

**TOWN OF BERTHOUD ORDINANCE  
NUMBER 1326  
(SERIES 2023)**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO AMENDING THE LAND  
USE CODE CLARIFYING LAND USE APPLICATION PROCESSING REQUIREMENTS  
THROUGHOUT CHAPTER 30 OF THE BERTHOUD MUNICIPAL CODE.**

**WHEREAS**, the Town of Berthoud is a municipal corporation possessing all powers granted to a statutory town by Title 31 of the Colorado Revised Statutes; and

**WHEREAS**, the Town wishes to amend sections of the Municipal Code to remain consistent with the intent of the 2021 Comprehensive Plan update, to maintain consistency with State and Federal regulations, and to clarify the intent of application requirements and development standards; and

**WHEREAS**, the Planning Commission, after proper notice, has held a public hearing on September 28, 2023 on this ordinance providing for a recommendation of approval from the Town Board of Trustees; and

**WHEREAS**, the Board of Trustees, after proper notice has held a public hearing on this ordinance providing for the adoption of said code amendments pursuant to C.R.S. Section 31-16-203; and

**WHEREAS**, the Development Code and amendments thereto have been submitted to the Board of Trustees in writing and the Board of Trustees has determined that such code and amendments thereto should be adopted as herein set forth;

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

**Section 1.** That Chapter 30 regarding land use application processing requirements as set forth in Exhibit A, attached is hereby adopted;

**Section 2.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance.

**Section 3.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

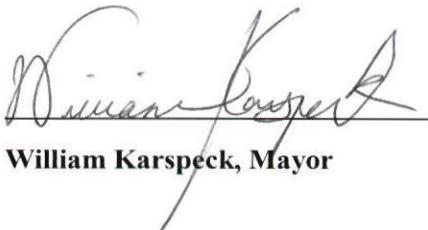
**Section 4.** The repeal or modification of any provision of the Municipal Code of the Town of Berthoud by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all property actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**Section 5.** The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

READ, ADOPTED, AND APPROVED on this 28<sup>th</sup> day of November, 2023.

**TOWN OF BERTHOUD**

By

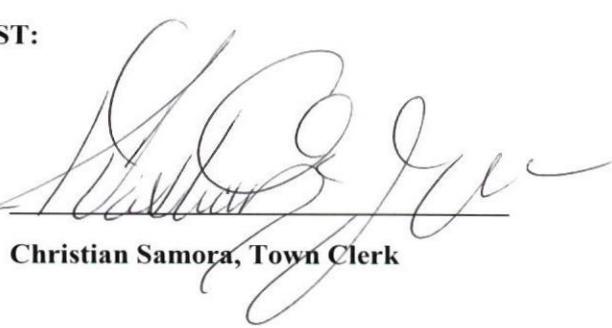


William Karspeck

**William Karspeck, Mayor**

**ATTEST:**

By:



Christian Samora

**Christian Samora, Town Clerk**



**TOWN OF BERTHOUD ORDINANCE  
NUMBER 1326  
(SERIES 2023)**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO AMENDING THE  
FOLLOWING SECTIONS OF THE LAND USE CODE:  
30-1-116 REGARDING THE DEFINITION OF STORAGE CONTAINERS AS STORAGE UNITS  
AND CLARIFYING LAND USE APPLICATION PROCESSING REQUIREMENTS  
THROUGHOUT CHAPTER 30 OF THE BERTHOUD MUNICIPAL CODE.**

**WHEREAS**, the Town of Berthoud is a municipal corporation possessing all powers granted to a statutory town by Title 31 of the Colorado Revised Statutes; and

**WHEREAS**, the Town wishes to amend sections of the Municipal Code to remain consistent with the intent of the 2021 Comprehensive Plan update, to maintain consistency with State and Federal regulations, and to clarify the intent of application requirements and development standards; and

**WHEREAS**, the Planning Commission, after proper notice, has held a public hearing on September 28, 2023 on this ordinance providing for a recommendation of approval from the Town Board of Trustees; and

**WHEREAS**, the Board of Trustees, after proper notice has held a public hearing on this ordinance providing for the adoption of said code amendments pursuant to C.R.S. Section 31-16-203; and

**WHEREAS**, the Development Code and amendments thereto have been submitted to the Board of Trustees in writing and the Board of Trustees has determined that such code and amendments thereto should be adopted as herein set forth;

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

**Section 1.** That Chapter 30, Sections 30-1-116, and Chapter 30 regarding land use application processing requirements as set forth in Exhibit A, attached is hereby adopted;

**Section 2.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance.

**Section 3.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**Section 4.** The repeal or modification of any provision of the Municipal Code of the Town of Berthoud by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all property actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

INTRODUCED, READ, AND APPROVED on this 14<sup>th</sup> day of November, 2023.

**TOWN OF BERTHOUD**

By \_\_\_\_\_

**William Karspeck, Mayor**

ATTEST:

By: \_\_\_\_\_

**Christian Samora, Town Clerk**

READ, ADOPTED, AND APPROVED on this 28<sup>th</sup> day of November, 2023.

**TOWN OF BERTHOUD**

By \_\_\_\_\_

**William Karspeck, Mayor**

ATTEST:

By: \_\_\_\_\_

**Christian Samora, Town Clerk**

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## **EXHIBIT A: Ordinance 1326**

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*Note for the reader/Municode: Section explanations are not to be codified. These introductory explanations are intended to memorialize the reason why a code change is proposed.*

**Section 2:** Delete a Conveyance Plat as this type of land division can be accomplished in the Minor Subdivision process and the Town does not have parcels of this size in Town. Additional reference to Conveyance Plat processes and notification requirements will also be deleted as proposed in Section 3 of this document. The Minor Subdivision process may accomplish the same end goal and is not limited to parcel size.

**30.6.110 Conveyance plat**

**A. Conveyance Plat purpose.** A conveyance plat is a subdivision of land that creates lots that can be conveyed by the property owner. Any conveyance plat must conform to and be based upon an approved concept plan processed concurrently with the conveyance plat. The property must be a minimum of 35 acres. Each lot created by any conveyance plat must be at least ten acres in size. No more than 12 lots may be created by any conveyance plat.

Conveyance plats do not require satisfaction of the full raw water requirement applicable to the lots created. Final approval authorizing development of any portion of the property including but not limited to: a final plat, subdivision, final development plan, or site plan requires satisfaction of all water dedication requirements in accordance with the Berthoud Development Code as amended.

The conveyance plat does not create new lots of record for purposes of development and is intended only to facilitate conveyance or sale of all or a portion of the subject property. Approval of a conveyance plat does not provide the subject property to any development entitlements. Subsequent development of the property will require Town approval of a preliminary and final plat, preliminary and final development plan, and/or a site plan under this Code.

**B. Conveyance Plat application process.** The Planning Commission shall hold a public meeting on the conveyance plat and shall recommend approval, denial, or conditional approval to the Town Board. If the recommendation is for conditional approval, the conditions under which the conveyance plat would be acceptable shall be set forth. Following the public meeting by the Planning Commission, the Town Board shall hold a public hearing on the conveyance plat and shall adopt a resolution of approval, deny the application, or refer it back to the Planning Commission for further consideration. Staff shall give notice per the Minor Subdivision provisions in this Code.

Amendments to any conveyance plat of less than 25 percent of any measurable area or dimension may be processed administratively. Amendments of 25 percent or more of any measurable area or dimension shall be reviewed in accordance with the above process to originally adopt that conveyance plat.

**C. Submittal Requirements:**

- 1. Conveyance Plat submittal based upon Concept Plan.** A conveyance plat shall be based upon a concept plan submitted concurrently with the conveyance plat application. Please refer to Section 30.6.104.B.2. of this Chapter for Concept Plan application submittal requirements.
- 2. Conveyance Plat drawing requirements:**
  - Title block
  - Legend, if abbreviations or symbols are used
  - Contact information for owner, applicant, surveyor
  - Location/vicinity map
  - North arrow and written and graphic scale

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- Legal description and total acreage
- Property boundary with dimensions and bearings
- Property tie to original survey and abstract corner
- Lot dimensions
- Lot identification numbers
- Location of proposed streets and alleys with right of way widths
- 100 year floodplain or language "no floodplain exists on the site"
- Right of way dedications or reservations
- Utility easements including separate instruments
- Filing information for all existing easements or rights of way
- Complete curve data
- Locations, material, and size of all monuments
- Outline of all property proposed for dedication for public use
- Adjacent properties subdivision name or owner name
- Surveyor's certificate
- Town approval signature block
- Certificate of Ownership and notary block
- Dedication language for easements
- Additional documents or information as requested
- Plat notes to be added to any conveyance plat include:
  - i. Right to Farm statement
  - ii. All conveyance plats must be titled "Conveyance Plat" and carry the following wording:

"A conveyance plat is a record of property approved by the Town of Berthoud, Colorado, for the purpose of sale or conveyance in its entirety or interests thereon defined. No building permit shall be issued for a conveyance plat parcel until a final plat is approved, filed of record and public improvements accepted in accordance with the provisions of the Development Code of the Town of Berthoud. Selling a portion of this property by metes and bounds is a violation of Town ordinances and Colorado law and is subject to fines and withholding of utility services and building permits."

3. *Standards for Approval.*

- a. *Conformance with concept plan for property.* All conveyance plats must be based upon and conform to a concept plan for the entire parcel being placed under a conveyance plat.
- b. *Access.* All lots created by a conveyance plat shall have frontage and access to an existing or proposed public street.
- c. *Reservation of rights of way.* Conveyance plats must provide for the reservation of future rights of way of planned roadways. Reservation of right of way does not grant any right or interest in the property to the Town or other entity. The final alignment may be adjusted upon final platting in order to meet engineering design standards.
- d. *Dedication of rights of way.* Dedication of a right of way shall be required where a conveyance plat is used to record the remainder of a tract created by the final platting of a portion of the property.

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**Section 3:** Consolidate the processes required for the different land use permit types into one table with limited narrative materials to simplify understanding and to heighten transparency of the Berthoud land use planning process with the development community.

