:

- a. Result in the creation of additional lots;
- b. Affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;
- c. Create nonconforming resultant lots that do not meet the required minimum lot size standard of the applicable zone district;
- d. Create a nonconforming setback for any existing building;
- e. A change to a condition or note on a plat; or
- f. 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

---

D. . *Application materials.* In addition to the application materials listed in the Subdivision Application Materials Table, 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 subject to the proposed administrative adjustment request. . The petition shall also contain such additional information that the Town may deem appropriate.

### **30-5-107 Land Use Application Materials**

A. The Town of Berthoud has many different types of applications to authorize use of property. Each type of land use application process will be described in this section. The required application materials will be listed in the Land Use Application Materials Table and narrative found in this section.

B. For all land use applications, the following applies:

1. Application Process. Refer to the Land Use Processes and Procedures Table and narrative section.
2. Public Notice. Refer to the Public Hearing and General Notice Provisions Table.
3. Criteria for Approval. Refer to the Intent section as well as additional Criteria for Approval in each individual application type found below. The Criteria for Approval is used to evaluate if the application can be approved.
4. Upon approval of any land use application, the applicant has thirty days to finalize the materials and return documents to the Town for recording. If materials are not provided within this timeframe, the applicant may be considered void.
5. The Town Administrator, the Community Development Director, or their designee may waive certain application requirements, or may require additional application requirements, for land use applications for development or redevelopment of property within either the Mountain Avenue Overlay District or the Innovation Overlay District. Rationale for waiving such requirements shall be documented in writing and filed with application materials with the application record. Rationale shall be relative to site-specific conditions, not due to inconvenience or applicant/owner-induced hardships.

C. Application materials for a Site Plan and Use by Special Review applications are listed below.

1. Application Forms and Fees
  - a. Application Form provided by the Town
  - b. Memorandum of Understanding for Development Review fees on a form provided by the Town
  - c. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
2. Evidence of property ownership
  - a. Title Commitment: Dated no more than 30 days from the date of application submittal.
3. Neighboring Property owner list
  - a. A list of property owners and the source of the list in a format acceptable to the Town.
  - b. Refer to the public hearing and general notice provisions section of Chapter 30 of the Berthoud Municipal Code.
4. General standards for all mapping products found in the subdivision section of this Code shall be used as a guideline for land use mapping products. Depending on the nature of the land use permit, some of the requirements for a subdivision are not applicable for land use. Each applicant should work with the Community Development Department regarding expectations of the mapping products for land use permitting.
5. Construction Drawings at the 100% level are required to be submitted with land use applications. These plans are to be fully detailed with all civil engineering components finalized including precise calculations, material specifications and complete annotations for construction. All documents are to be fully-coordinated across disciplines inclusive of accurate cross-referencing, finalized alignment, profiles and details for elements like storm drains, roadways or retaining walls, for example. Applications should review the Construction Drawings requirements found in the Subdivision

---

requirements section of this Code and shall be used as a guideline for land use construction drawings. Depending on the nature of the land use permit, some of the requirements for a subdivision are not applicable for land use. Each applicant should work with the Community Development Department regarding expectations of the mapping products for land use permitting.

- a. Site improvements plan.
- b. Utility plan. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
- c. Grading Plan and Drainage Report. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
- d. Lighting Plan prepared in accordance with the Outdoor Lighting and Dark Skies Section of this Chapter.
- e. Geotechnical Report.
- f. 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 the following:
  - i. Site conditions
  - ii. Geologic conditions
  - iii. Engineering considerations and limitations
  - iv. Additional investigations necessary per the CGS

6. Landscape, Irrigation, Parks and Open Space and Parking plan prepared in accordance with the Town's Landscape Design Guidelines and the Design Section of this Chapter and shall include:

- i. Project name.
- ii. Scale, north arrow and date of preparation.
- iii. Existing and proposed streets and street names.
- iv. Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
- v. Location of proposed building footprints and parking areas.
- vi. Location of storage, loading and service areas.
- vii. Existing and proposed two-foot contours (based on USGS datum).
- viii. General grading concepts for improvements, typical cross-sections of streets and special treatment areas.
- ix. Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site.
- x. 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.
- xi. Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
- xii. 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.
- xiii. The location of existing and proposed utilities and easements. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
- xiv. Acreage and percentages of parks, trails and open spaces.
- xv. Landscaping around signage, structures and site amenities.
- xvi. The extent and location of proposed trees, tree strips, shrubs, groundcovers, perennials, turf, fences, walls, and other site amenities, for example. Plant materials are to be drawn at two-thirds of its mature size.

