

ORDINANCE No. 468

AN ORDINANCE RESTRICTING THE ANNEXATION AND EXTENSION OF UTILITY SERVICES TO OUTLYING AREAS BY THE TOWN OF BERTHOUD.

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

Section 1.

The Town of Berthoud and the Mayor, Board of Trustees, elected officials, appointed officials, department heads, agents, servants, employees and any other persons acting for or on behalf of the Town of Berthoud or any department, agency, or other subdivision thereof shall not extend or provide, or authorize the extension or provision, of water and sewer utility service, equipment, connections, or taps, by the Town of Berthoud, its departments, agents, or subdivisions, or by any entity owned wholly or partially by the Town of Berthoud, to any person owning or having an interest in real property unless said real property is located within the Town limits of the Town of Berthoud or meets the terms and conditions imposed on annexations by the provisions of Section 2 of this Ordinance. This Section 1 shall not apply to any parcel of real property located outside the Town limits of the Town of Berthoud which was being served with water and/or utility service by the Town of Berthoud on February 1, 1979.

Section 2.

(a) Neither the mayor, board of trustees, nor any other person or entity acting for or on behalf of the Town of Berthoud shall annex, call an annexation election, or approve for annexation to the Town of Berthoud any real property which does not meet the terms and conditions of paragraph (b) of this Section 2.

(b) A parcel of real property must meet the following terms and conditions before it can be annexed to the Town of Berthoud:

- (1) The parcel proposed for annexation must be eligible for annexation as provided under the Statutes and Laws of the State of Colorado.
- (2) The requirement of contiguity set forth in Colorado Revised Statutes 31-12-104 (1) (a), 1977, as amended, must be met in good faith. The requirement of contiguity shall be conclusively deemed not to be met in good faith if said contiguity must be obtained by the annexation of a road, highway, street, or alleyway; public or private right of way; public or private transportation right of way or area; stream ditch, or other similar artificial or natural waterway; or other similar narrow linear strip of real property which is not itself contiguous to the Town of Berthoud along the entire length of its longest perimeter side. A parcel of real property shall be deemed a narrow linear strip of real property if any perimeter side thereof is more than three times as long as the perimeter side thereof which is actually contiguous to the Town of Berthoud.

(c) If the Mayor, Board of Trustees or other person or entity acting for or on behalf of the Town of Berthoud approves the annexation of a parcel of real property, then if a person, corporation, partnership or other entity which is substantially identical to a person, corporation, partnership, or other entity which owned or possessed any legal or equitable interests in the approved parcel submits a proposal for annexation of another parcel which is contiguous to the approved parcel at any point, within two (2) years of the date of approval of the annexation of the approved parcel, then the approved parcel and the parcel for which the annexation has been proposed shall be considered as one parcel for the purpose of determining compliance with the terms and conditions of this section.

A person, corporation, partnership or other entity shall be deemed to submit a proposal for annexation if it possesses any legal or equitable interest in a parcel of real property for which annexation is proposed by any person, corporation, partnership or other entity. Ownership of an interest in the stock of a corporation or an interest in a partnership shall be a sufficient legal or equitable interest to qualify under this paragraph.

Section 3:

It is the intent of this ordinance to prevent the extension of sewer and water utility services to or annexation of outlying areas by annexing streets or other narrow or irregularly shaped parcels so as to form "umbilical cords" or "flagpoles" which connect said outlying areas to the Town of Berthoud, so that the Town of Berthoud may grow in a regular and orderly manner outward from its center by the annexation of parcels of real property which are actually contiguous in good faith thereto. This ordinance shall be liberally construed to accomplish this intent.

Section 4:

This ordinance shall not be amended, repealed, restricted, altered, suspended, or otherwise changed or modified in any way either expressly or by implication unless said change or modification is approved by a majority vote of the people of the Town of Berthoud at either a general, municipal, or special election as provided by law.

Section 5:

The various Sections of this ordinance, and/or portions thereof, shall be severable from each other and if any said Section, and/or portion thereof, is declared invalid for any reason by any Court or other appropriate agency, then all other Sections, and/or portions thereof, which have not been so declared invalid shall remain in full force and effect.

Section 6:

The provisions of this ordinance may be waived and deemed not to apply to any particular parcel of real property if said waiver is approved and enacted by a majority vote of the people of the Town of Berthoud at either a general, municipal or special election called either by the Town Board, through initiative petition or otherwise as provided by law.

Section 7:

Whereas this ordinance was adopted by special election held May 8, 1979 in the Town of Berthoud, Larimer County, State of Colorado. Be it known to all parties, this Ordinance No. 468 is in effect retroactively February 1, 1979.

ATTEST:

Carol A. Mayo
TOWN CLERK

TOWN OF BERTHOUD:

Richard D. Shewell
MAYOR