

RESOLUTION NO: 9-13

**A RESOLUTION FINDING AN ANNEXATION PETITION SUBMITTED BY THE ESTATE
OF MAURICE E. HAWORTH TO ANNEX APPROXIMATELY 89.204 ACRES
SUBSTANTIALLY COMPLIES WITH THE REQUIREMENTS OF SECTION 31-12-107(1),
C.R.S. AND SETTING A PUBLIC HEARING ON THE PETITION TO CONSIDER
ANNEXATION OF THE PROPERTY.**

WHEREAS, C.R.S. § 31-12-101 *et seq.*, the Municipal Annexation Act of 1965 ("the Act") provides that a municipality may accept petitions for annexation of property upon finding substantial compliance of the petitions with the Act and annex such properties separately or in a series considered together; and

WHEREAS, the Town of Berthoud has received a Petition for Annexation, which Petition is attached hereto as **Exhibit A** and incorporated herein, to annex the property described in said Petition to the Town of Berthoud; and

WHEREAS, the Board of Trustees of the Town of Berthoud finds the Petition to be in substantial compliance with the requirements of C.R.S. § 31-12-107(1); and

WHEREAS, the Board of Trustees of the Town of Berthoud must set a public hearing to determine if the proposed annexation complies with the Act and the Berthoud Development Code.

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

Section 1. The Board of Trustees of the Town of Berthoud finds that the Petition for Annexation attached as **Exhibit A** and depicted on **Exhibit B** of the Petition, is in substantial compliance with the requirements of Section 31-12-107(1), C.R.S. and Chapter 30-8 of the Town's Development Code and the annexation proceedings to consider the annexation of the properties described therein to the Town of Berthoud have been initiated.

Section 2. A public hearing is set for a regular meeting of the Board of Trustees of the Town of Berthoud on September 24, 2013 at 7:00 p.m. at the Berthoud Town Hall, 328 Massachusetts Avenue, Berthoud, Colorado to determine if the proposed annexation complies with the Municipal Annexation Act of 1965 and the Berthoud Municipal Code, and determine whether the property will be annexed to the Town of Berthoud.

Section 3. The Town Clerk shall give such notice as required by law and the Town staff shall develop and deliver any annexation impact report as required by law.

PASSED, ADOPTED AND APPROVED THIS 13th DAY OF AUGUST, 2013.

TOWN OF BERTHOUD:



David Gregg, Mayor

ATTEST:



Mary K. Cowdin, Town Clerk

Publish: August 22, 29, September 5, 12, 2013

EXHIBIT A

HAWORTH ESTATES FIRST AND SECOND ANNEXATIONS

PETITION FOR ANNEXATION

We represent that we are the landowners of 100% of the land described in this Petition, excluding public streets, alleys, roads and easements, which is legally described on Exhibit "A", and affirm the following to be true and correct as of February 15, 2013, our petition for annexation of the Haworth Estates, First and Second Annexations is filed with the Town of Berthoud.

CONTIGUITY:

1. The perimeter of the proposed Haworth Estates First Annexation has a distance of 4,620.04 feet of which 770.21 are contiguous to the existing Town Limits of Berthoud.
2. This contiguity results in a minimum of 16.67% of the perimeter (at least 1/6) of proposed annexation being contiguous to the Town of Berthoud.
3. The proposed Haworth Estates First Annexation contains approximately 28.594 acres.
4. The perimeter of the proposed Haworth Estates Second Annexation has a distance of 6,848.99 feet of which 1,448.18 are contiguous to the existing Town Limits of Berthoud.
5. This contiguity results in a minimum of 21.14% of the perimeter (at least 1/6) of proposed annexation being contiguous to the Town of Berthoud.
6. The proposed Haworth Estates Second Annexation contains approximately 60.610 acres.
7. The requirements of §31-12-104 and §31-12-105 C.R.S., exist or have been met.
8. We further allege:
 - a. It is desirable and necessary that the territory be annexed to the Town of Berthoud.
 - b. A community of interest exists between the territory and the Town of Berthoud.
 - c. The territory is integrated or capable of being integrated with the Town of Berthoud.
 - d. The territory is urban or will be urbanized in the near future.
 - e. No land held in identical ownership is divided into separate parcels unless the owner of said tract has consented in writing or joins in this Petition.
 - f. No proceedings for annexation of the land described in this Petition have been commenced for annexation to another municipality.