---

- xvii. Landscape schedule [i.e. a table] 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. Provide the percentage of each material to illustrate how the diversity standards are met.
- xviii. Location of fences, walks, etc.
- xix. 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.
- xx. Detail drawings at 1" = 20' to illustrate typical perimeter treatment, buffering, front yard and any special treatment areas on site.
- xi. Sight distance triangles must be shown at street intersections pursuant to this Code.
- xii. 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.
- xxiii. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.
- xxiv. Notes for conservation and retention of top soil and landscape soil preparation.
- xxv. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.
- xxvi. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.
- xxvii. Buffering plan
- xxviii. Park and open space plan
  - a. Park and open space distribution and location with acreages and percentages
  - b. Neighborhood identity features
  - c. Required buffer areas
  - d. Connection to regional trails, and trails and sidewalks located on adjacent properties
- xxix. Pedestrian network
  - a. Location of all trails and sidewalks, and connection to the regional trails system and sidewalks and trails on adjacent properties
  - b. Plan for off-site sidewalk or trail improvements including ¼ mile pedestrian shed beyond the project boundary.
  - c. Depiction of bike lanes or other multi-modal features.
  - d.
- xxx. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Refer to the Landscape Guidelines.
- xxxi. Irrigation Plan shall be prepared in accordance with the Town's Irrigation Plan Guidelines.
- xxxii. Neighborhood identity features shall be identified.
- xxxiii. Parking plan in compliance with the parking section of the Design Standards found in this Chapter.
- xxxiv. Hydrozone analysis shall detail 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 water uses. A table shall be created and placed on the Landscape Plan illustrating acreage per consumption type outlined in the Water Rights Dedication section of this Chapter. A sample table is included below as an illustration of the data required:

Project Name Hydrozone for landscaping common spaces prepared by: Proposed source of water:										
	Project acreage	X	Water demand in acre feet/ acre	=	Total Acre-feet of water needed	Project acreage	X	Water demand in SFE/acre	=	Total number of SFE needed
Natural areas, open water, impervious surface			0					0		
Native seed area			0.8					2		
Lawn grass, playing fields, tree/shrub beds, etc.			3					7.5		
Non-turf vegetation			1.33					3.25		
Total quantity of acre-feet of water needed					Total quantity of SFE needed					

To complete the following table, refer to the Water Rights Dedication section of this Chapter and list the proposed lot sizes in the right hand column and then complete the table per the column titles.

Project Name Water Calculation for potable use prepared by: Proposed source of water:			
	If non-potable water is proposed for irrigation on individual lots, provide the quantity required in this column	If non-potable water is proposed for lot irrigation, provide the quantity of potable water required in this column	If potable water is proposed for both outdoor and indoor uses, provide the water required in this column
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Total SFE required			

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.

7. Architectural diversity plan/common architectural guidelines for non-residential projects inclusive of signage shall be provided.
  - a. Graphics or illustrations of proposed exterior elevations.
  - b. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s).
  - c. Building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
  - d. Architectural standards for the development. Standards in addition to those found in the Town's Architectural Guidelines and Design Standards section of this Chapter shall be provided to illustrate a sense of place for individual developments.
  - e. Development sign plan.

