

## ORDINANCE NO. 1157

AN ORDINANCE OF THE TOWN OF BERTHOUD ADOPTING CHANGES TO THE MANNER IN WHICH THE CASH-IN-LIEU COST FOR COLORADO BIG THOMPSON WATER UNITS IS CALCULATED AS FOUND IN CHAPTER 30-10-105 OF THE BERTHOUD DEVELOPMENT CODE OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO.

WHEREAS, the Board of Trustees has heard testimony regarding the process to calculate the cash-in-lieu of water fee for Colorado Big Thompson (CBT) water units as found within the Berthoud Development Code and,

WHEREAS, the Board of Trustees, after reviewing these documents in a Public Hearing and hearing all comments, has determined that it is in the best interests of the Town that the proposed changes to the Development Code be adopted.

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

### Section 1. Adoption.

The Town Board of Trustees, in order to provide for the timely and accurate calculation of the costs for cash payments made to the Town in lieu of delivery of CBT water units, is in support of the proposed changes in order to increase the general welfare of the Berthoud community.

The proposed changes to the Development Code are hereby adopted pursuant to Title 31, Article 16, C.R.S. and the Town of Berthoud regulations.

### Section 2. Effective Date.

It is hereby found and declared by the Town of Berthoud that due the volatile market now existing related to the cost of CBT water units, and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

Section 3: Validity.

If any part or parts of this ordinance are for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Section 4. Repeal.


Upon adoption of this Ordinance, previous Ordinances in conflict with this Code are hereby repealed.

Section 5. Certification.

The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

ATTEST

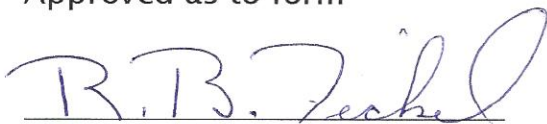
TOWN OF BERTHOUD

  
Mary K. Cowdin - Town Clerk

  
David Gregg - Mayor

Publication of Adopted Ordinance: March 14, 2013

Approved as to form

  
R.B. Fickel, Town Attorney



## ATTACHMENT A

### Changes to Chapter 30 - 10: Dedications and Fees

*Changes to current code underlined below.*

#### **30-10-105 Raw Water Contribution Requirements**

- E. The Town may allow cash-in-lieu of water dedication at its sole discretion. The fee shall be based upon all costs of acquisition of CBT Units, including the administrative costs and average cost of CBT Units as determined by the Town Administrator based upon the terms of which are available to the Town. The dedication of Handy Ditch shares shall also require the payment of \$500 per dwelling unit to pay the fees for converting the water from agricultural usage to domestic usage (conversion fee) in cases where Handy Ditch shares are dedicated for domestic usage.
- F. (2) Dwelling units on lots in excess of 17,000 square feet, commercial development, industrial development, parks, open space, apartment complexes, condominiums and townhouses which do not have in excess of 1,000 square feet of residential floor area, as prorated to each dwelling unit, and other uses shall be evaluated on a case by case basis to determine the amount of water to be dedicated or the amounts of cash-in-lieu of water dedications. The fee for cash-in-lieu of dedication of water rights shall be based upon all costs of acquisition of CBT Units including administrative costs and the average cost of CBT Units as determined by the Town Administrator based upon the terms of sales of CBT Units which are available to the Town at the time of payment. The raw water dedication shall be based on actual usage including all system losses when available and predicted usage including all system losses when it is not. The Town may elect to provide its own analysis, if, in its judgment, the Town has sufficient information and experience with other similar developments to adequately evaluate the probable water demands and consumption for the property. The Town may also require the Developer or person developing the property to provide a water demand analysis for the property, including water demands and consumption per each use category (e.g., multi-family residential, commercial, office, industrial, parks or others) and irrigation demands and consumptive use. All calculations, whether performed by the Town, a Developer, or a person developing the property shall include all system losses experienced by the Town in delivering, treating, and storing a given water source. In such case, the Town shall make the final determination as to water dedication requirements

#### **Section 3**

- B. The Board of Trustees recognizes that the acquisition of partial shares of Handy Ditch Company stock and Units of Colorado Big Thompson is difficult. For persons who are not defined as Developers and whose property can be provided water service or treated water through the Town's treatment plant, the Town will accept cash in lieu of dedication of water rights. Such payments shall be made at the same times as specified in Section 2.C. hereof for water dedications. The amount of such payments shall be based upon all costs of acquisition of CBT Units, including administrative costs and the average cost of CBT Units as determined by the Town Administrator based upon the terms of sales available to the Town.