

TOWN OF BERTHOUD

ORDINANCE NO. 1304

AN ORDINANCE AMENDING CHAPTER 11 OF THE MUNICIPAL CODE OF THE TOWN OF BERTHOUD BY ADOPTING THE 2021 INTERNATIONAL FIRE CODE AS ADOPTED BY THE BERTHOUD FIRE PROTECTION DISTRICT FOR THE PURPOSE OF ESTABLISHING MINIMUM REQUIREMENTS FOR PROVIDING A REASONABLE LEVEL OF LIFE SAFETY AND PROPERTY PROTECTION FROM THE HAZARDS OF FIRE.

WHEREAS, the Town of Berthoud (the “Town”) is a statutory municipality created and organized pursuant to Title 31, Colorado Revised Statutes; and

WHEREAS, on November 16, 2021, the Berthoud Fire Protection District adopted the 2021 International Fire Code by reference with amendments; and

WHEREAS, Section 31-16-202, C.R.S., as amended, permits the adoption by reference of such codes upon notice and hearing as provided in Section 31-16-203, C.R.S.; and

WHEREAS, Section 31-15-601, C.R.S., as amended, permits the governing bodies of municipalities to adopt building and fire regulations; and

WHEREAS, copies of the 2021 International Fire Code are available at the office of the Town Clerk located at 807 Mountain Ave, Berthoud, CO 80513, for review and inspection by the public; and

WHEREAS, the Board of Trustees held a public hearing, with proper notice provided, to consider adoption of the Standards and Specifications as required by law; and

WHEREAS, the Board of Trustees has determined, based on the evidence and testimony presented at the public hearing, that the 2021 International Fire Code and associated amendments will further the health, safety, and welfare of the inhabitants of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. Chapter 11 of the Berthoud Municipal Code is hereby amended with the addition of a new Section 11.2-1 to read as follows:

11.2-1 - International Fire Code Adopted

Pursuant to parts 1 and 2 of article 16 of title 31, C.R.S., there is hereby adopted by reference the 2021 Edition of the International Fire Code, including the Chapter 80 Referenced Standards, the National Fire Protection Association Standards included in Chapter 80 as published by the International Code Council (cumulatively, the “IFC”); provided that any penalty provisions are expressly not adopted. The subject matter of the IFC relates primarily to the regulation affecting

or relating to structures, processes, premises and safeguards regarding fire hazards. The purpose of the IFC adopted herein is to provide minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations. Three (3) copies of the IFC adopted herein are now filed in the office of the Clerk of the Town of Berthoud, Colorado, and may be inspected during regular business hours.

Section 2. Chapter 11 of the Berthoud Municipal Code is hereby amended with the addition of a new Section 11.2-2 to read as follows:

11.2-2 – Amendments to the International Fire Code

The 2021 edition of the IFC is adopted as if set out at length, including the following appendices: B, C, D, E, F, G, H, I, K & N (but specifically excluding Appendix A, J, L & M) save and except for the following additions, deletions, or modifications:

(1) Definitions

Wherever the word “**District**” is used, it shall mean the Berthoud Fire Protection District.

Wherever the word “**Jurisdiction**” is used in the adopted Code and Standards, it is meant to be Inclusive of the boundaries of the District as they now or may hereafter exist.

Where the term “**Chief**” or “**Chief of the Bureau of Fire Prevention**” is used it shall mean the Chief of the District or the District Fire Marshal or designated member of the District.

Where the term “**International Fire Code**” or “**IFC**” is used, it shall be held to mean the International Fire Code, 2021 Edition as adopted, amended, and incorporated into the Larimer, Weld, and Boulder County Fire Code as adopted, amended, and incorporated into the applicable municipality’s Fire Code within a municipality’s territorial limit.

Where the term “**Bureau of Fire Prevention**” is used, it shall be held to mean either the entire Department or those employees (paid or volunteers) designated by the Chief or Fire Marshal to carry out enforcement duties relating to the prevention of fires and the suppression of arson.

Where the term “**Board**” is used, it shall mean the Board of Directors of the District.

Where the term “**Board of Trustees**” is used, it shall mean the Board of Trustees of the Town of Berthoud, Colorado.

Where the term “**Code**” is used, it shall mean the International Fire Code as adopted.

Wherever the term “**International Building Code**” is used, it shall mean the International Building Code as adopted, amended, and incorporated into the Larimer, Weld, and Boulder County Building Codes for unincorporated portions of such counties

or the International Building Code as adopted, amended and incorporated into the applicable municipality's Building Code within a municipality's territorial limit.