---

- j. Provide a plan illustrating a unified sign plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscaping, sight distance, etc.
- 8. Narrative materials.
  - a. The applicant shall state how the requirements of the Intent Section will be met if not exceeded.
  - b. General description of the plan to manage drainage and stormwater
  - c. Statements regarding utility provision (potable and non-potable water, sanitary sewer, stormwater management, dry utilities). Describe utility capacity and the need to extend or upgrade lines. Describe the source of water and the quantity of water needed.
  - d. Duplicate the landscape plan hydrazone analysis in narrative materials.
  - e. Describe how the landscape and irrigation plans meet the requirements of this Chapter, the Landscape Design Guidelines, and any overlay district the property is located within.
  - f. Describe key findings in the Traffic Impact Study inclusive of anticipated on- and off-site improvements and phasing for these improvements.
- 9. Supporting documents.
  - a. Traffic Impact Study. This study must be prepared by a professional traffic engineer and identify the project 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.
  - b. Mineral, oil and gas 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. See C.R.S. §§ 24-65.5-101, et seq
  - c. Colorado Historical Society (CHS) records search. At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPAC), 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 HPAC.
  - d. 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.
  - e. 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 to be accepted by the Town.
- 10. Agreements. The following agreement shall be secured and provided to the Town when requested.
  - e. Development Agreement. Prior to recording the final subdivision approval document, the applicant shall enter into a Development Agreement with the Town for all public improvements including on-site and off-site improvements which may include and not be limited to water, sanitary sewer, non-potable water, stormwater, sidewalks, street trees, traffic improvements, for example. See the Development Agreement and the Construction of Public Improvements Sections of this Chapter.
  - f. Floodplain use permit from the Town.
  - g. Agreement with irrigation companies.
  - h. Other agreements that may be necessary to allow the subdivision of land to occur.
- 2. Additional materials. At the Town's discretion and depending on the proposed subdivision and its potential impact to the community, the Town may request additional materials.

---

## 30-5-108 Land Use Application Types

- A. The Town of Berthoud has many different application types of land use applications, each of which will be described in this section. The required application materials are listed in the Land Use Application Materials Section.
  - 1. Plot Plan. Plot plans illustrate the relationship of a building to the property. A plot plan is required to apply for a building permit and is a part of the building permit process. The plot plan shows where the proposed building or structure will be located on the lot as well as the architectural design of the structure so the Town can establish that the proposed location will comply with all applicable regulations. A plot plan must illustrate the building in relationship to the property including: the building footprint, the tree strip, utility lines, driveways and curb cuts, sidewalks, utility boxes, irrigation lines, street signs, for example. Land use applications and a subdivision process may be required prior to application for a building permit.
  - 2. Site Plan. Site Plans illustrate the relationship of a building, access, site circulation, landscaping, easements, lighting, and parking, for example. 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. Approval of a Site Plan review application is a prerequisite to applying for a building permit for all new multi-family (excluding duplexes), commercial, and industrial developments. Refer to the Land Use Table for uses that may be contemplated through the Site Plan permit process. The standard administrative Site Plan review process is found in the Land Use Processes and Procedures Table. There are three alternatives to the administrative Site Plan and these are listed below.
    - a. The Site Plan Review application process may also be a requirement for redevelopment properties and the change of use of a property or structure. The Town Administrator, the Community Development Director, or their designee may waive certain application requirements for redevelopment of property within either the Mountain Avenue Overlay District or the Innovation Overlay District. Rationale for waiving such requirements shall be documented in writing and filed with application materials with the application record. Rationale shall be relative to site-specific conditions, not due to inconvenience or applicant/owner-induced hardships.
    - b. Site Plan applications may be referred 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.
      - i. The application and notice of the referral shall be sent to the Planning Commission for its review within a Public Hearing and action.
      - ii. 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 this Section
      - iii. *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.
    - b. Fast Track Site Plan applications for Multi-Family affordable housing developments and Mixed Use developments containing an affordable housing component.
      - i. Multi-family residential developments containing a minimum of fifty (50) percent of the units to be developed for affordable housing are eligible for the expedited review process outlined in the Town of Berthoud Expedited Site Plan Guidelines. Developers may utilize this fast track process or developers may utilize the standard Site Plan process when proposing an Affordable Housing development.

