

RESOLUTION NO. 83-2

WHEREAS, the State of Colorado relies upon local governments to plan for and regulate land use and should provide local governments and their taxpayers with sufficient protection to exercise that responsibility without the fear of expensive antitrust litigation and liability.

WHEREAS, the exposure of municipalities in Colorado and throughout the country to antitrust lawsuits has been expanded as a result of recent decisions of the United States Supreme Court;

WHEREAS, the potential for treble damage awards and the substantial expense of defending antitrust litigation, even if successful, may inhibit municipalities from enacting or enforcing land use regulations which protect the public health, safety and welfare, but which also may be deemed to restrict competition;

WHEREAS, at least two Colorado municipalities, Aspen and Grand Lake, already have been sued under the antitrust laws for land use decisions with claimed damages, when trebled, exceeding \$100 million.

WHEREAS, other Colorado municipalities have been threatened with antitrust lawsuits for local land use decisions;

WHEREAS, the cost to the taxpayers of Boulder, Colorado, in defending one federal antitrust lawsuit, which was settled prior to trial, exceeded \$250,000;

WHEREAS, municipalities differ from private enterprise in that private enterprise is not charged with protecting the public health, safety and welfare through land use planning and regulation;

WHEREAS, numerous protections from municipal land use planning decisions and regulations, other than damages under the antitrust laws, are available such as, public notice, public

hearing, public meeting and public record requirements, court review of actions, periodic elections and the rights of initiative, referendum and recall, and the continuing authority of the General Assembly or the people of Colorado to modify the statutory or constitutional authority of Colorado's municipalities;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF BERTHOUD, that the Colorado General Assembly should act as quickly as possible to adopt S.B. 211 and protect local governments and their taxpayers from expensive antitrust litigation and liability for local land use planning and regulation, and that the Town support efforts of the Colorado Municipal League in this regard.

This resolution was passed this 22nd day of February, 1983.

ATTEST:

Orabelle Patterson
TOWN CLERK

Bernard D. Stinchcomb
MAYOR

(SEAL)