

ORDINANCE NO. 864

AN ORDINANCE AMENDING PORTIONS OF THE DEVELOPMENT CODE FOR THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO:

Section 1.

The following sections of the Berthoud Development Code shall be amended.

1. Chapter 30-08 entitled "Annexation" is amended, in its entirety, to read as follows:

CHAPTER 30-08 ANNEXATION

Sections:

30-8-110	Procedure
30-8-120	Annexation Policies
30-8-130	Annexation Findings
30-8-140	Annexation Review and Approval Procedure

30-8-110 Procedure

Annexation of lands to the Town shall be in accordance with the laws of the State of Colorado in effect from time to time.

30-8-120 Annexation Policies

The Town is required to annually update its comprehensive plan as it relates to the Municipal Annexation Act of 1965. The Town Board and the Planning Commission are charged with the responsibility of

preparing specific plans and policies for the area within the Town's Urban Growth Management Area, as designated by the Colorado Revised Statutes, the Town of Berthoud's ordinances and regulations, and intergovernmental agreements, as applicable. The following annexation policies shall apply:

1. Annexation shall be considered on a case-by-case basis only and by the submission of a petition for annexation the petitioner(s) agree to the reasonableness, applicability

and appropriateness of the development and capital impact fees and dedications of land and open space required by this Development Code and the ordinances and intergovernmental agreements of the Town.

2. The annexation petition for undeveloped land must be accompanied by a request for initial zoning of the property as AG-Agricultural or T-Transition.
3. The annexation petition must disclose the public facility requirements of the property to be annexed if any are applicable to the land at the time of annexation and, if so, how such requirements are to be satisfied by the petitioner(s). These requirements may be satisfied by commitments of land dedication or payment of cash, or other method offered by the petitioner(s) which are acceptable to the Town Board.
4. The annexation petition shall include a statement that the petitioner(s) agree(s) to the imposition of reasonable growth management controls, which will maintain the Town's rate of growth as determined by the Town Board. The rate of growth and development of any subdivision within the annexation will be tailored to the particular subdivision and if appropriate, each specific phase of the subdivision.

5. Other policies, terms and special conditions that the Board might impose or adopt prior to vesting of development rights which would specifically preclude the application of these terms or conditions.

### 30-8-130 Annexation Findings

In making a determination relative to an annexation request, the Town Board shall consider the following:

A. Public facilities. The Town Board hereby finds and determines that certain public facilities are necessary and may be required as a part of the development of any territory annexed to the Town in order that the public needs may be served by such facilities. These facilities include, but are not limited to, streets, bridges, parks, recreation areas, schools, police or fire station sites, water, wastewater and storm drainage facilities with additional setbacks along minor and major arterials. The owners of real property who petition the Town for annexation and the successors involved in its development, if any, by their submission of an annexation petition agree to dedicate the easements and setbacks and to pay for the infrastructure and facilities' fees established by the Town Board and that they are appropriate to the development which will occur on the property. In all events the petitioner(s) are agreeing to pay for

the minimum infrastructure and facilities' fees established and updated by the Town Board.

B. Impact on existing residents of the Town. The Town Board further finds and determines that the annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly-annexed area and that no annexation shall be accepted until such time as the Town Board, upon the recommendation of the Town administrator, shall determine that the current requirements for such public facilities in the area proposed to be annexed have been fulfilled and that the future requirements for such public facilities can be fulfilled.

C. Compliance with land use plan. All petitioner(s) must demonstrate that the proposed annexation of land is in compliance with the Town's comprehensive plan and land use plan.

D. School district impacts. Where development is to occur in conjunction with the annexation the petitioner(s) must demonstrate that he/she has met with the school district to discuss requirements for dedication of school sites and the petitioner(s) accept and agree to pay the school district's land acquisition fee as applicable.

E. Fiscal impact study and annexation impact report. In its consideration of any proposed annexation, the Town Board may request that an analysis of the fiscal impact of the proposed annexation be prepared. The cost of such analysis or additional information shall be borne solely by the petitioner(s). The proposed annexation impact report shall be prepared and filed with the Town by the petitioner(s) in a timely manner.

#### 30-8-140 Annexation Review and Approval Procedure

All petitions for annexation shall be submitted to the Town Clerk or designee in accordance with the requirements of chapter 30-16 of this Code and the Municipal Annexation Act of 1965.

2. The following paragraph shall be added under Section 30-5-101 C:
  - C. PUD Planned Unit Development District

Generally, all properties abutting the Highway 287 Bypass and in the I-25 area are required to be zoned PUD in lieu of R1, C2, etc. This is because the Town's existing zoning districts requirements do not adequately address the development issues, such as buffering, density, land uses, etc.

3. The following definition under Section 30-2-102 entitled "Definitions" of Chapter 30-2 shall be amended to read as follows:

**Front Yard** - means that portion of a lot which abuts a street and extends across the width of the lot between the property line and the nearest line or point of the building or primary structure.