Where the term "**Town**" is used, it shall mean the Town of Berthoud, Colorado.

Where the term "**Town Administrator**" is used, it shall mean the Town Administrator of the Town of Berthoud, Colorado.

(2) Chapter 1 Scope and Administration

Section 104 Duties and Powers of the Fire Code Official shall be amended with the insertion of the following.:

Section 104.7 Liability shall be amended by the addition of the following sentence: "Nothing herein shall be construed as a waiver of any immunity provided by § 24-10-101, et seq., C.R.S., or any other statutes, or by the common law."

Section 104.10 Alternative materials, design, and methods of construction and equipment shall be amended with the insertion of the following:

- (a) The Chief, Fire Marshal, Town Administrator or their designee may determine the suitability of alternative materials, design, and method of construction and equipment to facilitate the review process. In the event of disagreement, the District's Board shall determine the suitability of alternative materials, methods of construction and equipment and provide reasonable interpretations of the provisions of this Code upon request of any interested party, including the Chief.
- (b) The Board and/or Board of Trustees, upon recommendation of the Chief, Fire Marshal, Town Administrator or their designee upon its own motion, may enter written agreements for enforcement or compliance with the owner lessee, occupant, or authorized agent thereof, of any property, building or structure, or any interested person directly affected by the application of this code. Said agreements may extend the time for compliance with this code, and may contain such terms and conditions that the Board deems appropriate to adequately protect life, health, property, security, and welfare of the public.

Section 105.5.34 shall be amended with the insertion of the following:

Open Burning. Permits are required for all open burning and other fire management practices from the respective counties of Boulder, Larimer, and Weld. The counties' Health Departments review all permit applications and either approve or deny them. Permits are forwarded to the Chief, Fire Marshal, or their designee for inspection of the site and final approval. **Exception:** This shall not apply to Agricultural Burning.

SECTION 107 Fees

Section 107.3 Permit Valuations shall be amended with the insertion of the following:

- (a) Pursuant to § 32-1-1002(1)(e)(II) C.R.S., the Board may fix from time to time and may increase and decrease fees and charges at its discretion, for inspections and review of plans and specifications which are:
 - (1) Requested or mandated for existing structures, buildings, and improvements; and
 - (2) Necessitated in conjunction with county regulation, resolution, or condition of Development; or
 - (3) Performed in conjunction with construction of new structures, buildings, and improvements.
- (b) Said fees and charges may, at the discretion of the Board, include a charge for reimbursement to the district for any consultation fees, expenses or costs incurred by the district in the performance of the inspections or review of plans and specifications.

SECTION 112 Violations shall be amended with the insertion of the following:

1. The Chief, Fire Marshal, Town of Berthoud Building Inspector, or their designee shall enforce this code and shall inspect or cause to be inspected all buildings, structures, property, premises, and public places, except the interior of any private dwelling, in accordance with the procedures set forth in § 32-1-1002(3), C.R.S. All inspections shall be recorded.
2. A ‘Notice’ of Violation Hazard” may be issued by the Chief, Fire Marshal, or their designee concerning violations of hazards which are not corrected on-site during an inspection. Said notice shall be signed by the inspector and contain, as a minimum, the following information:
 1. Date of Inspection.
 2. Name/Address of premise inspected.
 3. Nature of violation or hazard.
 4. Time limit for correction.
 5. Right to appeal, if any to the Board.
 6. Right to appeal to the District Court and time limit.
 7. Penalties for violation or order.
 8. Signature of the Chief or his designee.
 9. Acknowledgement of receipt signed by owner, lessee, agent, or another responsible person.
3. An “Order for Immediate Correction of Hazard” may be issued by the Chief, Fire Marshal, or their designee:

- a. For Failure to correct a violation hazard within the time specified in previously issued Notice of Violation Hazard; or
- b. For violating the code or state statute and said violation renders the building, structure, or premises especially liable to fire or is hazardous to the safety of the occupants thereof,
or
which is so situated as to endanger other property as set forth in §32-1-1002(3)(c), C.R.S., whether a Notice has been previously issued.
- c. An order signed by the Chief, Fire Marshal, or their designee shall contain, as a minimum the following information:
 1. Date of Issuance.
 2. Name/Address of premises inspected.
 3. Nature of violation or hazard.
 4. Time limit for correction.
 5. Right to Appeal, if any to the Board.
 6. Right to appeal to the District Court and time limit.
 7. Penalties for violation or order.
 8. Signature of the Chief or his designee.
 9. Acknowledgement of receipt signed by owner, lessee, agent, or another responsible person.