30-3-116: Application Process. The Town of Berthoud has many different application processes for land development. This Section of the Development Code provides a reference to what the common steps are and a table to guide application processing requirements.

1. Pre-application meeting: A pre-application meeting is a requirement for most application submittals as found in Table 3.10. The intent is to provide applicants with insight which may impact their applications, establish the process for application submittal, review application requirements and expectations, and to determine if the proposed use is consistent with the intent of the Land Use Code.
2. Administrative Review: Several land use applications may be reviewed following an Administrative Review process identified in Chapter 30. Land use applications that may have an Administrative Review option are listed in Table 3.10.
3. Application Submittal: The applicant shall submit application materials required by this Code; amended, additional or reduced materials required by the Pre-Application meeting. The materials shall be submitted in a format and in the quantity required by the Town.
4. Certification of Completeness: Within a reasonable period of time and upon receipt of a land use application, staff shall review the submitted materials in conformance with the pre-application meeting specifications, the Code requirements, and to ensure materials are complete. Staff shall either certify the application is complete and in compliance with all submittal requirements or reject the submittal as incomplete and notify the applicant of any deficiencies. The Applicant shall then correct any deficiencies in the application package, if necessary, and resubmit the application to Town Staff who will review the submittal for completeness. Materials requiring an original signature shall be signed in blue ink.
5. Notice to Surrounding/Affected Property Owners: Within the period of time established in the Hearing and Notification Section of this Code, Staff shall provide notice of a pending application. The public may view the application at Town Hall and provide comments which shall be reviewed by Staff, provided to the Applicant, and provided in packet materials for the public hearing process. When written comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing. The applicant shall provide mailing labels of all surrounding and affected property owners to the Town along with the source of information used to generate the mailing labels. Staff shall determine the quantity of mailing label sets to be submitted.
6. Referral Period: Within an appropriate timeframe following Certification of Completeness, Staff shall send information about the application by regular mail to surrounding/affected property owners within a distance established in the Hearing and Notification Section of this Chapter which may include mineral interest owners of record, mineral and oil and gas lessees for the property, as specified in the public hearing and general notice provisions found in this Chapter. Other parties of interest such as an established referral agency shall also receive notification. Referral agencies and owners of interest shall have a set period of time to make comments. Comments shall be reviewed by Staff, provided to the Applicant, and provided in packet materials for the public hearing process. When comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.
  - a. The applicant shall address staff and referral agency comments within six (6) months of the date of the Staff Report. Should six months' time pass without adequate response from

the applicant, the application shall be determined to be withdrawn. Remaining development fees shall be refunded.

G. Public Hearing Publication: The Town shall send notice of the Public Hearing according to the Hearing and Notification Section of this Chapter by regular mail to surrounding/affected property owners within a distance established in the Hearing and Notification Section of this Chapter which may include mineral interest owners of record, mineral and oil and gas lessees for the property, as specified in the public hearing and general notice provisions found in this Chapter. The Town shall also publish notice in a newspaper of general circulation of the upcoming public hearing(s).

H. Sign Posting: After providing the Town with a sign deposit, the Applicant shall post a sign along all public road frontages. Timing for the sign posting can be found in the Hearing and Notification Section of this Chapter. The Applicant shall return the sign to the Town following the last Public Hearing concerning the proposed application. If the sign is damaged, the deposit shall not be returned to the Applicant.

I. Planning Commission Hearing/Meeting: The Planning Commission shall hold a Public Hearing/Meeting to review the land use application. The Planning Commission shall make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application. The Planning Commission is the final Public Meeting/Hearing on Waivers and Final Plats.

J. Town Board of Trustees Public Hearing: The Board of Trustees shall, after receiving the report and recommendation from the Planning Commission, hold a public hearing and act upon the proposed land use application. Following the Public Hearing, the Board shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the Criteria for Approval found in this Chapter and approve, approve with conditions or deny the application, in whole or in part.

K. Ordinance or Resolution: Land use applications receiving a Public Hearing/Meeting shall be approved by either a Resolution or Ordinance as outlined in Table 3.10.

L. Criteria for Approval: Criteria for Approval is found in the Code section relative to each application process. The applicant shall include in their narrative rationale for how the proposed application meets the Criteria for Approval. Staff shall evaluate and make a determination of compliance with the Criteria for Approval and provide findings in the Staff Report for an administrative decision, as well as in the materials to be presented to Planning Commission and the Board of Trustees for applications where a Public Hearing is required.

M. Conditions of Approval and Recording: Prior recording the documents for a land use application eligible for an administrative approval or those applications requiring a Public Hearing, the Applicant shall address all Conditions of Approval contained in the Staff Report and or the Ordinance or Resolution. Once staff is satisfied that the Conditions of Approval have been met, appropriate documents shall be recorded with the office of either the Larimer or Weld County Clerk and Recorder.

**Table 3.10** Note for the reader and not for codification purposes: The Special Use Permit requirements for Marijuana uses will be added to this table under a separate Ordinance.

<u>Application Process</u>	<u>Required pre-application meeting</u>	<u>Application Submittal</u>	<u>Certification of Completeness</u>	<u>Notice to Surrounding Property Owners; Hearing Date publication; Sign Posting requirements</u>	<u>Mineral Notice</u>	<u>Referral Period</u>	<u>Administrative Option</u>	<u>Planning Commission</u>	<u>Town Board of Trustees</u>	<u>Criteria for Approval</u>	<u>Ordinance/Resolution</u>	<u>Conditions of Approval Addressed including Development Agreement</u>	<u>Record documents</u>
<b>Application Type</b>													
Use by Special Review	Yes	Yes	Yes	Refer to the Hearing and Notification requirements Section of this Chapter of the Municipal Code	Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Wireless Communication Facilities, use by right	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Wireless Communication Facilities, Use by Special Review	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wireless Communication Facilities, Eligible Facilities	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Site Plan	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	Administrative	Yes	Yes
Variances	Yes	Yes	Yes		No	Yes	No	No	No	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Waiver	Yes	Yes	Yes		No	Yes	Optional	Yes	No	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Annexation	Yes	Yes	Yes		Yes	Yes	No	No	Yes	Yes, also see C.R.S.	Ordinance	Yes	Yes
Zoning Amendment and Amended PUD	Yes	Yes	Yes		No Yes	Yes	No	Yes	Yes	Yes	Ordinance	Yes	Yes
Text Amendment to Chapters 10 & 11	No	Yes	Yes		No	Optional	No	Yes	Yes	Yes	Ordinance	No	No
Text Amendment to Chapters 1-9	No	Yes	Yes		No	Optional	No	Yes	Yes	Yes	Ordinance	No	No
Neighborhood Master Plan (to accompany Amended PUD)	Yes	Yes	Yes		Yes	Yes	No, Minor Amendment may be Optional	Yes	Yes	Yes	Resolution	Yes	Yes
Preliminary Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Final Plat	In circumstances when application is submitted > 6 months after approval of Preliminary Plat	Yes	Yes		Yes if change to lot lines from Preliminary Plan; No if no change from Preliminary Plat	Yes	No	Yes	No	Yes	Resolution	Yes	Yes
Replat	Yes	Yes	Yes		No if no more than 1 additional lot is created; Yes if more than 1 additional lot is created	Yes	Optional	No	Yes	Yes	Resolution	Yes	Yes
Administrative Adjustment to recorded plats	Yes	Yes	Yes		No	Optional	Yes					Yes	Yes
Minor Sub	Yes	Yes	Yes		Yes No	Yes	No	Yes	No	Yes	No	Yes	Yes
Home Occupation	No	Yes	Yes		No	Optional	No	No	No	No	No	Yes	No

NOTE: Processes with an "Optional" notation are for staff to determine the outcome of the step.

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**Section 4:** The Land Use processes were consolidated in Section 3 above and therefore, redundant information in the following Code Sections can be deleted to reduce the opportunity for errors from redundancy. All references to a Conditional Use Permit, Special Use Permit throughout Chapter 30 of the Berthoud Municipal Code shall be changed to reflect Use by Special Review. This caveat is provided to allow Muni Code to make edits to scrivener errors should the terminology not be caught inclusively.

*Note for the reader and not for codification purposes: The processes of Home Occupation found in 30-3-112 and the Marijuana uses found in 30-3-113 will receive similar amendments to be codified in a separate Ordinance reflective of the changes made to other processes listed herein.*

### **30-3-106 Use by Special Review**

B. Use by Special Review~~Conditional Use review process.~~

1. The procedures found in Table 3.10 shall be followed.
2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.  
*Optional pre application conference. The applicant may attend a pre application conference with a representative from the Town. The purpose of the meeting is to discuss the conditional use submittal requirements and review process.*
3. Unless otherwise stated in the Resolution, all Use by Special Review applications shall be commenced within six months of the time such approval; otherwise the Use by Special Review shall be null and void.
42. Use by Special Review~~Conditional Use permit application submittal.~~ The applicant shall submit the complete ~~conditional use~~-application package to the Town and shall request that the application be reviewed by the Planning Commission and Board. ~~Conditional use requests shall include:~~
  - a. Land use application form.
  - b. Title commitment. The title commitment must be current and dated no more than 30 days from the date of conditional use application submittal.
  - c. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
  - d. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
  - e. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
  - f. Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.
  - g. Surrounding and interested property ownership report — Provide the Town with a current set of mailing labels (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners and mineral and oil and gas lessees of record for the property, and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

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3. *Conditional Use application certification of completion.* Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.

4. *Set Conditional Use public meeting and 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 300 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.

5. *Planning Commission review of the Conditional Use application.* The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria. The Planning Commission will then recommend to the Board approval, approval with conditions or denial.

6. *Board public hearing and action on the Conditional Use.* The Board shall hold a public hearing on the conditional use application. Following the public hearing, the Board may approve, conditionally approve or deny the conditional use application based on the conditional use review criteria. A conditional use permit may be revocable, may be granted for a limited time period, and may be granted subject to such other conditions as the Board may prescribe. Conditions may include, but shall not be limited to: requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, any standards for maintenance of buildings and grounds, and any development schedules.