---

- j. If a Variance is needed, the Variance Section of this Chapter shall be followed and processed concurrently with the Fast Track Site Plan utilizing the Fast Track processing standards.
- ii. See the definition of Affordable housing in C.R.S. 29-32-101(2) and 29-32-105(2).
- iv. To qualify for the Town's fast track Site Plan process, the developer shall provide documentation on how the affordability and Area Median Income (AMI) standards shall be maintained in perpetuity in a form acceptable to the Town. This information shall be provided during the pre-application process.
- v. Fast Track Site Plan Review (and Variance process, if needed) begins at the time the applicant submits a complete application following the required pre-application process.
  - 1. A complete application shall include the submittal of all Site Plan application materials listed in this Section inclusive of the 100% Construction Document Plans. These materials shall be completed according to site-specific directions provided during the pre-application process.
  - 2. Staff shall have ten business days to determine if the application is complete. If the application is not complete, the applicant is afforded time to provide all necessary application materials.
  - 3. The staff review time of 90 days shall start when the application is determined to be completed.
  - 4. The Standard site plan review process shall be followed for referral agency review, public notice and preparation of the staff report.
  - 5. The applicant shall receive a Notice of Decision found in the Staff Report for an Administrative Approval from the Community Development Director after the review period and the decision shall contain whether the application is approved or denied.
  - 6. Modifications to an approved Fast Track Site Plan may require a new application to be made.
- vi. The applicant shall enter into a Development Agreement, if necessary per the Development Agreement Section of this Chapter and the site-specific improvements necessary for the development. The process to enter into the Development Agreement shall not exceed 90 days. Required elements of the Development Agreement shall be provided by the Town during the Site Plan pre-application process.
- vii. The Building Permit process shall not exceed 90 days for review.
- viii. Extensions to development review, development and finalization of a Development Agreement, and the Building Permit processing for a Fast Track project may be granted as described below:
  - a. The applicant may request a one-time 90-day extension;
  - b. An extension may be granted to allow time to comply with a state law or court order, which time shall be determined by the state law or court order;
  - c. An extension may be granted to allow time to address comments from an agency that has approval authority over the project and the review timeline adherence is outside the control of the Town of Berthoud;
  - d. The Town may extend its review period by an additional 30 days in order to address additional comments or concerns that arise during development review. The Town may extend its review period by multiple increments of 30 days, however it is not the intent of the

---

Town to unnecessarily delay Fast Track development review. The applicant is encouraged to respond within five business days' receipt of the need to extend development review.

3. Use by Special Review. Certain uses listed in the Land Use Table are more intensive and are subject to the granting of a Use by Special Review permit. Use by Special Review. Because of their unusual or special characteristics, Uses by Special Review review require additional evaluation so that they may be located properly with respect to their effects on surrounding properties. Refer to the Land Use Table for uses that may be contemplated through the Use by Special Review permit process.
  - a. Uses by Special Review may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the use will be in accordance with the Intent section of this Chapter. The scope and elements of any Use by Special Review 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.
4. *Post approval actions for Site Plan and Use by Special Review Permits.*
  - a. *Building Permit.* A building permit shall be issued only when the land use permit has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the land use application. Building permits shall not be issued for any development that is not in conformance with the approved land use application.
  - b. Development Agreement. Depending on the nature of the Land Use Permit and extent of public improvements needed, a Development Agreement may be needed. See the Development Agreement section of this Chapter.
  - c. *Amendments to approved Land Use Permits.*
    - i. 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.
    - ii. Changes 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 application. A complete application shall be prepared and submitted in compliance with the requirements set forth in this Section.

### **30-5-109 Accessory Uses and Structures**

A. Purpose. This section establishes minimum standards for accessory uses and structures that are incidental and subordinate to principal uses. These standards are intended to minimize adverse impacts on surrounding properties and the community.

B. Intent. Accessory uses and structures are intended to allow property owners the full use of their property while maintaining the integrity of and character of the neighborhood and community. To accomplish these goals, accessory uses and buildings shall be erected and used only for purposes that are clearly secondary and incidental to the principal use of the property and shall be located on the same lot with the principal use.