An appeal of a Notice of Violation of Hazard may be made to the Board by delivery to the Chief, Fire Marshal, or their designee in writing, a notice of appeal within five days of the issuance of the Notice of Violation of Hazard. The appeal shall be heard at the next regular meeting or special meeting called for that purpose. The Board may affirm, rescind, or modify the Notice and may enter into such enforcement agreements as it deems proper.

4. An appeal of an Order of Immediate Correction of a Hazard may be made of a previously issued Notice of Violation or Hazard concerning the same violation or hazard. An appeal of an order must be in writing and filed with the Board within three days of issuance of the order.
5. The Board shall hear all such appeals and application for relief and render its decision thereon in accordance with its bylaws, rules, and regulations.
6. In the event no appeal is made to the Board pursuant to this code or to the court pursuant to §32-1-1002(3), C.R.S., and compliance with the Order and/or correction of the hazard has not occurred, the Board may, upon recommendation by the Chief, Fire Marshal or their designee or upon its own motion, refer the matter to the district attorney of the county in which the violation occurs.

7. An appeal shall suspend the time limits for compliance or correction of a hazard or hazards, until the appeal is resolved for appeals of a Notice of Hazard which is issued pursuant to Section VIII, paragraph 3(a)(ii) herein. An appeal shall not suspend the time limit for compliance or correction of life safety deficiencies or violations. An appeal of an Order issued pursuant to Section VIII, paragraph 3(a)(ii) herein shall not suspend the time limits for compliance or correction, shall be made or rendered forthwith, unless the Order is suspended by the Board.

SECTION (A) 112.3.4 Violation Penalties. Persons who shall violate a provision of this code or who fail to comply with any of the requirements thereof or who erect, install, alter, repair or do work in violation of the approved construction document or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be punished by a fine no more than \$2,650, or by imprisonment for not more than one year, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(3) CHAPTER 9 Fire Protection and Life Safety Systems

Section 901.1 Scope. Is repealed and reenacted to read:

901.1 Scope. The provisions of this chapter shall specify where fire protection and life safety systems are required and shall apply to the design, installation, inspection, operation, testing and maintenance of all fire protection systems. When the requirements of this code and the adopted building code are in conflict, the more restrictive apply.

Section 903 Automatic Sprinkler Systems.

Section 903.2. Where required is repealed and reenacted to read:

Automatic sprinkler systems shall not be required in one and two-family dwellings including townhouses that meet the requirements of **APPENDIX B, FIRE-FLOW REQUIREMENTS FOR BUILDINGS, and APPENDIX D FIRE APPARATUS ACCESS ROADS.** One-and two-family dwellings not meeting the above requirements shall have automatic sprinkler systems installed in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes or the International Residential Code IRC P2904, Section P2904 Dwelling Unit Fire Sprinkler Systems.

(4) CHAPTER 56 Explosives and Fireworks

Chapter 56, as it relates to Fireworks and Pyrotechnics Special Effects Materials, is deleted in its entirety and the applicable provisions of the Colorado State Statutes and Regulations, § 12-28-101, C.R.S. shall govern all fireworks sales, storage and use.

(5) APPENDIX C Fire Hydrant Locations and Distribution.

Is adopted solely as a reference guide and shall not be utilized to preclude development in the unincorporated areas of the district which often lack sufficient water supplies and pressure to meet stated fire flow and hydrant spacing requirements.

(6) ADDITIONAL CODE PROVISIONS

1. BBQ AND Charcoal Grill Code

Chapter 3 General Requirement, Section 308.1.4 Open-Flame Cooking Devices of the International Fire Code, 2021 Edition shall govern the use of BBQ and Charcoal grills within the Town's boundaries. Pertinent provisions of the International Fire Code are summarized below.

BBQ Grills: The use of propane, charcoal type grills, and other open flame cooking devices on combustible balconies and within 10 feet combustible construction shall be prohibited.

Propane grills are regulated in the size of propane tank that is allowed. Only the small 2.5- lb. propane bottle sizes are allowed. Traditional BBQ grill propane tanks are a 20-lb. bottle, which in most cases is not allowed in multi-family dwellings.