C. *Use by Special Review criteria* *Conditional Use review criteria.* The Town may approve a conditional use application if it finds that each of the following criteria are satisfied:

*Note to the reader: No other changes are proposed.*

### **30-3-108 Board of Adjustment**

*Note to the reader: No changes to A and C are proposed. The proposed changes to B are listed below.*

B. *Procedures generally.* The board of adjustment shall hold a public hearing on all applications and appeals, subject to the following:

1. *The procedures found in Table 3.10 shall be followed.*
2. Notice shall be given in accordance with *the provisions of the public hearing and general notice provisions found in this Chapter, section 30-1-117 of this code.*
3. Unless otherwise stated in the *Resolution**board of adjustment's minutes*, all variances granted shall be commenced within six months of the time such variance is granted; otherwise the variance shall be null and void.
4. The concurring vote of a majority of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant in order to implement a variance.

### **30-3-109 Waivers**

*Note to the reader: No changes to the Purpose statement or to sections A or C are proposed. The proposed changes to B are listed below. Note, waivers may be applied for to request a waiver from the requirements of Design Standards (30-2), Zoning (30-3) and Signs (30-7) only.*

B. *Waiver application.*

1. *Waiver request in conjunction with other applications.* The applicant shall submit the following to the Town in conjunction with another application (re-zoning or PUD amendment, Concept Plan, Final Plat, Site Plan, or Preliminary Plat only). All other cases shall follow the variance procedures.
  - a. Explanation letter — identifying the waiver being requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Town Comprehensive Plan or impair the intent and purpose of this Code.
2. *The procedures found in Table 3.10 shall be followed.*
3. *Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.*
4. *Unless otherwise stated in the Resolution, all waivers granted shall be commenced within six months of the time such waiver is granted; otherwise the waiver shall be null and void.*

### **30-3-110 Amendments**

*Note to the reader: No changes to the Purpose statement or to sections A or B are proposed. The proposed changes to C are listed below.*

C. *Zoning amendment application process.*

1. *The procedures found in Table 3.10 shall be followed.*  
*Optional pre application conference. The applicant may attend a pre application conference with a representative from the Town. The purpose of the meeting is to discuss the zoning amendment, submittal requirements and review process.*
2. *Zoning amendment application submittal.* The applicant shall submit the complete zoning amendment application package to the Town and shall request that the application be reviewed by the Planning Commission and Board. Note: In the case of text amendments, no zoning amendment map is required.
3. *Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.*  
*Zoning amendment application certification of completion. Within a reasonable period of time after the filing of the application, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.*
4. *Set zoning amendment public meeting and hearing and complete public notification process.*  
*The Town shall send notice of public meetings and hearings to the applicant, all property owners of record within 300 feet of the property in question, all mineral interest owners and oil and gas lessees of record and to referral agencies. The Town shall also publish notice in a newspaper of general circulation. For zoning map amendments, the Town shall prepare a public hearing notification sign to be posted on the property by the applicant.*

If the zoning amendment request is accompanying another application which is scheduled for public hearings before the Planning Commission and Board, one public hearing may be held on both applications.

5. *Planning Commission public meeting and recommendation on the zoning amendment.* The Planning Commission shall hold a public meeting to review the zoning amendment. The Commission shall then make a recommendation to the Board to approve, conditionally approve, or deny the application.
6. *Board public hearing and action on the zoning amendment.* The Board shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board shall consider the comments and evidence presented at the hearing and evaluate the application in accordance with the criteria listed below and approve, approve with conditions, or deny the application, in whole or in part.
7. *Post approval actions.*
  - a. The procedures found in Table 3.10 shall be followed in addition to the post-approval actions included in this Section.
  - b. Upon approval of an amendment to the official zoning map by the Board, the Town shall cause an appropriate revision of the official zoning map to be prepared. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.
  - c. Upon approval of an ordinance amending, changing or repealing part of the text of this Section, the Town shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Section.
  - d. The applicant initiating the official zoning map amendment shall have one month after approval of the amendment by the Board to submit to the Town either two original mylar plats or an electronic copy of the approved and fully-executed zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. The zoning amendment map shall be prepared by a licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one 11 inch by 17 inch reduction of the zoning amendment map and provide the final document in a format acceptable to the Town. AutoCAD™ drawing file (release 12 or higher).
  - e. Within 30 days of receipt of an applicant-initiated zoning amendment map, the Town shall review the document(s) for compliance with the Board approval, obtain the Town Officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the Larimer or Weld County Clerk and Recorder's Office for recordation.

### 30-6-103 Subdivision types and process outlines

- A. *Methods of land subdivision.* There are two ways to subdivide land based on the magnitude of scale: Minor Subdivision and Major Subdivision. A third option, Conveyance Plats, is for the creation of subdivided lots for conveyance purposes only.
  1. *Minor Subdivisions.*

*Definition.* A Minor Subdivision is a subdivision, or amendment to a subdivision, which has been previously platted, includes no additional public right-of-way dedication, and includes one or more of the following:

    - a. The boundaries of six or fewer lots are created from one parent tract or lot, cumulatively;
    - b. Any lot line adjustment, consolidation of multiple lots into one.

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## 2. Major Subdivisions.

*Definition.* A Major Subdivision is a subdivision which includes one or more of the following:

- a. Dedication of public right-of-way, public infrastructure or other public tracts; or
- b. The subdivision consists of five or more lots or tracts.
- c. The creation of lots on property that has never previously been platted.

## 3. Conveyance Plats.

*Definition:* A conveyance plat is a subdivision of land that creates lots that can be conveyed by the property owner, but does not create new lots of record for purposes of development; conveyance plats are solely for the purpose of facilitating conveyance or sale of all or a portion of a subject property.

Conveyance plats shall include all of the following:

- a. The property must be a minimum of 35 acres.
- b. Each lot created by any conveyance plat must be at least ten acres in size.
- c. No more than 12 lots may be created by any conveyance plat.

B. *Subdivision Process.* There are a number of process steps and application submittals required in order to subdivide land. *The procedures found in Table 3.10 shall be followed in addition to the post-approval actions included in this Section. The application materials required These processes and applications are outlined in Table 6.1 below. For more detailed information pertaining to the process, refer to the Town of Berthoud Application Submittal Information Sheet.*

C. *Application Types.* The following applications are required to be submitted in order to process subdivisions, per Table 6.1 below:

1. *Preliminary Plat.*
  - a. *Definition:* A plat that depicts preliminary engineering studies and construction documents.
  - b. *Purpose/intent:* To provide both the Applicant of a proposed subdivision and the Town with sufficient information to understand if a proposed subdivision will meet all applicable codes, regulations, and policies, and to plan for infrastructure, traffic and lot-layout.
  - c. *Review Criteria:* The following criteria must be found by the Town Board of Trustees in order to approve a Preliminary Plat:
  - d. *Submittal process:* *The procedures found in Table 3.10 shall be followed. The applicant shall submit a completed development review application package to the Town.*
  - e. *Timeframe related to approval of Preliminary Plat.* A Preliminary Plat is in full force and effect for a period of three years from date of Town Board action to approve or approve with conditions. Approval will automatically expire at the end of three years unless an Applicant requests a one-year extension prior to termination, or submits a completed Final Plat application for all or a portion of the property. An Applicant may request one extension for a term of one year.
  - f. *Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.*
  - g. *Preliminary Plat Required:* A Preliminary Plat is required for all subdivisions. No Final Plat will be processed or approved without prior Preliminary Plat approval.
2. *Final Plat.*
  - a. *Definition:* A complete and Final Plat with final engineering studies and construction documents, which is in conformance with the appropriate County requirements to record.
  - b. *Purpose/intent:* A depiction of a subdivision that complies with all applicable codes, regulations, and policies, to be recorded.

- c. *Review Criteria:* The following criteria must be found by the Planning Commission in order to approve a Final Plat.
- d. *Submittal process:* ~~The procedures found in Table 3.10 shall be followed. The Applicant shall submit a completed development review application package to the Town.~~
- e. *Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.*
- f. *Timeframe related to approval of Final Plat.* A Final Plat is in full force and effect for a period of three years from date of or unless Public Improvements are completed and accepted on all or a portion of the Final Plat. Applicants may request a single, one-year extension from the Town prior to termination of Final Plat approval. Prior to the expiration of the original three-year timeframe or the extension (four-year total) timeframe, an Applicant may request an additional extension if substantial progress has been made on installation of Public Improvements.
- g. *Construction drawings and final landscape plans required before recording.* Construction drawings and final landscape plans are required to be submitted before the Final Plat process or concurrently with the Final Plat process. These documents must be deemed to be in substantial conformance to the appropriate sections of this ordinance prior to recordation of the Final Plat.

### 30-6-105 Application Requirements and Standards

- A. *Application submittal requirements:* The following table outlines the submittal requirements and standards required for each application type.