9. The Petitioners understand that there may be a significant period of time before municipal utilities will be available, but anticipate that urbanization will be able to take place at a pace acceptable to them without immediate access to these utilities. Until urbanization takes place the petitioners intend to maintain their properties in their current uses, which uses are acceptable to the Town of Berthoud.
10. The Petitioners have submitted the petition with the intention that the property will be developed in accordance with Berthoud's Development Code, Comprehensive Plan, Municipal Code, resolutions and ordinances.
11. The Petitioners are aware that Berthoud has enacted fees and policies with the intention that growth should pay its own way and that growth should improve the health, safety and welfare of its citizens. Examples of Berthoud's fees which are acceptable to the petitioners include fees for: building, electric, construction meter, plan review, building permit administration, parks, trails and open space, public facilities infrastructure, streets, drainage, police facility infrastructure, general administration facility infrastructure, water administration, water meter, water tap, sewer tap, raw water, and other supplemental fees as appropriate.
12. The Petitioners understand that Berthoud is required by Colorado Revised Statutes to prepare and file an annexation impact report. The Petitioners will prepare a proposed annexation impact report and provide it to Berthoud for review and consideration six (6) weeks prior to the hearing.
13. The Petitioners agree to dedicate free and clear of all liens and encumbrances of any kind, and at no charge to the Town, all easements and rights-of-way for streets and other public ways and for other public purposes, within the Property as outlined in a Subdivision Improvements Agreement (approved at the time of final subdivision plat).
14. The Petitioners agree to dedicate, with the subdivision of the Property and at no cost to the Town, all required easements and right-of-way for installation and maintenance of infrastructure.
15. The Petitioners agree to design and install transportation infrastructure, utility infrastructure, and stormwater improvements to serve the Property prior to the issuance of any building permits for all or any portion of the property in accordance with Town standards. The Petitioners shall make such other improvements as required by Town ordinances and resolutions, to guarantee construction of all required improvements, and, if requested by Berthoud, to dedicate to Berthoud any or all other required improvements. The Petitioners agrees to enter into a subdivision improvements agreement pertaining to such improvements and other matters at time of final plat.
16. The Petitioners agree that oversizing agreements may exist that the Petitioners may be responsible for his/her fair share for oversizing of infrastructure. Likewise, Petitioners acknowledges that the Town may require the Petitioners to oversize infrastructure, which would be reimbursed by subsequent developers. The Petitioners acknowledge that the Town shall facilitate reimbursement of any financial participation by the Petitioners, over and above the proportionate impact of the development. Such reimbursement shall come from new development directly connecting to the improvements.
17. The Petitioners agree to satisfy the public land dedication and landscaping requirements specified in the Town's Development Code.

18. The Petitioners agree that future development of the site will comply with any adopted infrastructure plans including but not limited to transportation, drainage, water, sewer, land use, parks, trails, open space and comprehensive plans.
19. The Petitioners agree that the design, improvement, construction, development, and use of the property shall be in conformance with, and that Petitioners shall comply with, all municipal, county, state and federal statutes, ordinances, rules and regulations.
20. The Petitioners agree that all land use approvals and building permits for the development of the Property shall be subject to requirements including, but not limited to, the payment of impact fees and development charges and other land use and development requirements in effect at the time that such proposed development applies for a building permit.
21. The Petitioners agree to convey to the Town, all water rights necessary for development and all irrigation water rights and associated carrying rights and groundwater rights associated with the property, and any related stock certificates evidencing ownership of the water rights, free and clear of all encumbrances and with all taxes and assessments related hereto paid in full, unless the Town in writing rejects any or all such water rights. Water rights may be conveyed on a pro-rata basis as building permits are issued.
22. Berthoud has various enterprise funds through which the utilities provided by Berthoud are financed. Examples of Berthoud's services are its water, wastewater and drainage utilities. Berthoud's Board of Trustees believe that the provision of utilities by Berthoud assists in complying with the *Berthoud Comprehensive Plan* and *Berthoud Development Code* and the petitioners request that Berthoud provide all utility services which are available now or in the future through Berthoud at a cost comparable to that which can be provided by any third party.
23. The Petitioners understand that the R2-J School District forms an integral part of the Berthoud community. Berthoud has enacted fees to support the acquisition of land by this School District. The Petitioners are aware of these fees and agree to financially support the District's land acquisition programs.

The terms of this Petition are binding on the heirs, devisees, successors and assigns of the parties. Therefore, the undersigned hereby request that the Town of Berthoud approve the annexation of the areas described herein.