These restrictions apply unless:

1. Your balcony/patio is made of concrete, steel, or other non-combustible material; and
2. The propane grill can be placed more than 10 feet away from combustible siding, decking, or other parts of the structure; or
3. The balcony/patio is protected by an automatic fire sprinkler system.

Charcoal Grills: Charcoal grills, Hibachis, and other open flame cooking appliances are not allowed.

These restrictions apply unless:

1. Your balcony/patio is made of concrete, steel or other non-combustible material; and
2. The charcoal grill, hibachi, or other open flame cooking appliance can be placed more than 10 feet away from combustible siding, decking, or other parts of the structure; or
3. The balcony/patio is protected by an automatic fire sprinkler system.

Exemption: One and two-family dwellings are exempt from these requirements.

2. Fire Lane Code

Chapter 5 Fire Service Features, Section 503 of the International Fire Code, 2021 Edition entitled Fire Apparatus Access Roads, shall govern the use of fire lanes

within the Town of Berthoud. Pertinent provisions of the International Fire Code, 2021 Edition are summarized below. The following shall apply within the Town of Berthoud and shall define designated locations of signage, and marking of, and enforcement of, fire lanes within the authority and jurisdiction of the Town of Berthoud in accordance with the International Fire Code and as approved by the Chief, Fire Marshal, or their designee and/or the Municipal Code of the Town of Berthoud. Fire Lanes installed shall conform to the requirements of the International Fire Code, the Municipal Code of the Town of Berthoud and shall be approved by the Chief, Fire Marshal, or their designee and/or the Town of Berthoud prior to installation.

Fire Lanes shall be installed in accordance with the attached specifications. Roadways, driveways, and access ways shall not be marked as fire lanes without first obtaining approval from the district and/or the Town of Berthoud.

Signs and Markings

- a. All fire lanes and access roads must be marked with signs indicating “No Parking Fire Lane” as described in these specifications.
- b. Signs shall measure 12 X 18 inches and have red letters on white reflective background.
- c. Signs must be metal construction only. Plastic or wood signs are not acceptable.
- d. Signs shall be mounted at a minimum height of four feet to the maximum of seven feet.
- e. Signs shall be placed on both sides of the lane when striping is required on sides of the lane by the International Fire Code.
- f. Signs shall be placed along the fire lane at intervals not to exceed 50 feet and as designated by the fire code official.
- g. Outlining or painting the fire lane on the roadway surfaces shall be done in yellow, red, or white with contrasting letters that read “FIRE LANE” at 50’ intervals and/or as specified in this document or otherwise directed by the Chief, Fire Marshal, or their designee and Town of Berthoud
- h. Existing fire lanes shall continue in effect as installed until such times as they are in need of re-striping due to wear or re-paving.

3. Fireworks Code

Chapter 56 Explosives and Fireworks, Section 5601.1.3 Fireworks, of the International Fire Code shall not govern the possession, manufacture, storage, sale, handling or use of fireworks within the Town’s boundaries. Instead, regulation of fireworks shall occur in accordance with the applicable provisions of Colorado State Statutes and Regulations, i.e., § 12-28-101, et seq., C.R.S. and any applicable municipal ordinance or county resolution/ordinance, shall govern all fireworks, their sale, storage, and use.

4. Hazardous Materials Code

Chapter 50 Hazardous Materials – General Provisions, Section 5001.1 Scope of the International Fire Code, shall not govern the prevention, control, and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials within the Town's boundaries. Instead, regulation of hazardous materials shall occur in accordance with the following provisions:

Definitions

As used in this section, **Hazardous Materials** means those materials listed in Tables 1 and 2 of Title 49, Code of Federal Regulations, 172.04 (49 CFR 172.504), excluding highway route-controlled quantities of radioactive materials as defined in 49 CFR 173.403 (1), excluding ores, and the wastes and tailing therefrom, and excluding special fireworks when the aggregate amount of flash powder does not exceed fifty pounds.

Intent

Federal Rules for protection of public health, safety, and welfare arising from the transport of hazardous materials are capable of posing an unreasonable risk of health, safety, or property require compliance with Title 49 Code of Federal Regulations parts 101-173, 177 and 178; and Colorado Revised Statutes Title 42, Article 20 known as the Hazardous Materials Transportation Act of 1987 designate the Colorado State Patrol as the Authority Having Jurisdiction (AHJ) over hazardous materials on public roadways; and

Colorado Revised Statutes Title 42, Article 20, Section 103 defines a petitioning process for local government to create a new hazardous materials route or amend an existing route designation.