Table 6.1

Application Requirements and Standards				
	Preliminary Plat	Final Plat	Conveyance Plat	Minor Subdivision
Application form	X	X	X	X
Fee and MOU <del>with deposit</del>	X	X	X	X
Title Commitment	X	X	X	X
Neighboring Property owner list <del>and mailing labels</del>	X	X	X	X
<b>Mapping Products</b>				
Title of project	X	X	X	X
North arrow, scale, date of prep	X (1:100 scale)	X (1:100 scale)	X (1:100 scale)	X (1:100 scale)
Vicinity map	X	X	X	X
Names and addresses of owners, applicant, designers, engineers, and surveyors	X	X	X	X
Legal description	X	X	X	X
Acreage of property	X	X	X	X
Basis for establishing bearing	X	X	X	X
Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements	X	X	X	X
USGS topographic contours, 2' intervals	X	X	X	X
Name and location of abutting subdivisions or owners of abutting property (if land is not platted)	X	X	X	X
Lots, blocks, and street layout (with cross-sections), dimensions and square footage for each lot. Dimensions and square footages may be rounded to	X	X	X	X

nearest whole number for Preliminary Plat, and must be to two decimal places for Final, Conveyance, and Minor Subdivision.				
Parcels excepted from inclusion should be noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.	X	X	✗	X
Consecutive numbering of all lots and blocks		X	✗	X
Location and approximate acreage of proposed land uses	X	X	✗	X
Existing and proposed easements including r/w's on or adjacent to property (labeled and dimensioned)	X	X	✗	X
Existing and proposed streets for all streets on or adjacent to property.	X	X	✗	X
Proposed street names.		X		X
Location and description of monuments		X	✗	X
Note or table indicating how public dedication requirements will be met	X	X		
Table providing the following info for each proposed land use area: total acreage, proposed density, proposed floor area ratio, proposed square footage, and proposed number of dwelling units	X	X		X
Location and acreage of proposed parks, trails, regional trail connections, playgrounds, schools or other public uses.	X	X	✗	
Location, function, ownership and manner of maintenance of any private open space.	X	X		X
General locations of existing utilities on or adjacent to property	x	x	*	
Approximate location and size of existing sewer lines, water lines and fire hydrants. Approximate location of proposed sewer lines, water lines, and fire hydrants.	X	X		X
Graphic and/or written explanation of how the property will be served with utilities including any issues or proposed changes to the service provider boundaries		x	*	
Location by field survey or aerial photography of existing and proposed water courses and bodies of water such as irrigation ditches and lakes. Water courses shall include direction of flow.	X	X	✗	X
Floodplain boundary with a note regarding the source of information (if no floodplain, state as such)	X	X	✗	X
The boundaries of proposed phases of the subdivision if the final plat is intended to be submitted in multiple phases.	X			
General location of existing surface improvements such as buildings, fences, oil or gas facilities, or other structures which will remain on the property as part of the subdivision.	X	X	✗	X
Geologic hazard areas	X	X	✗	X
Existing and proposed zoning on and around the property	X	X	✗	X
An AutoCad drawing file of Preliminary Plat	X	X	✗	X

Certification language and signing blocks *see section below for template.		X	✗	X
Surveyor's Certificate and applicable signature blocks	X	X	✗	X
<b>Development Narrative Materials</b>				
Explanation of consistency with previous related approvals, Comprehensive Plan, Development Code, PORT Plan.	X	X		X
Discuss compliance with lot area size, dispersion of lots, setback variation and garage placement in proposed residential subdivisions as identified in Section 30-2-116 of Code	X	X		X
General description of plan for drainage and storm water management	X	X		X
Water supply info including: number of taps needed, amount of raw water, and source of water	X	X		X
Initial road and traffic impact study/evaluation of the street system, road connectivity and road impacts of the proposal	X	X		X
Utility info including capacity and any line extensions or upgrades that may be necessary	X	X		X
Statement indicating whether or not any commercial mineral deposits are located on site	X	X	✗	X
<b>Supporting Documents</b>				
Grading and drainage plan and report	Preliminary	Final		Final
Construction drawings	80%	100%		100%
Water and sewer plan and study	Preliminary	Final		Final
Geologic study-	Preliminary	Final		Final
Landscape, irrigation and open space plan <u>as specified in the Town's Landscape Design Guidelines and the Landscape Design Section of the Municipal Code</u>	Preliminary	Final		Final
Traffic study	Preliminary	Final		General memo
Mineral, oil and gas rights documentation	X	X	✗	X
CHS records search (at discretion of Town)	X			X
General ecological resource survey	Preliminary	Final		General memo
Documentation identifying who will own and maintain open spaces		X		X
Deed for public lands for dedication of public sites for open space or other civic purposes.		X		X
<b>Other Documentation</b>				
Shall be prepared by or under direct supervision of a registered land surveyor and meet applicable State of Colorado requirements	X	X	✗	X
Except for parcels separated by public rights-of-way, public tracts, or railroads, any parcels not contiguous shall not be included in one plat; nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgement.	X	X	✗	X

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Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.	X	X		X
The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in ten thousand.	X	X	✗	X
Bearings, distances, and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.	X	X	✗	X
All signatures shall be made in black drawing ink.	X	X	✗	X

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### **30-6-106 Neighborhood Master Plan**

A. *Neighborhood Master Plan purpose.* The Neighborhood Master Plan is a conceptual design of the development submitted with a rezoning or major subdivision application, that depicts what the applicant envisions for the overall development, including zoning, transportation, pedestrian network, parks, open space, subdivision identity standards and other amenities.

B. *Previously approved concept plans.* Concept plans approved before the amendment of this section of the ordinance shall not be entitled to any vested development right.

C. Process. The procedures found in Table 3.10 shall be followed.

D. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

E. Required Application Materialsments. A Neighborhood Master Plan is required for all residential and/or mixed-use re-zonings or subdivisions over ten acres in size. Any new zoning amendments shall require a new Neighborhood Master Plan approval. Major proposed changes to any approved preliminary plat, will require a new Neighborhood Master Plan approval. The Neighborhood Master will consist of the following required elements:

30. Depiction of compliance with subdivision identity standards found in this ChapterSection 30-2-134.

33. Open space plan: The applicant shall provide a preliminary open space plan that addresses the following elements:

- i. Proposed open space distribution and location, including percentage of open space.
- ii. Compliance with the required park development requirements found in the Parks, trails and open space Section of this Chapter.
- iii. Required buffer areas as found in the Parks, trails and open space Section of this Chapter.
- iv. Information regarding the intended source of water for a proposed non-potable water irrigation system.
- v. Information regarding the intended source of potable water and the raw water dedication.

E. Application certification of completion. Within 30 days, staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package and re submit the application to the Town.

F. Neighborhood Master Plan Process:

1. Planning Commission and Town Board Public Hearing. The Planning Commission shall hold a public hearing and make recommendations to the Town Board. The Town Board shall hold a public hearing and may choose to approve, approve with conditions or deny the Neighborhood Master Plan.
2. 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 1,000 feet of the property per this Code.

### **30-6-107 Preliminary plat**

B. *Preliminary Plat application process.* The procedures found in Table 3.10 shall be followed.

C. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

1. Pre application conference. A pre application conference with a representative from the Town is required before the applicant may submit a preliminary plat application. Topics to be discussed will include:

- a. The provisions of this Code and the applicable requirements;
- b. The application and review process;
- c. Submittal requirements; and
- d. Changes or modifications based on direction from the Town at concept plan.

**D. 2.—Preliminary Plat application submittal.** Following approval or conditional approval of the concept plan and rezoning application, the applicant may submit the complete preliminary plat application to the Town. The preliminary plat application package shall be formatted and packaged per the application submittal checklist provided by the Town and include the following items in ~~both printed and electronic formats:~~

- i. Preliminary water and sewer plan and study. This plan shall be prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision. Identify the source of raw water for dedication purposes.
- k. Preliminary landscape and open space plan. The landscape plan must address the treatment of all exterior spaces. Landscape plans are to be designed to meet the requirements of this Code and show approximate locations of trees, shrubs, groundcovers, turf, buffering, fences, walls and other site amenities that will be included in the plan. Applicants are to consult with the Town arborist regarding tree planting schemes and the Berthoud Tree Board will be given an opportunity to review and comment upon the tree plan for the property. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the preliminary location of all proposed meters and backflow devices.

6. Refer application to parties of interest. The Town shall send summary information about the application by regular mail to the mailing list provided by the applicant that includes neighboring property owners, utility and service providers and other parties of interest. The referral information shall include the time and place of the Planning Commission meeting and Town Board public hearing, the nature of the meeting or hearing, the location of the property, the applicant's name, and background information about the proposal.

7. Staff review and report to Planning Commission. Staff will complete a final review of the application and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the preliminary plat review criteria.

8. Planning Commission public meeting and recommendation. The Planning Commission shall hold a public meeting to review the application based on the preliminary plat review criteria. The Planning Commission shall then make a recommendation to the Town Board to approve, conditionally approve, or deny the application.

9. Town Board public hearing and action. The Town Board shall review and act on the Preliminary Plat as part of a public hearing. The Town Board may choose to approve, approve with conditions, or deny the Preliminary Plat.

10. Applicant addresses any conditions placed on the proposal. The applicant shall revise the preliminary plat based only on conditions of approval (if any) placed on the proposal by the Town Board.

**ED.** *Early grading.* After approval of a Preliminary Plat, Applicant may proceed with preliminary grading of the project area if a construction plan set for grading and drainage is approved and memo authorizing grading work is issued by the Town Engineer. Early grading is at the risk of the Applicant and no presumption of any Final Plat approval at the Planning Commission is expressed or implied by any authorization of early grading. The Town shall request surety from the applicant in a form acceptable to the Town to cover the cost of restabilizing the disturbed property and other work should the applicant not proceed with the development post disturbance.

#### **30-6-108 Final plat**

- A. *Final Plat purpose.* The purpose of the final plat is to complete the subdivision of land consistent with the technical standards of the Town.
- B. The procedures found in Table 3.10 shall be followed.

A. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

D. Final Plat application process.

1. Final Plat application submittal. The final plat application shall substantially conform to the preliminary plat as approved at the public hearing and shall meet all conditions of approval. The applicant shall submit the completed final plat application package to the Town. The final plat application shall be formatted and packaged per the application submittal checklist provided by the Town and include:
  - i. ~~Notification mailing list. Provide one set of mailing labels for appropriate referral agencies and property owners of record within 300 feet of the property.~~
2. Application certification of completion. Within a reasonable timeframe, typically five working days, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.
3. Notice. In order to provide an opportunity for referral agencies and the public to review any final plat for changes, the Town shall send a notice of the Planning Commission public hearing, with appropriate final plat materials for review.
4. Public Comment Requirements: Within five days of a complete application, the Town shall send notice of public comment to the neighboring property owners within 500 feet of the subject property, as part of the review process. This notice shall include a summary of the project, along with a copy of the Final Plat. The Public shall have three weeks to submit comments back to the Town. All Public comments received, will be sent to the developer, and be part of the record for the Planning Commission meeting. The Developer shall address all public comments in a report to be included with the record, before the Final Plat shall be scheduled for a hearing.
5. Staff review and report to Planning Commission. Staff will complete a final review of the application and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the final plat review criteria.
6. Planning Commission public hearing and action. The Planning Commission shall hold a public hearing to review the final plat based on the Town's final plat review criteria. It shall then approve, conditionally approve, or deny the final plat application by resolution. The applicant may appeal a decision to deny the application by the Planning Commission to the Town Board.
7. Applicant addresses Planning Commission conditions. The applicant shall revise the final plat based on any Planning Commission conditions of approval and submit it to the Town.
8. Original plats. The applicant shall submit to the Town Clerk~~either one original signed mylar or one electronic three original, signed mylars of the~~version of the final plat ready for the Mayor and Town Clerk to sign and record, and final executed copies of all agreements. Original mylars and documents shall become the property of the Town. The form of the Final Plat submittal shall be determined by the Town.
9. Complete engineering plans and specifications. After Final Plat approval the applicant shall prepare and submit the following for administrative approval by the Town prior to commencement of construction:
  - b. Final landscape and open space plan. The landscape plan must address the treatment of all exterior spaces. Landscape plans are to be designed to meet the requirements of this Code and PORT Plan and show trees, shrubs, groundcovers, turf, buffering, fences, walls and other site amenities that will be included in the plan. All plant materials must be adapted to the physical limitations of the local climate and specific conditions of the landscape plan. All plant materials must meet specifications of the American Association of Nurseryman for number one grade. All street trees must be selected from the Town of Berthoud recommended tree list.

14. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the location of all proposed meters and backflow devices.

15. Final irrigation plan. Provide a plan illustrating how the proposed landscape material will be irrigated.

16. Hydrozone analysis. Provide an analysis of the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable uses.

c. Development sign plan. Provide a plan illustrating a unified signage plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscape materials.

d. Architectural standards for the development. Standards in addition to the architectural standards found in Chapter 30 shall have the result of creating a unique subdivision and/or development consistent with the sense of place being created for the greater subdivision and/or development.

ee. A "pdf" file and an electronic file in a format acceptable to the Town ~~AutoCad drawing file of the final plat in an electronic format specified by the Town Engineer.~~

### **30-6-109 Minor subdivision plat**

#### **A. Minor Subdivision Plat purpose.**

1. The purpose of the Minor Subdivision Plat is to complete the subdivision of land consistent with the technical standards when the following conditions exist:
  - a. The property has previously been platted within the Town; and
  - b. The resulting subdivision will produce six or fewer lots.

#### **B. Minor Subdivision Plat application process.**

1. ~~The procedures found in Table 3.10 shall be followed. Pre application conference. A pre application conference with a representative from the Town is required before the applicant may submit a Minor Subdivision Plat application. Topics to be discussed will include:~~
  - a. ~~Town regulations and standards.~~
  - b. ~~The application and review process.~~
  - c. ~~Submittal requirements.~~
  - d. ~~Proposed schedule.~~

2. ~~Notice shall be given in accordance with the the public hearing and general notice provisions found in this Chapter.~~

3. ~~Minor Subdivision plat application submittal. The applicant shall submit the complete Minor Subdivision plat application package to the Town and request that the application be reviewed by the Planning Commission. The application materials shall be formatted and packaged per the application submittal checklist provided by the Town and include:~~

- f. ~~Additional materials. At Town discretion and depending on the size of the Minor Subdivision and its potential impact to the community, the Town may request the following additional materials:~~
  - i. ~~Traffic study~~
  - ii. ~~Geotechnical report~~
  - iii. ~~Drainage map and study~~
  - iv. ~~Utility map and study~~

- v. ~~Final landscape, open space, and buffer plan. Provide a plan illustrating existing and proposed landscape materials, materials to be removed and those to be retained, a plan for open space and appropriate buffering for commercial and industrial properties. The buffer plan shall be made in accordance with the Commercial and Industrial Standards~~

Section and the Commercial and Industrial buffering and screening techniques Standards of the Municipal Code and shall also contain an open space plan consistent with this Section. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the location of all proposed meters and backflow devices.

vi. Final irrigation plan. Provide a plan illustrating how the proposed landscape material will be irrigated.

vii. Hydrazone analysis. Provide an analysis of the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable uses.

viii. Exterior elevations of proposed structures/graphic visual aids. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s). In addition, Staff may require building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.

ix. Development sign plan. Provide a plan illustrating a unified signage plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscape materials.

x. Architectural standards for the development. Standards in addition to the architectural standards found in Chapter 30 shall have the result of creating a unique subdivision and/or development consistent with the sense of place being created for the greater subdivision and/or development.

g. Surrounding property ownership report. A list and set of mailing labels not more than 30 days old of the names and addresses of the surrounding property owners within 300 feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

3. Application certification of completion. Within five working days, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town.

4. Public Comment Requirements. Within five days of a complete application, the Town shall send notice of public comment to the neighboring property owners within 500 feet of the subject property, as part of the review process. This notice shall include a summary of the project, along with a copy of the Minor Subdivision Plat. The Public shall have three weeks to submit comments back to the Town. All Public comments received, will be sent to the developer, and be part of the record for the Planning Commission meeting. The Developer shall address all public comments in a report to be included with the record, before the Minor Subdivision Plat shall be scheduled for a hearing.

5. Refer application to parties of interest. Within an appropriate timeframe, staff shall send information about the application by regular mail to: surrounding property owners within 300 feet, mineral interest owners of record, mineral and oil and gas lessees for the property, and other parties of interest.

6. Schedule Planning Commission public hearing and complete public notification process. The Town shall schedule a public hearing for the purpose of taking action on the Minor Subdivision. The Town shall publish notice and post the property with a sign legible from an adjacent public right of way within a reasonable time prior to the hearing. All notices and posting shall be consistent with this Code.

7. Planning Commission public hearing and action. The Planning Commission shall hold a public hearing to review the application based on the Minor Subdivision review criteria. The Planning Commission shall then move to approve, conditionally approve, or deny the application by resolution. An applicant may appeal denial by the Planning Commission to the Town Board.

8. Applicant addresses Planning Commission conditions. The applicant shall revise the Minor Subdivision plat based on any Planning Commission conditions of approval and submit it to the Town.

4. An applicant may appeal denial by the Planning Commission to the Town Board.

9. *Record Minor Subdivision Plat.* Three original signed mylars of the minor subdivision plat shall be delivered to the Town. The Town will record the minor subdivision plat in the office of the Larimer or Weld County Clerk and Recorder.

C. *Minor Subdivision Plat review criteria.* The Town shall use the following criteria to evaluate the request:

- a. The minor subdivision plat is in compliance with this Code, the Town Comprehensive Plan, and the PORT Plan, and any additional master plans or overlay districts affecting the property.
- b. The Planning Commission shall also consider how the Applicant has addressed comments received from the public, during the Public Comment portion of the process, as well as and referral agency comments made during the development review process when considering the request.

#### **30-6-111 Administrative adjustment to recorded plats**

A. *Administrative Adjustment purpose.* The purpose of the administrative adjustment is to allow adjustments to recorded final plats where there is anticipated to be no significant impact to the Town. The Town Administrator may determine that the Planning Commission should make the decision as to the adjustment of internal or external boundary lines if the adjustment would have a significant impact on the Town or the neighborhood.

D. *The procedures found in Table 3.10 shall be followed.*

E. *Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.*

F. *Application materials/administrative Adjustment process.* In order to process any request for an administrative adjustment, the following materials shall be provided steps shall be completed:

- 1) *Application Form, Fee and Memorandum of Understanding.*
- 2) *Narrative.* The applicant shall provide a narrative describing the amendment proposed.
- 3) *Graphic.* The applicant shall provide a graphic depicting the current condition and a graphic depicting the proposed condition.
- 4) *Proof of ownership.* All owners of the property shall provide evidence satisfactory to the Town Administrator that they are the holders of equitable title to the property. Evidence of ownership required by the Town may include, but not be limited to: the recorded deed, or the title policy to the property and a copy of the billing by Larimer or Weld Counties for real property taxes. It shall not be necessary to have the holders of the legal title to the property included as petitioners with those persons holding equitable title to the property.

*52) Petition for administrative adjustment.* All owners of legal and equitable title shall execute before a Notary Public a petition stating they are the owners of equitable title to the property and that they wish to merge two or more adjoining lots into one lot. The petition shall also contain such additional information that the Town may deem appropriate.

3) *Procedure for administrative adjustment.*

- a. *Upon compliance with the above requirements, the Town Administrator or his duly designated representative is authorized to execute the document merging any number of lots into one lot. The petition for an administrative adjustment shall specify the subdivision, lot and block numbers (where applicable) and the number of the lot created as a result of the proposed action.*

#### **30-6-112 Site plan**

A. *Site Plan Purpose.* *Approval of a* The site plan review application is a prerequisite to applying for a building permit for all multi-family (excluding duplexes), commercial, and industrial developments.

The site plan shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with all Town regulations and this Code.