C. Accessory Use and Structures Criteria. An accessory use or structure is normally incidental to a principal use. Accessory uses and structures shall comply with all the following criteria:

1. The accessory use shall be clearly incidental to and consistent with the principal use in the following measurements:
  - a. Lot/floor area devoted to the use or structure;
  - b. Economic production of the accessory use,
  - c. Traffic generation to the site, and
  - d. Customer/visitor generation

---

2. The accessory use shall be commonly associated with the operation of the principal use;
3. The accessory building/use shall be built and/or constructed only in conjunction with the principal use;
4. The accessory use shall be operated and maintained under the same ownership as the principal use; and
5. The accessory building shall not be used for living or sleeping unless the use meets the criteria of an Accessory Dwelling Unit as defined in the Additional Standards for Accessory Dwelling Units section below.

D. General Standards for All Accessory Uses and Structures.

1. Size. Accessory uses and structures shall not violate the dimensional, parking, landscaping, or open space standards of the applicable zoning district when taken together with the principal use or structure.
2. Timing. Accessory uses or structures are not allowed until the principal use or structure is established unless otherwise stated.
3. The accessory building shall adhere to the Dimensional and Bulk Standards of this Chapter.

E. Additional Standards for Accessory Dwelling Units. Unless otherwise noted in the Land Use Table of this Chapter an accessory dwelling unit in a detached building or in a portion of a single-family dwelling unit is allowed in those zoning districts where the use is listed as a use by right and where the use meets the following requirements:

1. Occupancy.
  - a. The accessory living area may be occupied by one additional family as defined by this code, separate from the principal dwelling unit.
2. Number, Size, and Type.
  - a. Only one accessory dwelling unit is permitted per lot.
  - b. The total square footage of the accessory dwelling unit shall not exceed 850-square feet.
  - c. The accessory dwelling unit shall be located not forward of the principal dwelling, shall match the design of the principal dwelling, and shall follow the accessory structures setback standards.
  - d. Mobile homes and recreational vehicles shall not be used as accessory dwelling units.
  - e. The single-family character of the property shall be maintained.
  - f. Accessory dwelling units are exempt from meeting parking requirements addressed in the parking section of this code.

b. Refer to the Impact Fee section of this Chapter.

5. Additional Standards for Home Occupations.

- a. Purpose: The purpose of the Home Occupation Section is to regulate the conduct of operating business activity in a residence or other structure on the same property as a residence.
- b. Home occupations must meet the following standards:
  - i. In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one outside employee working at the site of the home occupation.
  - ii. The home occupation shall not exceed 1,000 square feet or 30 percent of the total floor area of the dwelling, whichever is less, or can be located in an accessory building not to exceed 500 square feet. The home occupation shall be conducted entirely within the dwelling or designated accessory building.

---

- iii. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
- iv. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs larger than two square feet in total size. No other displays or advertising that solicit or direct persons to the address other than the single sign limited to two square feet in total area is permitted.
- v. There must be no exterior storage on the premises of material or equipment used as a part of the home occupation, unless it is enclosed and lot coverage requirements for accessory uses are met.
- vi. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors, smoke, noise or other conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.
- c. The following uses because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations:
  - i. Marijuana businesses including allowed marijuana business as defined in this Chapter;
  - ii. Natural Medicine Center or Natural Medicine Business as defined in this Chapter;
  - iii. Auto repair or motorized implement repair;
  - iv. Dance, music or other types of instruction (if more than four students being instructed at one time);
  - v. The painting of vehicles, trailers or boats;
  - vi. Private schools with organized classes;
  - vii. Welding shops;
  - viii. Nursing facility(ies);
  - ix. Retail or wholesale sales to consumers upon the premises not incidental to the home occupation (e.g. hair care products at a hair stylist are incidental sales).
- d. All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.
- e. The maximum number of vehicle trips per day for clients which may visit the home occupation per day is 15.
- f. A Home Occupation must maintain a Town of Berthoud Business License.

