

ORDINANCE NO. 256

AN ORDINANCE DIVIDING THE TOWN OF BERTHOUD INTO DISTRICTS, TO REGULATE AND RESTRICT THEREIN THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND, ESTABLISHING BUILDING ZONES AND MAKING REGULATIONS AS TO THE PERMISSIBLE STRUCTURES WITHIN SUCH ZONES.

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

Section 1. Definitions.

Accessory Building. A subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the use of the premises, but does not include dwelling or living quarters.

Dwelling. A structure used as a residence. It shall contain not less than a living room, bedroom, kitchen and a bathroom equipped with toilet and a bathtub or shower, all connected to the sewer.

Dwelling, Multi-family. A building or portion thereof designed for or occupied exclusively by two or more families, living independently of each other.

Family. One person living alone, or a group of two or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, rooming house or hotel.

Frontage. All the property abutting upon one side of a street between two intersecting streets.

Lot. A parcel of land occupied or intended for occupancy by the main building, together with its accessory buildings, including the open spaces required herein, and having its principal frontage upon a street or upon an officially approved place.

Lot, Corner. A lot situated at the junction of the front street and a side street.

Non-conforming Use. A building or land lawfully occupied by a use which does not conform with this ordinance.

Place. An open unoccupied space not less than thirty (30) feet wide permanently reserved for purposes of access to abutting property.

Set Back. The minimum horizontal distance between the property line and front line of the building or any projection thereof, excluding steps and unenclosed porches.

Street. A public thoroughfare forty (40) or more feet in width.

Street line. A dividing line between a lot and a contiguous street.

Story. That portion of a building included between the surface of a floor above ground level and the surface of the floor next above the first floor, or if there be no floor above it, then the space between such first floor and the ceiling next above it.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Yard. An open space on the same lot with a building, unobstructed

from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, or the depth of a front or rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front. A yard extending across the full width of the lot and measured between the front lot line and the front wall of the building.

Yard, Rear. A yard unoccupied, except for an accessory building as hereinafter permitted, extending across the full width of the lot between the rear line of the building and the center line of the alley, or the rear line of the lot where no alley is platted.

Yard, Side. A yard between the building and the side line of the lot and extending from the front yard to the rear yard.

Section 2. Establishing Zoning Districts.

For the purpose of this ordinance, the Town of Berthoud is divided into two classes of zoning districts to be known as follows:

Residence District.

Commercial District.

The Residence District shall consist of the following:

All of that part of the Town of Berthoud lying North and West of the following boundary: Beginning at the intersection of the North boundary of the town and the West line of the alley between Third and Fourth Streets, thence South to Turner Avenue, thence West to Fourth Street, thence South to the boundary line between Lots Six (6) and Seven (7), Block Three (3), Town of Berthoud, extended, thence westerly parallel to Mountain Avenue to the West boundary of the Town of Berthoud; also the following: Block One (1), Welch Addition to the Town of Berthoud; and all of that part of the Town of Berthoud lying South of the alley between Mountain Avenue and Welch Avenue EXCEPT Blocks Ten (10) and Eleven (11) of Welch Second Addition to the Town of Berthoud.

All of the remaining area of the Town of Berthoud shall constitute the Commercial District.

Except as hereinafter provided, no building shall be erected, structurally altered or moved, nor shall any building or land be used, for any purpose other than as permitted in the district in which such building is located. No lot area shall be reduced so that yards or other open spaces shall be smaller than prescribed herein nor shall the lot area per family be reduced except in conformity with the regulations hereby established for the district in which such building is located. No building hereafter erected shall exceed the height limit herein established for the district in which it is located.

Section 3. Residence District.

Use. In the Residence District no building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided herein, except for one or more of the following uses:

1. One-family dwelling. The total area of such dwelling shall be not less than 700 square feet, outside measurement.

2. Multi-family dwelling. For every dwelling structure for more than

one family there shall be a dwelling area of at least 500 square feet, outside measurement, per family.