B. *Site Plan process.*

1. The procedures found in Table 3.10 shall be followed.
2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
3. Site Plan application.
2. ~~Application certification of completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.~~
3. ~~Staff reviews application and prepares comments. Staff will review the site plan map to ensure it is consistent with the site plan review criteria. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the site plan can be recommended for approval. This report will be forwarded to the applicant.~~
4. ~~Applicant addresses staff comments. Applicant shall make all necessary changes to the site plan and resubmit a revised copy to the Town.~~
5. ~~Development Agreement. Staff may require that the applicant execute a Development Agreement as detailed in Section 30-6-114 of this Code to assure the construction of on site and off site improvements as a condition of approval of the site plan.~~
46. *Review and action.* The Town Administrator and Planner shall be responsible for processing all applications for Site Plan Reviews within the Town of Berthoud. The Town Administrator and Planner shall also have the responsibility of ensuring that all applications and submittal requirements are met prior to initiating any official action as listed above. The authority and responsibility for making the decision to approve, disapprove or approve with conditions all requests for a site plan review will rest with the Town Administrator. The Town Administrator may refer a site plan application to the Planning Commission for the Commission's review and action, based on a determination that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action. The application and notice of the referral shall be sent to the Planning Commission for its review within a Public Hearing and action. Appeals of any Planning Commission final decision may be made to the Town Board acting as the Board of Appeals using the appeal procedures found in Section 30-3-108.B. and C.
57. *Board consideration of appeals.* The Board of Trustees shall consider any appeal within 45 days of the close of the 14-day appeal period, except an appeal associated with a concurrent development application requiring Board review or approval, shall be considered with final action on the concurrent development application. The Board shall apply the site plan review criteria to uphold, modify, or reverse an earlier decision.
68. *Post approval actions.*
  - a. *Building Permit.* A building permit shall be issued only when a site plan has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the site plan application. Building permits shall not be issued for any development that is not in conformance with the approved site plan.
  - b. *Phasing and expiration of approval.* The site plan shall be effective for a period of three years from the date of approval, unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than three years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three years from the date of Phase I approval.

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### **30-6-113 Amendments and exceptions**

**A.** [A.](#) *Amendments.* Amendments to any lots, tracts or parcels, or the relocation or addition of streets within a previously recorded subdivision, shall be considered a resubdivision (also known as a "replat") and shall be prepared and submitted in compliance with the requirements as set forth in this Code. Concept plan, preliminary plat and final plat requirements related to a replat may be waived in part at the discretion of the Town Board of Trustees.

**B.** [The procedures found in Table 3.10 shall be followed.](#)

**A.C.** [Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.](#)

**DB.** *Exceptions.* The Town Board after providing public notice including mailed notice to property owners within 300 feet of the property, posting notice of a public hearing and publishing notice in the newspaper of record; may in its discretion, grant exceptions, modifications and/or waivers ("Exceptions") from the regulations set forth in this Chapter 30, Section 6 with respect to a particular parcel of property upon the following findings:

2. That the granting of the Exceptions will not be materially detrimental to the public welfare, will not materially diminish the rights set forth in the Development Code of other property in the area in which the property is situated and will consistent with the purposes and objectives of the Town Comprehensive Plan, [Trails and Open Space plans, and any other Master Plan, specification and standard affecting the property and the land use application and PORT Plan under consideration.](#)

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**Section 5:** Table 1.1 found in Section 30-1-117 and portions of Section 30-1-117 will need to be amended to reflect the changes made to the land use processing table found in Section 4 of this document referenced previously.

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

B. *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~~<sup>five</sup> days before the hearing to those persons who have listed for taxation any real property located within ~~500'~~<sup>300</sup> 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 15 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 15 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 25 days before the hearing.
5. When required by the notice of public hearing table (Table 1.1) in this section, the applicant must post a sign along each street frontage of the property. The Town will provide signs when a complete application is made. The applicant is responsible for erecting and maintaining the sign(s) for the time period specified and removing them after the last public hearing. Signs must be placed as near the property line as possible and in a manner that is readily visible from the street or road. Posting the property is a courtesy to the public and the failure of anyone to observe a sign does not invalidate any public hearing.
6. 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 15 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.
  - c. The applicant shall provide the required number of mailing labels and a list in a format acceptable to the Town with application materials. The applicant shall certify the source for the mailing list and labels.

*Note for the reader and not for codification purposes: The land use process for Marijuana Uses in the following table will be amended as part of a separate Ordinance.*

Table 1.1 Hearing and notification requirements

	Hearing	Publication	Mailed notice	Post sign
Annexation	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 500 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.
Zoning	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 500 feet sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Rezoning	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to hearing.	Yes, to properties within 500 foot area sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Text Amendment to Development Code (Chapters 10-11)	Before Board as hearing.	No less than 15 days prior to hearing.	No.	No.
Neighborhood Master Plan	Before both Commission and Board as regular agenda items.	No less than 15 days prior to Commission/Board meeting.	Yes, to properties within <u>500</u> <sup>1</sup> <u>4,000</u> feet no less than 15 days prior to meeting.	Yes, to properties no less than 15 days prior to Commission meeting.
Preliminary Plat	Before Planning Commission as regular agenda item and Board as hearing.	No less than <u>15</u> days prior to meeting.	Yes, to property owners within 500 feet no less than <u>15</u> days prior to meeting.	Yes, no less than <u>15</u> days prior to Commission meeting.
Final Plat <u>or a</u> <u>Replat</u>	Before Planning Commission as Hearing. No Board meeting or hearing.	No less than <u>15</u> days prior to Commission meeting.	Yes, to property owners within 500 feet no less than <u>15</u> days prior to Commission hearing.	Yes, no less than 5 days prior to Commission hearing.
Conveyance Plat	Before Commission as regular agenda item and Board as hearing.	No less than 5 days prior to Commission meeting.	Yes, to property owners within 500 feet, and referral agencies no less than 5 days prior to Commission meeting.	Yes, no less than 5 days prior to Commission meeting.
PUD or amendment to PUD	Before Commission as regular agenda	No less than <u>15</u> days prior to hearing.	Yes, to property owners within 300 feet, and referral	Yes, no less than <u>15</u> days prior to

	item and Board as hearing.		agencies no less than 15 days prior to Commission meeting.	Commission meeting.
<u>Amended PUD: Changes to a previously-approved PUD shall follow both the Change of Zone and Neighborhood Master Plan process as found in Chapter 30 and in this Table</u>				
Comprehensive Plan Amendment	Before Planning Commission as hearing and Board as regular agenda item.	No less than 15 days prior to Commission hearing.	No	No
Text Amendment to Development Code (Chapters 1-9)	Before Planning Commission as regular item and Town Board as hearing.	No less than 15 days prior to hearing.	No.	No.
Variances and Appeals	Board of Adjustment (BOA) as hearing	No less than 15 days prior to hearing.	Yes, to property owners within <u>5300</u> feet no less than 15 days prior to BOA hearing.	Yes, no less than 15 days prior to BOA hearing.
<u>Conditional Use by Special Review</u>	Before Planning Commission as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within <u>5300</u> feet, and referral agencies no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<u>Use By Special Review</u> <u>/Conditional Use: including Medical Marijuana/Oil and Gas</u>	Before Town Board as a hearing	No less than 15 days prior to hearing.	Yes, to property owners within <u>5300</u> feet, and referral agencies no less than 15 days prior to Board meeting.	Yes, no less than 15 days prior to Town Board meeting.
Minor Subdivision	Before Planning Commission as hearing.	No less than <u>15</u> days prior to hearing.	Yes, to property owners within <u>5300</u> feet no less than <u>15</u> days prior to Commission hearing.	Yes, no less than <u>15</u> days prior to Commission hearing.
Site Plan Review and Action	Administrative approval unless referred to Planning Commission by Administrator	No notice required. <sup>15</sup>	<u>No notice required, Upon application acceptance to property owners within 500'</u>	<u>No notice required, Upon application acceptance</u>
<u>Wireless Communications Facilities as Uses by Special Review</u>	<u>Before Town Board as a hearing</u>	<u>No less than 15 days prior to hearing.</u>	<u>Yes, to property owners within 500 feet, and referral agencies no less than 15 days prior to Board meeting.</u>	<u>Yes, no less than 15 days prior to Town Board meeting.</u>

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**Section 6:** The intent of this next grouping of Code changes is to perform tabulation clean-up work; clarify the intent and requirements; and to delete a portion of Section 30-2-116 for residential design standards and diversity options. The particular section proposed to be deleted is difficult to regulate and poses increased compliance management on the Town. The Town's Landscaping Standards under final development provides guidance for water-wise landscaping materials.

### **30-2-116 - Residential design standards**

- A. *Purpose.* The Board of Trustees of Berthoud have determined that residential development is a primary component of land use in this community and that the appearance of single or multi-family dwellings from the street is intrinsically related to the preservation of neighborhood character and quality of life.
- B. *Applicability.* The design standards stated in this "section" are intended to implement strategies for residential development, and promote quality design of an urban environment. In an effort to avoid monotonous streetscapes, all residential development (including PUDs and development on individual lots or parcels) shall include a mixture of different lot sizes, dimensions, and housing models, as provided and described in this section, unless expressly exempt by this section. Repetitive front elevation dwellings shall not be located adjacent to or directly across the street. The requirements of this Section shall not apply to the rebuilding of a structure not in conformance with this Section that has been damaged or destroyed by fire or natural disaster.
- C. *Compliance required for building permit.* Compliance with this Section, as determined by the Planning Director, shall be required as a condition of the issuance of a building permit for any single or multi-family residential dwelling. A decision by the Planning Director may be appealed by the Applicant to the Planning Commission on appeal, acting as the Board of Adjustment. Architectural elevations shall be submitted with all site plans. Block diversity plans shall also be submitted as required herein, during the building permit process.
- D. *Single-family dwelling standards.* The intent of this section is to foster new residential development with architectural designs that create diversity and variety along residential streets.
  - 1. *Lot diversity:*
    - a. *Mix of housing.* A mix of permitted housing types shall be included in any individual development plan, to the extent reasonably feasible, depending on the size of the parcel. In order to promote such variety, the following minimum standards shall be met:
      - i. ~~A minimum of two housing lot diversity types as provided below in Section 30-2-116(C)(1)(iii), shall be required in residential on any project developments plan containing 20 acres or more, including such plans that are part of a phased overall development;~~
      - ii. ~~A minimum of three housing diversity types shall be required in residential developments containing more than for 30 acres, including such plans that are part of a phased overall development;~~
      - iii. ~~A minimum of or more; and a minimum of four housing diversity types shall be required in residential developments containing more than 50 acres, including such plans that are part of a phased overall development. on any such project development plan containing 50 acres or more.~~
    - b. ~~To the maximum extent feasible, housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes. For example, providing distinct single-family detached dwellings or two-family dwellings on larger lots and on corners and providing small lot single-family~~

dwellings on smaller lots abutting common open spaces fronting on streets are methods that accomplish the lot diversity requirements set forth in this subsection