F. Additional Standards for Storage Buildings and Detached Garages.

- 1. Each lot may include detached storage buildings and detached garages for the sole use of the occupants of the principal building and the principal use on the lot.
- 2. Only those buildings that are designed, constructed, and approved by the Town of Berthoud Building Division as storage buildings or detached garages may be used for this purpose.
- 3. Manufactured homes cannot be used as storage buildings, barns, or garages.
- 4. Semi-trailer with attached running gear (i.e., axels, wheels) cannot be used as storage buildings or detached garages.
- 5. Conex containers cannot be used as storage buildings or detached garages.
- 6. The total combined ground floor area of all accessory storage buildings and detached garages shall not exceed ten percent of the lot's net area.

---

## 30-5-110 Board of Adjustment

- A. *Purpose.* Pursuant to §31-23-307(1), C.R.S., the Board of Trustees hereby appoints the Planning Commission of the Town of Berthoud to serve as the Board of Adjustment. The Board of Adjustment shall hear and decide variances, waiver requests, and appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of any ordinance with respect to the Development Code of the Town of Berthoud.
- B. The Board of Adjustment shall have the following powers and duties, all of which shall be subject to and in compliance with the laws of the state, in harmony with the purpose and intent of this code and the most appropriate development of the neighborhood:
  - 1. To hear and decide appeals from, and review any order, requirement, decision or determination made by an administrative official charged with enforcement of the provisions of this code;
  - 2. To authorize variances from the terms of the Design Standards, Zoning, and Sign regulation sections of this Chapter, where the strict enforcement of this title would create a situation which would result in unreasonable application of these standards. When considering variances, the Board of Adjustment shall consider the following criteria:
    - a. The intent statements found in this Section have been met; and
    - b. The hardship was not created by the actions of the proponent; and
    - c. Such relief may be granted without substantial detriment to the neighborhood or the public good and without substantially impairing the intent and purposes of this code; and
    - d. Provided that there are exceptional circumstances applying to the specific piece of property which do not generally apply to the remaining property in the same zoning area or neighborhood; and
    - e. That the requested variance shall not authorize any permanent use not permitted in the zoning district; and
    - f. In circumstances where the property owners affected most directly, e.g. neighbors, concur in writing with the variance that fact shall be given significant (but not conclusive) weight in favor of the request.
  - 3. To authorize, as variances, alterations in nonconforming uses and buildings. An altered nonconforming use previously authorized that has been discontinued for at least six months that has not been resumed or replaced by another nonconforming unless an extension of time is requested in writing prior to the expiration of the six month period. Nonconforming uses resuming after the six month expiration period will be required to apply for the use through a new application and approval process. Alterations in nonconforming uses and buildings shall be authorized provided the Board of Adjustment determines:
    - a. That the intent statements found in this Section have been met; and
    - b. That the hardship on which the request for variance is based is not self-inflicted; and
    - c. That the altered nonconforming use will not be greater in size, area, or impact than the original nonconforming use, and
    - d. The altered nonconforming building or use will not have any greater adverse impact on the neighborhood than the current nonconforming building or use.
  - 4. To authorize, as waivers, all or portions of the following processes in regards to platting, zoning and design standards for multiple lots from the Development Code of the Town of Berthoud with respect to the requirements of the following chapters only: Design Standards, Zoning, or Signs.

---

- a. Zoning regulations limited to setback encroachments or height limitations in conjunction with a Preliminary Plat approval, and;
- b. Design Standards limited to Site Plan, Preliminary Plat, or Use by Special Review application and approval criteria.

5. *Waivers.* Waivers shall be considered provided that the following procedures and considerations are met;

- a. *Waiver applications.* The applicant shall submit the following to the Town in conjunction with another application (re-zoning or Site Plan, Use by Special Review or Preliminary Plat only). All other cases shall follow the variance procedures.
  - i. Explanation letter — identifying the waiver being requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Town Comprehensive Plan or impair the intent and purpose of this Code.
- a. The Subdivision and Land Use Process and Procedures Table shall be followed.
- b. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
- c. Unless otherwise stated in the Resolution, all waivers granted shall be commenced within six months of the time such waiver is granted; otherwise the waiver shall be null and void.

