

ORDINANCE NO. 1151

AN ORDINANCE OF THE TOWN OF BERTHOUD ADOPTING CHANGES TO PUBLIC NOTIFICATION TIMING AS FOUND IN CHAPTER 30, SECTIONS 1, 3 AND 6 OF THE BERTHOUD DEVELOPMENT CODE OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO.

WHEREAS, the Board of Trustees has heard testimony regarding adoption of changes to the public notification timing 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 expanded opportunities for public input and comment finds that the increase in public notification from 5 days to 15 days for all zoning, concept plan, preliminary plat, final plat, conveyance plat, planned unit development, comprehensive plan, variance, conditional use, minor subdivision, and site plan processes in the Town of Berthoud as identified in Attachment A is in support of 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.

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.

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.

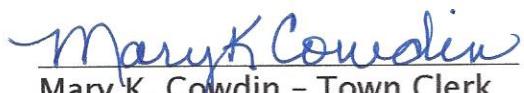
Section 4. Repeal.

Upon adoption of this Ordinance, previous Ordinances in conflict with this Code are hereby repealed.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

  
Mary K. Cowdin

Mary K. Cowdin – Town Clerk

TOWN OF BERTHOUD

  
David Gregg

David Gregg – Mayor

Publication of Adopted Ordinance: January 31, 2013

Approved as to form

  
R.B. Fickel

R.B. Fickel, Town Attorney

## ATTACHMENT A

### Changes to Chapter 30: Section 1: General Provisions

#### 30-1-117 Public hearing and general notice provisions

##### 2. Public notice requirements

The Town shall give notice of any public hearing required as provided below. The applicant shall be responsible for all costs of such notice.

- (1) Where required by statute or ordinance to give notice to surrounding property owners, notice shall be given by mailing a written notice not later than fifteen days before the hearing to those persons who have listed for taxation any real property located within three hundred feet of the lot, parcel or property area that is the subject of the application or appeal.
- (2) Where required by statute or ordinance to give notice to other interested property owners such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies notice shall be given by mailing a written notice not later than fifteen days before the hearing.
- (3) Where required by statute or ordinance to give notice to other parties of interest or referral agencies, notice shall be given by mailing a written notice not later than fifteen days before the hearing.
- (4) Where required by statute or ordinance to give notice of annexation hearings to special districts, school districts and Larimer or Weld County Commissioners and the Larimer or Weld County Attorney, notice shall be given by a certified mailing of a written notice not later than twenty fifteen days before the hearing.
- (5) If notice by posting of the property is required by statute or ordinance, such notice shall occur by prominently posting signs on the property that is the subject of the proposed action. Such signs shall be posted no less than fifteen days prior to the hearing and shall be easily legible from the nearest public streets. Sign shall be in the format available from the Town.
  - a. Posting shall be required for all properties seeking annexation, zoning, rezoning, major subdivision, minor subdivision or PUD approvals and any amendments to such approvals.

- (6) If posting was done by the applicant, the applicant shall provide (prior to the hearing) an affidavit showing the property was posted within the specified time.
- (7) The Town shall give notice of any public hearing required as follows:
  - a. Notice shall be given to potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than fifteen days prior to the hearing.
  - b. This notice shall state the date, time and place of the hearing, reasonably identify the lot, parcel or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

### **3. Hearing and notification requirements**

Listed below are the notification requirements in the Town of Berthoud. Abbreviations used below include C.R.S. (Colorado Revised Statutes) and Hearing (Public Hearing). Hearings will be noticed per the Town of Berthoud in most instances but notice requirements for annexation must follow provision of the Colorado Revised Statutes. Mailed notices identified below would normally include notice of both the Planning Commission and Town Board meeting/hearings as appropriate.

**Table 1.1 Hearing and notification requirements**

	<b>Hearing</b>	<b>Publication</b>	<b>Mail notice</b>	<b>Post sign</b>
<b>Annexation</b>	Before Commission as regular agenda item. Before Town Board per C.R.S.	4 successive weeks starting at least 30 days prior to Statutory Hearing.	Yes, to property owners within 300 feet no less than 25 days and no more than 30 days prior to Statutory Hearing.	Yes, no less than 30 days prior to Statutory Hearing.

	<b>Hearing</b>	<b>Publication</b>	<b>Mail notice</b>	<b>Post sign</b>
<b>Zoning</b>	Before Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission meeting.	Yes, to property owners w/in 300 feet sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Rezoning</b>	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to hearing.	Yes, to properties within 300 foot area sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Concept Plan</b>	Before both Commission and Board as regular agenda items.	No less than 15 days prior to Commission meeting.	Yes, to properties within 300 feet no less than 15 days prior to meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Preliminary Plat</b>	Before Planning Commission as regular agenda item and Board as hearing.	No less than 15 days prior to meeting.	Yes, to property owners within 300 feet no less than 15 days prior to meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Final Plat</b>	Before Planning Commission as Hearing. <u>No Board meeting or hearing.</u>	No less than 15 days prior to Commission meeting.	Yes, to property owners within 300 feet no less than 15 days prior to Commission hearing.	Yes, no less than 15 days prior to Commission hearing.

	<b>Hearing</b>	<b>Publication</b>	<b>Mail notice</b>	<b>Post sign</b>
<b>Conveyance Plat</b>	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to Commission meeting.	Yes, to property owners within 300 feet, and referral agencies no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>PUD or amendment to PUD</b>	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet, and referral agencies no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Comprehensive Plan Amendment</b>	Before Planning Commission as hearing and Board as regular agenda item.	No less than 15 days prior to Commission hearing.	No	No
<b>Zoning Amendment</b>	Before Planning Commission as regular item and Town Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.

	Hearing	Publication	Mail notice	Post sign
<b>Variances &amp; Appeals</b>	Board of Adjustment (BOA) as hearing	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet no less than 15 days prior to BOA hearing.	Yes, no less than 15 days prior to BOA hearing.
<b>Conditional Use</b>	Before Planning Commission as regular agenda item, Town Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet, and referral agencies no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<b>Minor Subdivision</b>	Before Planning Commission as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet no less than 15 days prior to Commission hearing.	Yes, no less than 15 days prior to Commission hearing.
<b>Site Plan Review &amp; Action</b>	Administrative approval unless referred to Commission by Administrator.	No notice required.	No notice required.	No notice required.

## Changes to Chapter 30, Section 3: Zoning

### Section 30-3-106: Conditional Use

B. 4. Set Conditional Use public meeting & hearing dates and notify public. The Town shall send notice of the public meeting with the Planning Commission and public hearing with the Town Board to the applicant, all property owners of record within three hundred feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property, and to the appropriate referral agencies per this Code. The referral information shall include the time and place of the public meeting and hearing, the nature of the meeting/hearing, the location of the subject property, appropriate background information and the applicant's name. The Town shall publish notice for both the meeting and hearing in a newspaper of general circulation. The Town shall also prepare a notification sign to be posted on the property by the applicant. If the conditional use request is accompanying another application which is scheduled for a public meeting or hearing, such public meeting or hearing may be combined on both applications.

## Changes to Chapter 30, Section 6: Subdivision

### Section 30-6-104: Concept Plan

B. 4. Notice to neighboring property owners. The Town shall send notice of the Planning Commission and Neighborhood meeting, and the Town Board meeting by regular mail to neighboring property owners within three hundred feet of the property per this Code.