1. In addition, diversity and density is to be spread within developments in a harmonious fashion and not located in one area. Disconnected areas of density or different lot and uses will not be permitted.

b(e). The following list provides of housing diversity types available shall be used to satisfy this Lot Diversity requirement.:

1. Single-family detached dwellings with rear loaded garages.
2. Single-family detached dwellings with front or side loaded garages.
3. Small lot single-family detached dwellings (i.e. lots containing less than 4,000 square feet or with lot frontages of 40 feet or less) may be used to satisfy the lot diversity requirements if: 1) there is a difference of at least 2,000 square feet between the average lot size for small lot single-family detached dwellings (insert that average size) and 2) the average lot size for single-family detached dwellings with front or side loaded garages
4. Two-family dwellings.
5. Single-family attached dwellings.
6. Two-family attached dwellings, the placement of which shall be limited to no more than two such dwellings per two consecutive individual lots.
7. Mixed-use dwelling units.
8. Multi-family dwellings containing more than three to four units per building;
9. Multi-family dwellings containing five to seven units per building.
10. Multi-family dwellings containing more than seven units per building (limited to 12 dwelling units per building).
11. Modular homes.
12. Commercial uses.
13. A mixture of lot sizes is provided within one block (i.e. 40 feet wide lots with 80 feet wide lots), on at least 30 percent of the lots.

~~(d) A single lot diversity use or type as provided above in Section 30-2-116.D.(1)(i)(a) shall not constitute more than 80 percent or less than five percent of the total number of lots or dwelling units in each development plan.~~

2. *Housing model diversity detached:*

- a. Any development of 100 or more single-family detached dwelling units shall have at least four different housing models. Any development containing fewer than 100 single-family or two-family dwelling units shall have at least three different types of housing models.
- b. In addition to having unique model types, each model shall have a minimum of two unique architectural elevations. Each elevation shall be distinguishable from one another and shall have at least four of the listed building elements which clearly and obviously distinguish it from other elevations of the same model:
  - a. Unique porches and front entries that include different architectural styles, building materials, sizing, or placement;

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- ii**b**. Exterior materials (e.g. stucco, natural wood, cement fiberboard, rock, brick, etc.);
- ii**c**. Garage orientation and point of access. Unique garage styles will also be considered (e.g. carriage doors, raised panel, contemporary, etc.);
- ii**d**. Roof types (e.g. gable, hip, lean-to, dormer, etc.);
- ii**e**. Creative design alternatives not stated above
- ii**f**. Any two elevations that are distinctly different architectural styles (e.g. colonial, cottage, craftsman, farmhouse, French country, modern, ranch, traditional, Tudor, Victorian, etc.) shall be exempt from these requirements.
- ii**g**. One ~~(applicant may be allowed credit for two, if a and d above, are satisfied)~~ of the following creative design ~~elements~~ found below ~~may be used. If creative design alternatives not stated above, if i. and iv., listed above are satisfied, an applicant will receive two building element credits by using one of the following creative design elements:~~

1. Architecture/material type (select as many as desired, only one; will qualify for one element):
  - Masonry (brick or stone) exteriors are provided on all four sides of 50 percent or more of buildings.
  - 100 percent of models/lots have garage planes that take up less than 50 percent of the total length of the structure's front facade/wall face on the front facade front façade.
  - All homes on corner lots shall have wraparound porches with a porch depth a minimum six-feet foot depth.
  - All homes on corner lots shall have two stories with different elevations.
  - 50 percent of models on rear and side yards have partially improved exterior details or materials, such as brick, stone, or other architectural features

2. Energy Sustainability standards (Select as many as desired, only one; will qualify for 1 element):

Energy sustainability:

- 50 percent of homes in the block diversity plan are LEED certified (certified by third party before certificate of occupancy).
- 75 percent of homes have solar roof panels installed before certificate of occupancy. Solar panels must be installed in a manner that any conduit is concealed within the attic of the home, so that it is not visible from the ground. Conduit may be concealed behind the panels if an attic does not exist. Any conduit that is visible must be painted to blend in with the materials that the conduit is attached to.
- 25 percent of homes are certified as net-zero homes by a third party before certificate of occupancy.

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3. Accessibility:

- 50 percent or more of homes are built with a ground-floor master bedroom and full bath.
- 10 percent of homes in the block diversity plan have built in accessory living quarters/mother-in-law suite, with separate entry and garage.

**Water Conservation:**

50 percent of lots must have professionally landscaped front yards that are 30 percent or less turf but cannot use more than 20 percent rock; all plantings must be low water usage plants; landscape plans must be prepared by a licensed landscape architect and approved before CO; landscaping must be installed within six months of CO for this category to be satisfied. If element is satisfied, each lot will be eligible for a 25 percent reduction in water costs (from four tenths acre feet for a standard lot, to three tenths acre feet).

*Note to the reader: the remainder of this section is unchanged.*

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**Section 7:** Minor housekeeping amendments to the Code are proposed to clarify intent, interpretation, consistency with the vision found in the Comprehensive Plan, and to ensure the Development Code is transparent for staff and the development community.

### **30-2-102 Design standards based on Comprehensive Plan**

The intention of the Town in enacting this Section is to clearly describe the Town's vision for the physical development of land in Berthoud. The Design Standards in this Section are intended to further the goals and objectives in the Town of Berthoud Comprehensive Plan and create a vital, cohesive, well-designed community that preserves and enhances the small-town character of this community. Those interested in developing property in the Town of Berthoud are encouraged to review the most recent version of the full Town of Berthoud Comprehensive Plan, 2007 (as amended) with a particular focus on the following Goals and Objectives:

- Land use and growth management
- Circulation and transportation
- Community character and urban design
- Public infrastructure

### **30-2-112 Landscape design**

#### **C. Landscaping design standards.**

2. *Tree-lined streets.* The Town of Berthoud has a long, rich heritage of tree-lined streets. Today street trees and their conditions are a concern to those involved in urban forestry and the Town has the authority and obligation to assure that vegetation planted on public rights-of-way meets certain standards. Tree plantings should be made with the same methodical planning that is used when making substantial financial investments. To comply with Section 30-2-105 of this Code there are three options to achieve this requirement:
  - b. *No tree lawns, attached sidewalks:*
    - v. Street trees along rural streets where there is no sidewalk may be planted to create irregular clusters to reinforce the design and character of the project and frame views. Downtown streets — The properties generally located within the boundary of Massachusetts Avenue, Welch Ave, 1<sup>st</sup> Street, and LCR 47-17 are encouraged to provide decorative hardscaping, window boxes, planters, tree boxes, benches and street art, in order to attract pedestrian activity. Trees planted within paved environments shall have a minimum four-foot wide square tree well with grate.

### **Zoning**

#### **30-3-101 General provisions**

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare of the community.

**A. Uniformity of regulations.** The regulations established by this Section within each zone shall apply uniformly to each class or type of structure or land. Unless exceptions are specified in this Section, the following interpretations shall apply:

**B. Conflict with other provisions of law.** Whenever the requirements of this Section are inconsistent with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive standards shall govern.

**C. Conflict with private covenants or deeds.** In case of a conflict between this Code and any private restrictions, the provisions of this Code shall control for purposes of enforcement by

the Town. The Town shall have no responsibility to enforce private covenants or deed provisions.

**D.4G. *Zoning of annexed territory.***

1. Zoning of land during annexation may be done in accordance with the procedure and notice requirements of this Section. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.
2. Any area annexed shall be brought under the provisions of this Section and the Zoning Map within 90 days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. If the property is not zoned during such 90-day period, or such portion thereof as is required to zone the territory, the Town shall not issue a building permit for any portion, or all of, the newly annexed area.

**30-3-103 Zoning districts and boundaries**

A. *Zoning Districts.* In order to carry out the provisions of this Code, the Town is divided into the following zoning districts:

1. URC – Urban Residential/Commercial District
2. SRC – Suburban Residential/Commercial District
3. CD – Conservation District
4. AG – Agricultural District
5. TN – Traditional Neighborhood District
6. R1 – Single Family District
7. R2 – Limited Multi-Family District
8. R3 – Multi-Family District
9. R4 – Mixed Use District
10. R5 – Manufactured/Mobile Home District
11. C1 – Neighborhood Commercial District
12. C2 – General Commercial District
13. M1 – Light Industrial District
14. M2 – Industrial District
15. T – Transitional District
16. PUD – Planned Unit Development Overlay District

**30-3-104 Principal and conditional uses permitted by zoning district**

**D. UR Urban Residential and Commercial District.**

Intent. The Urban Residential and Commercial (URC) District is intended to provide for a variety of housing types and limited commercial uses in a dense, walkable environment built at a human scale.

1. Principal or Conditional uses. Principal or conditional uses for the SRC District are found on Table 3.10.
2. Area and Bulk Requirements. See Tables 3.11, 3.12, 3.13, 3.14, 3.15, 3.16 and 3.17.

**E. SR Suburban Residential and Commercial District.**

Intent. The Suburban Residential and Commercial (SRC) District is intended to provide for neighborhoods with primarily single-family detached, and single family attached (townhomes and paired homes) homes and limited commercial uses.

1. Principal or Conditional uses. Principal or conditional uses for the SRC District are found on Table 3.7.
2. Area and Bulk Requirements. See Table 3.8.

#### **F. CD Conservation District.**

*Intent.* The Conservation District (CD) is intended to provide for a primarily low-density housing types and large areas of conservation.

1. *Principal or Conditional uses.* Principal or conditional uses for the CD District are found on Table 3.34.
2. *Area and Bulk Requirements.* See Tables 3.4 and 3.6.