6. To perform each and all of the duties specified in section 31-23-307 C.R.S., together with all other duties or authority which may hereafter be conferred on it by the laws of the state.

C. The Board of Trustees reserves the authority to act as the Board of Adjustment with respect to all matters in the Development Code and as allowed per Section 31-23-307 C.R.S, specifically:

- 1. All variances not related to Design Standards; Zoning, and Signs.
- 2. All appeals not related to Design Standards; Zoning, and Signs.
- 3. Appeals of Final Plats: Appeals of actions of staff regarding Final Plats shall be taken to the Planning Commission after the filing of an appeal to the Town within ten days of the date of staff's decision on the Final Plat. Appeals may be filed by the applicant or any abutting property owner and shall specifically state the grounds for appeal. The Planning Commission shall consider the appeal as a new matter and act to approve, approve with conditions, or deny the Final Plat based on the review and approval criteria that apply to all Final Plats. Any timely appeal received must be scheduled immediately for review at the next available Planning Commission meeting, but in no event later than 30 days.

D. *Procedures generally.* The board of adjustment shall hold a public hearing on all applications and appeals, subject to the following:

- 1. The procedures found in the Subdivision and Land Use Process and Procedures Table 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 variances granted shall be commenced within six months of the time such variance is granted; otherwise the variance shall be null and void.
- 4. The concurring vote of a majority of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant in order to implement a variance.
- 5. *Criteria for approval of variances and waivers.* The condition of any variance or waiver authorized shall be stated in writing in the minutes of the Board with the justifications set forth. Waivers and variances may be granted only if they meet one of the following criteria:

---

- a. That the hardship on which the request for variance or waiver is based is not self-inflicted.
- b. The variance or waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
- c. The variance or waiver, if granted, is the minimum variance or waiver of applicable Code provision that will afford relief and is the least modification possible of the Code provisions which are in question.
- d. That such practical difficulties or unnecessary hardship has not been created by the applicant.
- e. The variance or waiver would substantially alleviate an existing, defined and described problem of Town-wide concern or would result in a substantial benefit to the Town by reason of the fact that the proposed project would address an important community need.
- f. The plan as submitted will promote the general purpose of the standard for which the modification is requested, equally well or better than a plan which complies with the standard for which a modification is requested.

C. *Appeal procedures.* Every appeal to the board of adjustment shall be filed in writing not later than one month from the date of the order, requirement, decision, or determination being appealed. The board shall have no jurisdiction on any appeal not brought within 30 days from the date of the order, requirement, decision, or determination.

D. *Administrative Variances.* The Community Development Director is authorized to approve administrative variances from setback requirements up to ten percent of the required setback after finding the proposed setback is consistent with the intent and purpose of this code, and the requirements of this Section.

### **30-5-111 Development agreements**

- A. *Agreements and Improvements.* A Development Agreement stating that the applicant covenants and agrees to construct any required public improvements shown in the land use or subdivision Final Plat documents together with security in a form approved by the Town is required. No subdivision plat 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 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 system.
- 8. Non-potable water distribution system.
- 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, telecommunications, cable, 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 strips.
- 18. Under drains.
- 19. Trails, trail heads and associated improvements.
- 20. Required floodway improvements.
- 21. Required irrigation ditch improvements.
- 22. Required off-site improvements.
- 23. Any and all improvements not mentioned above.

E. *Time for completion.* Unless a vested right is established in accordance with the Berthoud Development Code, commencement of construction of all or a portion of the approved Final Plat shall occur within one year 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 two 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 30 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 percent of the cost of improvements plus 15 percent 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 percent 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.
- 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.