For purposes of protecting public health, the Town of Berthoud will apply the aforementioned Federal and State regulations as the standard by which commercial and private drivers will be measured for compliance with the transportation of hazardous materials within boundaries of the Town.

Transport Routes

Motor vehicles carrying hazardous materials must be operated over the safest and most direct route to and from the organization and/or destination point. Such routes shall not pass through residential areas unless there is no practicable alternative. All vehicles shall comply with local truck routing and weight limitations and restrictions.

Exemption

This code shall not apply to farm machinery which is exempted from § 42-3-102, C.R.S. or agricultural distribution equipment attached to or conveyed by farm machinery.

Reporting Incidents

Incidents involving hazardous materials are to be reported to the district by the transporter by telephone using 911 or any other effective means.

Transporters

Transporters of hazardous materials shall not permit or cause to be permitted the discharge of such materials into or upon any street, highway, sanitary sewer, drainage canal, ditch, storm drain, or ground, including private property except when such discharge is expressively permitted by the property owner and is otherwise legal.

Routes

The Town shall refer to the routes as established by the Colorado State Patrol, Hazardous Materials section as the recommended permissible means of transport for hazardous materials.

5. Open Flame/Open Burning Code

Chapter 3 General Requirements, Section 307 Open Burning, Recreational Fires and Portable Outdoor Fireplaces of the International Fire Code, the District shall govern open flames within the district's boundaries, including the Town of Berthoud, in accordance with the 2021 International Fire Code conditions set forth by the Department of Environmental Health and based on the authority of the Colorado Air Quality Act, 1979.

Definitions

As used in this section, Open Fires shall mean: any open burning, including camp and cooking fires; or welding, or operating an acetylene torch or other torch with open flame. Open Fires shall not include:

- a. Fire in camp stoves or grills fueled by bottled gas or pressurized liquid as specifically designed for cooking or heating purposes.
- b. Fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion.
- c. Fires in commercially operated wood and/or charcoal fired grills designed for cooking.

When smoking within an enclosed vehicle or building, cigarette butts and stubs must be disposed of within an approved trash receptacle or within the vehicle.

6. Weeds, Tall Grass, Trash & Garbage Code

Chapter 3 Combustible Waste Material, Sections 304.1.1 Waste Material and 304.1.2 Vegetation of the International Fire Code, shall govern the regulation of combustible material within the Town of Berthoud. Pertinent provisions of the 2021 International Fire Code are summarized below:

Weeds, tall grass, vegetation, vines and vegetation growth that is capable of being ignited and endangering property are prohibited. This is based on the adoption of the 2021 International Fire Code.

Definitions

- a. As used in this section, “**weeds**” shall include any non-grass type vegetation over eight inches tall, other than that part of a vegetable, crop, flower garden, or landscaping that is regarded as a nuisance or potential light flashy fuel fire hazard.
- b. As used in this section, “**grass**” shall include any type of grass or weed, but not including crops grown as a source of income, including but not limited to corn, oats, and barley.

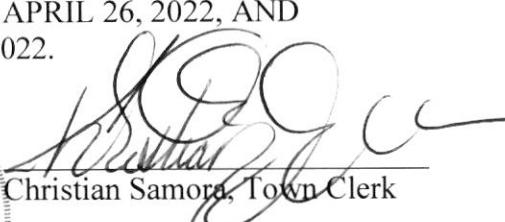
Section 3. Severability. Should any one or more sections or provisions of this Ordinance or of any of the primary or secondary codes adopted by reference be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the codes adopted by reference hereby, the intention being that the various sections and provisions are severable.

Section 4. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 5. Effective Date. Except as otherwise expressly provided herein, the provisions enacted by this Ordinance shall become effective at 12:01 a.m. on May 28, 2022.

INTRODUCED, PUBLIC HEARING SCHEDULED FOR APRIL 26, 2022, AND ORDERED PUBLISHED THIS 22nd DAY OF MARCH, 2022.




Christian Samora, Town Clerk

ADOPTED BY THE BOARD OF TRUSTEES FOLLOWING A PUBLIC HEARING THIS 26th DAY OF APRIL, 2022

TOWN OF BERTHOUD, CO

William Karspeck
William Karspeck, Mayor

Attest:

Christian Samora
Christian Samora, Town Clerk

Approved as to form:

Erin M. Smith
Erin M. Smith, Town Attorney