Karen Sorenson, Personal Representative
Estate of Maurice E. Haworth
509 N County Rd. 19
Berthoud, CO 80513

EXHIBIT A
LEGAL DESCRIPTION

HAWORTH ESTATES FIRST ANNEXATION:

Those portions of the Southwest Quarter of Section 15, the Southeast Quarter of Section 16, the North Half of Section 21 and the Northwest Quarter of Section 22, all being in Township 4 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:

Considering the South line of the Southeast Quarter of said Section 16 as bearing South 89°34'24" East and with all bearings contained herein relative thereto:

Beginning at the Southeast corner of said Section 16; thence along the South line of the Southwest Quarter of the Southwest Quarter of said Section 15 North 89°18'12" East 30.00 feet, more or less, to a point on the Southerly prolongation of the Easterly right-of-way line for Larimer County Road No. 19 and the TRUE POINT OF BEGINNING; thence departing said South line of the Southwest Quarter of the Southwest Quarter of said Section 15 and along said Southerly prolongation of the Easterly right-of-way line for Larimer County Road No. 19 and along the Easterly right-of-way line for Larimer County Road No. 19 North 00°00'00" East 1327.30 feet; thence departing said Easterly right-of-way line for Larimer County Road No. 19 South 89°14'34" West 30.00 feet, more or less, to a point on the East line of the Southeast Quarter of said Section 16; thence along said East line of the Southeast Quarter of said Section 16 North 00°00'00" East 90.18 feet, more or less, to the Southeast corner of the Plat of Condon M.L.D. S-95-89, County of Larimer, State of Colorado; thence departing said East line of the Southeast Quarter of said Section 16 and along the Southerly line of said Condon M.L.D. S-95-89 North 89°31'13" West 826.14 feet; thence departing said Southerly line of said Condon M.L.D. S-95-89 South 00°28'47" West 1448.18 feet, more or less, to a point on the Southerly right-of-way line of Larimer County Road No. 8; thence along said Southerly right-of-way line of Larimer County Road No. 8 South 89°34'24" East 838.32 feet and again North 89°18'12" East 29.93 feet, more or less, to a point on the Southerly prolongation of the Easterly right-of-way line for Larimer County Road No. 19; thence departing said Southerly right-of-way line of Larimer County Road No. 8 and along said Southerly prolongation of the Easterly right-of-way line for Larimer County Road No. 19 North 00°00'00" East 30.00 feet, more or less, to a point on the South line of the Southwest Quarter of the Southwest Quarter of said Section 15 and the TRUE POINT OF BEGINNING.

Containing 28.594 Acres (Gross), more or less, and being subject to all existing easements and/or rights-of-way of record.

HAWORTH ESTATES SECOND ANNEXATION:

Those portions of the Southeast Quarter of Section 16 and the North Half of Section 21, all being in Township 4 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:

Considering the South line of the Southeast Quarter of said Section 16 as bearing South 89°34'24" East and with all bearings contained herein relative thereto:

Beginning at the Southeast corner of said Section 16; thence along the South line of the Southwest Quarter of the Southwest Quarter of said Section 15 North 89°18'12" East 30.00 feet, more or less, to a point on the Southerly prolongation of the Easterly right-of-way line for Larimer County Road No. 19; thence departing said South line of the Southwest Quarter of the Southwest Quarter of said Section 15 and along said Southerly prolongation of the Easterly right-of-way line for Larimer County Road No. 19 and along the Easterly right-of-way line for Larimer County Road No. 19 North 00°00'00" East 1327.30 feet; thence departing said Easterly

right-of-way line for Larimer County Road No. 19 South $89^{\circ}14'34''$ West 30.00 feet, more or less, to a point on the East line of the Southeast Quarter of said Section 16; thence along said East line of the Southeast Quarter of said Section 16 North $00^{\circ}00'00''$ East 90.18 feet, more or less, to the Southeast corner of the Plat of Condon M.L.D. S-95-89, County of Larimer, State of Colorado; thence departing said East line of the Southeast Quarter of said Section 16 and along the Southerly line of said Condon M.L.D. S-95-89 North $89^{\circ}31'13''$ West 826.14 feet to the TRUE POINT OF BEGINNING; thence continuing along said Southerly line of said Condon M.L.D. S-95-89 North $89^{\circ}31'13''$ West 1831.28 feet, more or less, to the Southwest corner of said Condon M.L.D. S-95-89; said Southwest corner being a point on the West line of the Southeast Quarter of said Section 16; thence departing said Southerly line of said Condon M.L.D. S-95-89 and along said West line of the Southeast Quarter of said Section 16 and along the Southerly prolongation of said West line of the Southeast Quarter of said Section 16 South $00^{\circ}01'16''$ West 1449.90 feet, more or less, to a point on the Southerly right-of-way line of Larimer County Road No. 8; thence departing said Southerly prolongation of said West line of the Southeast Quarter of said Section 16 and along said Southerly right-of-way line of Larimer County Road No. 8 South $89^{\circ}34'24''$ East 1819.68 feet; thence departing said Southerly right-of-way line of Larimer County Road No. 8 North $00^{\circ}28'47''$ East 1448.18 feet, more or less, to a point on the Southerly line of said Condon M.L.D. S-95-89 and the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM that portion of that certain parcel of land as described in Deed recorded in Book 1816 at Page 289, records of said County, situate in the Southeast Quarter of said Section 16 and being more particularly described as follows:

Beginning at the Southeast corner of said Section 16; thence along the South line of the Southeast Quarter of said Section 16 North $89^{\circ}34'24''$ West 1833.57 feet; thence departing said South line of the Southeast Quarter of said Section 16 North $00^{\circ}25'36''$ East 30.00 feet, more or less, to a point on the Northerly right-of-way line of Larimer County Road No. 8; thence departing said Northerly right-of-way line of Larimer County Road No. 8 and along the Easterly, Northerly and Westerly lines of said parcel of land as described in Deed recorded in Book 1816 at Page 289 the following three (3) courses and distances: 1) North $00^{\circ}25'36''$ East 100.00 feet; 2) North $89^{\circ}34'24''$ West 50.00 feet; 3) South $00^{\circ}25'36''$ West 100.00 feet, more or less, to a point on said Northerly right-of-way line of Larimer County Road No. 8; thence departing said Westerly line of said parcel of land as described in Deed recorded in Book 1816 at Page 289 and along said Northerly right-of-way line of Larimer County Road No. 8 South $89^{\circ}34'24''$ East 50.00 feet, more or less, to the TRUE POINT OF BEGINNING.

Containing 60.610 Acres (Gross), more or less, and being subject to all existing easements and/or rights-of-way of record.

EXHIBIT B
HAWORTH ESTATES ANNEXATION MAP

SUPPLEMENT TO PETITION FOR ANNEXATION

The undersigned petitioners are requesting annexation by the Town of Berthoud of property of which they are 100% owners. The petitioners have submitted the petition with the intention that the property will be developed in accordance with Berthoud's *Development Code, Comprehensive Plan, Municipal Code*, resolutions and ordinances.

Section 1 – Capital Investment Fee

The petitioners are aware that Berthoud has enacted fees and policies with the intention that growth should pay its own way and should improve the health, safety and welfare of its citizens. Examples of Berthoud's fees, which are acceptable to the petitioners, include capital investment fees such as the water dedication fee, water system investment fee, wastewater system investment fee, parkland dedication fee, parkland development fee, public facilities fee and density transfer fee.

Section 2 – Enterprises

Berthoud has various enterprise funds through which the utilities provided by Berthoud are financed. Examples of services provided by Berthoud's enterprises are its water, wastewater and drainage utilities. Berthoud's Utility Board and the Board of Trustees believe that the provision of utilities by Berthoud assists in complying with the *Comprehensive Plan and Development Code* and the petitioners request that Berthoud provide all utility services which are available now or in the future through Berthoud at a cost comparable to that which can be provided by any third party.

Section 3 – Development Rate

Berthoud's *Development Code* requires that as a condition of approval for any subdivision a development agreement is executed which contains specific limitations on the rate at which the development can proceed. The petitioners understand that the growth of Berthoud is limited by the *Comprehensive Plan* and agree to comply with these limitations.

Section 4 – Open Space, Parks, Setbacks and Trails

Berthoud's citizens and its Board of Trustees have determined that open space and agriculture add to the community and have implemented sales taxes and fees to financially support trails, parks, open space and agriculture. The petitioners agree to provide land for increased setbacks, easements and/or rights-of-way for and along major arterials and for trails and open space. To the extent these setbacks, easements and/or rights-of-way improve the quality of the property being annexed and are of a benefit to the Berthoud community, the petitioners hereby commit to providing land for these purposes.

Section 5 – R2-J School District Site Acquisition

The Thompson R2-J School District forms an integral part of the Berthoud community and Berthoud has adopted an Intergovernmental Agreement (IGA) with the District to collect fees in-lieu of dedication or land dedication to support the acquisition of land by this School District. The petitioners are aware of these fees or land dedication requirements and agree to support the District's land acquisition program.

Section 6 – Annexation Impact Report

Berthoud is required to prepare and file an annexation impact report. The petitioners have prepared an annexation impact report and provided it to Berthoud for review and consideration six (6) weeks prior to the hearing.

Section 7 – Overall Development Plan (ODP)

The petitioners will file site-specific development plans with the Town of Berthoud for review and consideration, following the approval the annexation, rezoning and overall development plan (ODP). The petitioner recognizes that vested rights do not occur until the time of final development plan (FDP) approval. In the event that the applicant pursues de-annexation prior to final development plan (FDP) approval, the Town agrees that it will cooperate with this request.

The petitioners intend that this supplement be attached to their Petition for Annexation and presented to the Board of Trustees for consideration in conjunction with the annexation.