4. Paragraph C of Section 30-3-110 entitled "Appeal Procedures" shall be amended to read as follows:

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

5. The first paragraph under E. of Section 30-5-400 entitled "Findings" shall be amended to read as follows:

E. Findings. In making a recommendation for approval of a plan under the PUD regulations contained herein, the Planning Commission shall make findings that accompany its recommendation and that address the following issues **as appropriate at each stage (ODP, PDP, FDP) in the development process:**

6. Paragraph D. of Section 30-9-300 shall be amended to read as follows:

D. No fencing or improvements may be installed on right of ways or easements owned or shared by the Town without first obtaining a building

permit. The issuance of the building permit and the construction of any improvements shall only be done with the understanding and agreement by the owner(s) that the improvements will be immediately removed at the owner(s)' sole expense at the request of the Town.

7. In paragraphs D, E and F of Section 30-16-200 the words "chief building official" shall be replaced with "Planning Director".

8. Section 30-3-300 shall be amended to read as follows:

#### **30-3-300 Public Notice Requirements**

Notice of a public hearing to be conducted by the Town Board of Trustees or the Planning Commission for any development proposal shall be required. Notification requirements, unless otherwise required by State statute, shall include:

- A. Providing written notice to property owners within 500 feet of the property to be developed and to adjacent jurisdictions mailed at least five (5) days in advance of a public hearing;
- B. Posting of signs on the property to be developed, in accordance with procedures established by the Town administrator or their designee at least five (5) days in advance of a public hearing; and
- C. Publication of notice by the Town Clerk in at least one newspaper of general circulation in advance of the public hearing.

9. Paragraph C of Section 30-6-109 entitled "Public Notice Requirements" shall be deleted.

10. Paragraph A. (4) of Section 30-5-103 shall be amended to read as follows:

- A. (4) The Town Clerk shall cause a hearing by the Town Board of Trustees to be placed on the agenda for a future meeting and shall give notice of the hearing.

11. The following section shall be added to Chapter 30-9:

#### Section 30-9-503 Highway Buffers

The Town desires development occurring along the Highway 287 and I-25 corridor to have significant buffers. Due to the difficulty in writing standards for such a broad area, the following requirements may be amended by the Town Board in a manner that meets the intent of this section and goals in the Land Use Plan. An exception to these requirements is made for the commercial areas located at Highway 287 and Highway 56. The Town Board of Trustees has determined that the development of properties adjacent to major arterials creates special health, safety and welfare concerns for the occupants of buildings adjacent to these arterials. These special circumstances include, but are not limited to, pollution by noise, fumes and roadway sand and chemicals; dangerous circumstances created by vehicles going out of control; and, the intensity of the high speed, high volume traffic.

A. Highway 287. Refer to figure 30-9 for a visual description of the following requirements: The east side of Highway 287 and the bypass must have 200 foot buffers for the purposes of buffering noise impacts and to help create a "sense of place" by increasing the visibility of the Town's urban boundary.

Areas on the west side of Highway 287 are required to have a 500 foot buffer in order to provide views of the mountains and to create a rural image from the highway consistent with Larimer County FA-1 zoning density (2.3 acres per unit) and 50% clustering requirements.

The east/west portion of the Highway 287 bypass has been designated as the core of the Berthoud/Loveland separator area. The purpose of the separator area is to help create community identity with a rural/open space separation. Where the bypass travels in an east/west direction, 900 foot setbacks are required. Where the bypass stops traveling in an east/west direction and begins bending to the north or south, the 900 foot setback requirement extends horizontally until it is beyond 900 feet from the highway. At the east and west ends of this area beyond the 900 foot setback (identified as "view corridor" in Figure 30-9 A), buildings must be kept below the horizon as viewed from the highway and limited in density to the extent possible. In addition, a 400 foot radius setback is required along Larimer County Road 17 north of the 900 foot bypass setback.

B. Highway 56 and Interstate 25. Between Weld County Road 7 and about 1000 feet east of Weld County Road 1 along Highway 56, a buffer of 500 feet is required in order to maintain a rural approach into the Town. Also, in order to maintain a noise/visual buffer and an open corridor feel, single family development cannot be within 1320 feet (1/4 mile) from I-25, unless it is part of a commercial mixed use center or has density equal to or less than 1 unit per 35 acres.

C. General Requirements.

Developers are encouraged to use a "saw tooth" shape along the buffer edge to increase the overall appearance of the buffer. In addition, the practice of trading buffer distances on either side of a highway is encouraged where appropriate, such as next to the Loveland Reservoir. Buffer distances are measured from the pavement edge to any structure that is not appropriate with the intent of the buffer. This includes occupied structures, garages, storage sheds, etc.

Land uses appropriate within a buffer include agriculture, trails, barns, golf courses, and other uses complementary to open space. A management plan for the buffer must be associated with the plan approval. Typically, it is preferred that a homeowner's association own and maintain the buffer area in

common ownership rather than it being a part of a buildable lot. Generally, buffer areas held in common ownership with distances averaging 200 feet or more and with appropriate land uses will receive credit as open space on the density transfer fee.

Section 2. Effective Date.

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this Ordinance shall take effect and be in force thirty (30) days after publication.

At its meeting October 10, 2000, a public hearing was set by the Board of Trustees of the Town of Berthoud for its meeting held on the 24th day of October, 2000. After the public hearing, the Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 24th day of October, 2000.

TOWN OF BERTHOUD:

ATTEST:

Milan Karspeck  
Milan Karspeck - Mayor

Mary K. Cowdin  
Mary K. Cowdin - Town Clerk

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