#### **D-G. E. AG Agricultural District.**

*Intent.* The AG District provides for the continuation of agricultural activities on property annexed to the Town. Newly annexed areas that are predominately used for agricultural purposes may be zoned AG until other zoning is requested by the property owner. Agricultural zoning is intended to either support the continued agricultural activity on open farmlands near the Berthoud community or be used as a temporary “holding” zone until development at an urban scale is proposed.

1. *Principal or Conditional uses.* Principal or conditional uses for the AG District are found on Table 3.34.
2. *Area and Bulk Requirements.* See Table 3.1.
3. *Maximum density.* Development in the AG District is limited to one unit per acre where connection to public water and wastewater systems is present, and one unit per 2.29 acres for properties without connection to public water or wastewater systems.

#### **F. TN Traditional Neighborhood District.**

*Intent.* The TN District provides for the development of low to moderate density single family residential dwellings with alleys. New residential development in this District shall feature garages that are accessed from a 20-foot wide alley.

1. *Principal or Conditional uses.* Principal or conditional uses for the TN District are found on Table 3.34.
2. *Area and bulk requirements.* See Table Figure 3.12.
3. *Maximum density.* Accessory dwelling units in the TN District count as .33 units towards the overall project density.
4. *Tree lawn requirement.* Developments within the TN District must include a seven-foot wide tree lawn along all streets.

#### **G. R1 Single Family District.**

*Intent.* The R1 District provides for the development of low to moderate density single family residential dwellings.

1. *Principal or Conditional uses.* Principal or conditional uses for the R1 District are found on Table 3.34.
2. *Area and bulk requirements.* See Table 3.1.

#### **H. R2 Limited Multi-Family District.**

*Intent.* The R2 District provides for the development of areas containing low to moderate density with both single and multi-family residential uses.

1. *Principal or Conditional uses.* Principal or conditional uses for the R2 District are found on Table 3.34.
2. *Area and bulk requirements.* See Table 3.1.

#### **I. R3 Multi-family District.**

*Intent.* The R3 District is a moderate to higher-density residential zone that allows the development of multiple dwelling units on the same lot.

1. *Principal or Conditional uses.* Principal or conditional uses for the R3 District are found on Table 3.34.
2. *Area and bulk regulations.* See Table 3.1

**MJ.** *R4 Mixed Use District.*

*Intent.* The purpose of the R4: Mixed Use Zone District is to allow for the development of variety of residential, commercial, business and employment land uses within pedestrian-oriented neighborhoods.

1. *Principal or Conditional uses.* Principal or conditional uses for the R4 District are found on Table 3.[34](#).
2. *Area and bulk regulations.* See [Table 3.1](#) [Figure 3-6](#).
3. *Maximum density or lot coverage.*
  - a. Accessory dwelling units in the R4 District count as .33 units towards the overall project density.

**NK.** *R5 Manufactured/Mobile Home Park District.*

*Intent.* The intent of this district is to provide for the development of manufactured home parks and subdivisions. Mobile Home Parks or subdivisions are also included within this District.

1. *Principal or Conditional uses.* Principal or conditional uses for the R5 District are found on Table 3.1.
2. *Area and bulk requirements.* See [Figure 3.6](#) and [Table 3.13](#).
3. *Maximum density.* Development in the R5 District shall not exceed 12 dwelling units per gross acre.
4. *Open space required.* Development in the R5 District shall provide public open space (parks, trails, open lands) per Chapter 30, Section 2 of this Code.

**OE.** *Table 3.2 Revised Lot and Density Standards Commercial and Industrial.*

**PM.** *C1 Neighborhood Commercial District.*

*Intent.* The Neighborhood Commercial District is intended to provide for the development of mixed use, retail, commercial and service businesses to support residential neighborhoods. New development or redevelopment in this district should be scaled in size to fit the adjacent neighborhood. This District does not support larger retail, public, religious or other uses commonly referred to as “big box” type uses.

1. *Principal or Conditional uses.* Principal or conditional uses for the C1 District are found on Table 3.3.
2. *Area and bulk requirements.* See [Table 3.2](#).

**QN.** *C2 General Commercial District.*

*Intent.* The C2 District is intended to be a setting for development of a wide range of service businesses, retail uses, offices and personal and business establishments. This District supports both smaller (neighborhood) commercial and retail uses as well as larger uses (commercial, retail, religious, etc.) commonly referred to as “big box” uses.

1. *Principal or Conditional uses.* Principal or conditional uses for the C2 District are found on Table 3.3.
2. *Area and bulk requirements.* See [Table 3.2](#).

**RO.** *M-1 Light Industrial District.*

*Intent.* This district is intended to provide locations for a variety of workplaces including light industrial uses, research and development offices and institutions. This district is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, and child care.

1. *Principal or Conditional uses.* Principal or conditional uses for the M1 District are found on Table 3.3.
2. *Area and bulk requirements.* See [Table 3.2](#).

**SP.** *M2 Industrial District.*

*Intent.* This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations.

1. *Principal or Conditional uses.* Principal or conditional uses for the M2 District are found on Table 3.3.
2. *Area and bulk requirements.* See Table 3.2.

**TQ. Transitional District.**

*Intent.* The intent of the T: Transitional District is to accommodate properties which are in a transitional stage with regard to their ultimate use or plans for development.

3. *Permitted uses.* The following uses are permitted by right in the T district:

No use shall be permitted except such use as existed on the date the property was placed in this zoning district. No permanent structures shall be constructed on any land in this district, except that which is expressly authorized by the Town Board at the time of zoning property into this district. The Town Board of Trustees may grant a variance permitting expansion of any existing use, or installation or enlargement of a permanent structure to be used in connection with the use of the property, at the time of such zoning upon the following conditions:

- a. The owner of the property, prior to the Town Board meeting at which the zoning is to be heard, shall submit a site plan showing in reasonable detail the proposed expansion of current use or installation of permanent structure on the property.
- b. The Town Board shall grant such variance upon a finding that the strict application of the zoning ordinance would result in exceptional or undue hardship upon the owner of the property and that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this code.

2. *Change of zoning.* The owner of any property in the T District may at any time petition the Town to remove the property from this zoning district and place it in another zoning district, in accordance with the procedures and requirements of this code.

**UR. Planned Unit Development (PUD) Overlay District.**

*Intent.* This Planned Unit Development (PUD) Overlay District is intended to be used as an overlay zone that supplements one or more underlying standard zone districts as found in this Code. The PUD Overlay District is intended to permit greater flexibility in the application of specific zoning standards and greater freedom in the allowable range of land use types.

### **30-3-105 Setbacks and encroachments — all districts**

**A. Setback requirements (all districts).**

1. Permanent features allowed within setbacks shall include:
  - i. Cornices, canopies, eaves or other similar architectural features if they extend no more than two feet into a required setback and if they do not encroach into or overhang an easement;
  - ii. Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six feet into the required setback;
  - iii. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
  - iv. Fire escapes, provided they do not extend more than six feet into the required setback;
  - v. Uncovered patios, porches and decks not more than 30 inches above grade, provided they do not extend more than 30 percent of the required setback distance into the required setback area; and
  - vi. HVAC units may encroach up to two feet into the required setback.
2. Permanent features allowed within both setbacks and easements include:
  - i. Landscaping; and
  - ii. Fences and decorative walls, subject to height and other restrictions of this Chapter.

**3. Permanent features not allowed within an easement include:**

- i. Window wells below grade of the structure;

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- ii. Building egress located below the grade of the structure;
- iii. Structures, concrete pathways, sidewalks, fences and other features prohibiting the flow of stormwater through a drainage easement.

4. Drainage easements shall be kept clear of any obstruction.

## VESTING OF PROPERTY RIGHTS

### 30-4-102 General provisions

~~F~~A.~~H~~ Request for site specific development plan approval. Landowners wishing the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., as amended, shall request that approval in writing at least 30 days prior to the date that the approval is to be considered. Failure of the landowner to request such an approval renders the plan not a "site specific development plan," and no vested property rights shall be deemed to have been created.

~~F~~B.~~H~~ *Notice and hearing.* No site specific development plan shall be approved until notice of such hearing has been published by the Town at least five days before the hearing, and after a public hearing called for that purpose. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, interested persons shall have an opportunity to be heard.

~~F~~C.~~H~~ *Approval, conditional approval, effective date, amendments, referendum and review.*

## Subdivision Standards

### 30-6-101 General provisions

The provisions of this Section shall apply to any and all proposals for subdivision of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Section and the Code. The submittal of an application for approval pursuant to the provisions of these Subdivision Regulations constitutes consent to, and agreement to comply with all of its applicable provisions.

This Section establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Town Comprehensive Plan; Parks and Open Space Master Plan; Trails Master Plan, Transportation Master Plan; overlay districts including the property; Engineering standards and specifications; , the Parks, Open Space and Trails (PORT) Master Plan, this Code and applicable regulations, policies and other guidelines as amended. The submittal of a subdivision n-application for consideration approval pursuant to the provisions of these Subdivision Regulations constitutes an agreement and the implied consent of the owner or applicant to comply with all of its applicable provisions.

Scheduling of the review of development applications before the Planning Commission or Town Board is at the discretion of the Town of Berthoud. Any change to a development application by an Applicant after formal submittal of that application to the Town constitutes a decision by the Applicant that may result in the Town deciding to continue or cancel ~~vacate~~ the Hearing and/or void the pending application. The Town may then reschedule or cancel the review of the development application at its discretion.

Prior to formal submittal of any subdivision application identified in this Section, the applicant shall have a pre-application meeting with the Community Development Division. The procedures found in Table 3.10 shall be followed. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter. The Community Development Planning Department will typically provide to an applicant an individualized submittal checklist indicating the documents and information needed, quantities of those documents to be submitted, and the referral agencies that will be

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involved in the review process. The applicants are responsible for being fully familiar with all applicable provisions of these Subdivision Regulations. At the time of submittal, the applicants will ~~submit application materials in a form acceptable by the Town, provide sufficient pre packaged packets that are ready for mailing to the list of recipients provided by the Town.~~ Upon determination by staff that a submittal constitutes a complete development application, the Town will forward the packets to each referral agency.