3. Churches, schools and colleges.

4. Libraries, museums, parks, playgrounds, community buildings and fire stations controlled by the town.

5. Philanthropic institutions, hospitals and sanitariums, other than institutions for the insane or feeble-minded.

6. Farming and truck gardening.

7. Boarding and rooming houses, hotels and tea rooms.

8. Nurseries and greenhouses for the propagating and cultivating of plants only.

9. Private clubs, fraternities and lodges, except those whose chief activity is a service customarily carried on as a business.

10. Uses customarily incidental to any of the above uses when located on the same lot; also the office of a physician, surgeon, dentist, musician or artist.

11. Accessory buildings customarily incidental to any of the above uses.

Height. No building hereafter erected or structurally altered shall exceed thirty-five (35) feet or two and one-half ($2\frac{1}{2}$) stories in height, nor less than one story above ground; provided, however, that public or semi-public buildings may be erected to a height not exceeding fifty (50) feet in height if, for each foot of height above thirty-five (35) feet, the building is set back from each lot line one foot more than required by the regulations for yards.

Yards. There shall be a front yard of not less than twenty-five (25) feet, a rear yard of not less than thirty (30) feet, and a side yard of not less than five (5) feet on each side of a building; provided, that where forty (40) per cent or more of the frontage in the block is built up with buildings having an average front yard depth with a variation of not more than six (6) feet, no building hereafter erected or structurally altered shall project beyond the average front line of buildings so established; and provided, further, that this regulation shall not require a front yard of more than forty (40) feet.

Lot Area Per Family. Each one-family dwelling hereafter erected shall be located on a lot having an area of not less than six thousand (6,000) square feet. Each multi-family dwelling shall have at least three thousand (3,000) square feet of lot area per family if one of such families dwell below the first story, and at least two thousand seven hundred fifty (2,750) square feet for each family in dwellings all of whose dwelling stories are above ground level.

Section 4. Commercial District.

Use. In the Commercial District buildings and premises may be used for any purpose whatsoever not in conflict with any ordinance of the Town of Berthoud regulating nuisances; provided, however, that no premises shall be occupied nor a permit issued for any of the following uses, unless the location of such shall be approved by the Board of Trustees:

1. Acid manufacture.

2. Cement, lime, gypsum or plaster of paris manufacture.
3. Explosives manufacture or storage.
4. Fertilizer manufacture.
5. Fuel manufacture.
6. Glue manufacturing, fat rendering or distillation of bones.
7. Petroleum refining.
8. Smelting of ores.
9. Stock yards.
10. Junk yards.

In the Commercial District, EXCEPT in the East half ($E\frac{1}{2}$) of Block One (1) East Capitol Hill Addition and the East half ($E\frac{1}{2}$) of Blocks Four (4), Five (5) and Nine (9), Town of Berthoud, all outside walls, party walls and roofs shall be made of, or covered with, fire resistant material. All flues, chimneys and passages for smoke and fire shall be made of brick, stone or other fire-proof material, shall be well and thoroughly plastered on the inside with good mortar, shall extend above the roof of the building at least thirty (30) inches, and shall be separated from all joists, beams, timbers and woodwork by at least four (4) inches of stone, brick or other fire-proof material.

No person shall keep or allow to remain on their premises inside or within one hundred (100) feet of the above described area, any stack, pile or collection of hay, straw or other combustible material, without permission of the Board of Trustees.

Section 5. General Provisions and Exceptions.

The district regulations set forth in this section qualify, or supplement as the case may be, the district regulations appearing elsewhere herein.

1. Where a lot in separate ownership has a smaller area than the minimum herein required, and was of record on the effective date hereof, such lot may be occupied by a one-family dwelling and the usual accessory buildings; provided, however, that the yard requirements shall not be reduced except by order of the Board of Trustees.

2. In the Residence District an accessory building not exceeding fifteen (15) feet in height may occupy not more than thirty (30) per cent of a required rear yard, provided that on a corner lot, no accessory building shall be nearer a street than the main building on the same lot, and in the case of reversed frontage not nearer the side street than the front line of buildings on the lots at the rear. Provided, further, that no detached accessory building shall be nearer the front lot line than sixty (60) feet.