### **30-5-112 Pre-Construction Activities and Responsibility of Construction of Public Improvements**

- B. Prior to the pre-construction meeting, the issuance of a building permit or the issuance of a grading permit, the following documents shall be provided to the Town as needed for the particular development:
  - 1. Surety or collateral in a form acceptable to the Town in the amount and form stipulated in the Development Agreement and 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 percent of the estimated cost of public improvements or a Letter of Credit or other acceptable collateral in the amount of 25 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. Oil and gas surface use agreement.
    - a. Raw water dedication. The applicant shall provide payment or water to the Town in accordance with the Water Rights Dedication Section of this Code.
  - 2. List of contractors. List of all contractors that will be performing the improvements.
  - 3. Proof of insurance. Proof of workman's comprehensive insurance and liability insurance for each contractor.
    - a. An approved adjudication of water rights and a plan of augmentation.
    - b. A FEMA approved application (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
    - c. A Town-approved Flood Development Permit.
  - 2. Documentation identifying who will own and maintain open spaces. Funding mechanism for maintenance of open space including type of management of such open space.
    - a. Fully-executed deed for public lands for dedication of public sites for open space or other civic purposes.
  - 3. Right-of way permits from the Town.
  - 4. A State Highway utility permit from CDOT.
  - 5. A State Highway access permit from CDOT.
  - 6. A construction dewatering permit from the Colorado Department of Public Health and Environment.
  - 7. SWMP
  - 8. A 404 Permit from the Army Corps of Engineers.
  - 9. An Air Pollution Emission Notice (APEN) from the Colo. Department of Public Health and Environment.
  - 10. A permit for work in any ditch right-of-ways from individual ditch companies.
  - 11. 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.

---

12. 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.
13. Other agreements, certificates, affidavits, enforcements or deductions as required by the Town.

B. Failure to comply with the Town's Municipal Separate Storm Sewer System (MS4) requirements shall result in stop-work orders and an inability to receive building permits and development review and subdivision approvals for future development.

## 30-5-113 Certification Blocks

### A. Preliminary Plat, Final Plat and Replat Applications

#### LEGAL DESCRIPTION AND DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS: That the undersigned, being the owners of \_\_\_\_\_, located in Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_ 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. The sole right and authority to release or convey all or any such easements and right-of-way shall remain exclusively vested in the Town of Berthoud. All easements shall retain the right of ingress and egress for construction and maintenance of improvements. No permanent structures except fencing upon Town approval shall be allowed on any easement.

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: ONLY FOR FINAL PLATS AND USES BY SPECIAL REVIEW WHICH VESTED RIGHTS HAVE BEEN ESTABLISHED IN ACCORDANCE WITH THE PROCEDURES AND APPROVALS REQUIRED BY THE BERTHOUD DEVELOPMETN CODE.

This plan/final plat 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

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

\_\_\_\_\_  
Chairperson

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

ATTEST: \_\_\_\_\_  
Town Planner

**B. Zoning Map Amendment Applications**

LEGAL DESCRIPTION:

---

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

(LEGAL DESCRIPTION)

This is to certify that the rezoning of the above-described property was approved by Ordinance No. \_\_\_\_\_ of the Town of Berthoud, passed and adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that the Mayor of the Town of Berthoud as authorized by said ordinance on behalf of the Town of Berthoud hereby for all acknowledges and adopts the said rezone upon which the certificate is endorsed for all purposes indicated hereon.

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

---

Mayor

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

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

Town Clerk

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

---

Chairperson

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

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

Town Planner

**C. Neighborhood Master Plan and Use by Special Review Applications**

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

---

Mayor

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

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

Town Clerk

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

---

Chairperson

---

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

ATTEST: \_\_\_\_\_  
Town Planner

**D. Administrative Amended Plat and Site Plan Review Applications**

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

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

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

\_\_\_\_\_  
Town Engineer

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

ATTEST: \_\_\_\_\_  
Community Development Director

**E. Development Construction Plans**

Town of Berthoud Engineer Approval Statement

Town of Berthoud Approval

All work shall be constructed to the Town standards and specifications. These plans have been reviewed by the Town of Berthoud for concept only and general conformance with the Town standards and specifications. The review by the Town of Berthoud does not imply responsibility by the Town of Berthoud or the Town Engineer for accuracy and correctness of the plans and calculations.

These Plans are hereby approved for one year from the date of the Town Engineer's approval.

Approved By:

\_\_\_\_\_  
Town Engineer

\_\_\_\_\_  
Date