3. On corner lots in the Residence District where the frontage has been reversed, the side yard on the street side of the lot shall be the same as the front yard required on the lots at the rear of the corner lot. For both corner and interior lots in reversed frontage the front yard shall be not less than fifteen (15) feet and the rear yard not less than seven (7) feet.

4. The height regulations shall not apply to restrict the height of chimneys, stacks, elevators, cooling towers, water towers, radio towers,

scenery lofts, monuments, observation towers, domes, spires, belfries, cupolas and necessary mechanical appurtenances. A parapet wall not exceeding four (4) feet in height may be erected above the height limit in any district.

5. Every part of a required yard shall be open from its lowest part to the sky, except for the ordinary projections of sills, courses, chimneys, flues, cornices, eaves, and ornamental features, provided, that no such projections shall extend into a minimum side yard more than two (2) feet. Fire escapes, fire-proof outside stairways and balconies opening upon fire towers may project into a side yard not more than three (3) feet or into a rear yard not more than five (5) feet. An open unenclosed one-story porch or terrace may project into a front yard not more than ten (10) feet. These requirements shall not prevent the construction of fences not exceeding five (5) feet in height except on that portion of lots within thirty (30) feet of the intersection of two or more streets.

6. No yard or other open space provided about any building for the purpose of complying with this ordinance shall be considered as providing a yard or open space for any other building.

7. No signs except church or similar bulletin boards, and signs not exceeding three (3) square feet in area pertaining to the lease, hire or sale of a building or premises, shall be permitted in the Residence District.

8. No trailer house shall be occupied as a dwelling in the Residence District, except in the Trailer Park.

9. Unless otherwise authorized by the Board of Trustees, the curb line on all streets and avenues eighty (80) feet in width and located west of Fifth Street in the Town of Berthoud, shall be twenty-one (21) feet from the lot lines; and on all streets and avenues sixty (60) feet in width in said area the curb line shall be fourteen (14) feet from all lot lines; and on Mountain Avenue the curb line shall be sixteen (16) feet from the lot lines.

Section 6. Non-conforming Uses.

The lawful use of land existing at the time of passage of this ordinance, although such use does not conform to the provisions hereof, may be continued, but if such non-conforming use is discontinued any future use of said land shall be in conformity with the provisions of this ordinance.

Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

When a building, the use of which does not conform to the use regulations of this ordinance is damaged by fire, explosion, flood, Act of God, or a public enemy, to the extent of more than seventy-five (75) per cent of its fair value it shall not be restored except in conformity with the regulations of the district in which it is situated.

Section 7. Plats and Permits.

Before any building shall be erected or structurally altered a building permit shall be obtained of the Town Clerk, with the approval of the Board of Trustees, and a permit fee of one cent per square foot of the enclosed building and a minimum fee of \$2.50 shall be paid.

All applications for building permits shall be accompanied by a

plat, in duplicate, drawn to scale, showing the dimensions of the lot to be built upon, the size and location of the building to be erected, the location of sidewalks and driveways and such other information as may be necessary to provide for the enforcement of this ordinance. A careful record of such applications and plats shall be kept in the office of the Town Clerk.

Section 8. Zoning of New Territory.

Upon annexation of additional territory to the Town of Berthoud after the effective date of this ordinance, such territory shall be temporarily classified as Residence District, and shall be subject to the regulations herein provided for such district until such time as the Board of Trustees shall otherwise prescribe by amendment of this ordinance.

Section 9. Validity.

Should any section, clause, sentence or part of this ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of the ordinance as a whole or part thereof, other than the part so declared to be unconstitutional or invalid.

Section 10. Violation and Penalty.

Any person, firm or corporation that violates, disobeys, omits, neglects or refuses to comply with or resists any of the provisions of this ordinance shall be fined not less than Ten dollars (\$10.00) nor more than One Hundred dollars (\$100.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 11. Conflicting Ordinances Repealed.

Ordinance Number 133, Ordinance Number 137 and all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

Passed, adopted and approved this 12th day of November, A.D.1957.

Attest:

Viola Barrowman
Town Clerk

O. D. Mayo
Mayor