



Town of Berthoud Planning Commission
Town Hall
807 Mountain Avenue
Thursday, August 24, 2023, at 6:00 p.m.

1. Call Meeting To Order
2. Pledge Of Allegiance
3. Roll Call
4. Approval Of Meeting Minutes
Introduction By: Anne Johnson

Documents:

[AUGUST 10 2023 MEETING MINUTES.PDF](#)

5. Amendment To Chapter 30 Of Berthoud Municipal Code - Public Hearing
To consider an amendment to the Municipal Code including Sections 30-6-112, 30-1-116, the Definition Section, 30-5-102, 30-3-106, Table 3.3, Chapter 30-7 and Section 18-4-15.A
Introduction By: Anne Johnson

Documents:

[MEMO RE CHANGES TO CHAPTER 30 OF CODE.PDF](#)
[ORDINANCE 1322.PDF](#)
[ORDINANCE 1322 EXHIBIT A.PDF](#)

6. Flood Prevention Code - Public Hearing
To consider a request to adopt the Town of Berthoud Flood Damage Prevention Code as Section 12 to Chapter 30 of the Berthoud Municipal Code.

Introduction By: Anne Johnson

Documents:

[MEMO RE FLOOD PREVENTION CODE.PDF](#)
[ORDINANCE 1323.PDF](#)
[ORDINANCE 1323 ATTACHMENT.PDF](#)
[FLOOD ORDINANCE CHECKLIST BERTHOUD FROM CWC.B.PDF](#)
[RESOLUTION 2021-2 APPROVING NFIM.PDF](#)

7. Report By Staff

8. Adjourn

Join Zoom Meeting <https://us02web.zoom.us/j/86049631362> Meeting ID: 860 4963 1362
One tap mobile +17193594580,,86049631362# US

Individuals needing special accommodation may request assistance by contacting the Town Clerk at 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.



Planning Commission Minutes – August 10, 2023

1. **Call to Order** – The Planning Commission convened a regular meeting on August 10, 2023. Commissioner Anderson called the meeting to order at 6:00 p.m.

2. **Pledge of Allegiance**

3. **Roll Call** – Members present:

Karen Anderson	(Chairperson)
Chris Kurtz	(Vice Chairperson)
Jon Van Benthem	(Secretary)
Melissa Feldbush	(Commissioner)
Abigail Smith	(Commissioner)
Brett Wing	(Commissioner)

Staff present:	Christian Samora	(Town Clerk)
	Tawn Hillenbrand	(Senior Planner)
	Will Charles	(Baseline – Principal Planner)
	Jonathan Mitchell	(Permit Technician)
	Teri Reger	(Planning Technician)
	Erin Smith	(Town Attorney)

4. **Approval of Minutes** – Minutes from the June 22, 2023 and July 27, 2023 Planning Commission Meetings.
MOTION made by Commissioner Van Benthem to APPROVE the Minutes for June 22, 2023 and July 27, 2023.
SECONDED by Commissioner Kurtz.
With those all in favor, THE MOTION CARRIED.

5. **Public Hearing: Ludlow Sliver Annexation and Rezoning**

Senior Planner Hillenbrand introduced the Applicant's request for rezoning to Suburban Residential (SR) from Larimer County Rural Residential (RR-2) in conjunction with an annexation request.

Public Comment was opened at 6:07 p.m.

Public Comment was closed at 6:07 p.m.

MOTION made by Commissioner Kurtz to forward a MOTION OF APPROVAL of the request to zone the 0.436-acre property to SR—Suburban Residential to the Town Board of Trustees should they agree to the Annexation request. The motion of approval is due to the findings in the Staff Report including compliance with the Land Use Code, the Criteria for Approval found in Section 30-3-110(D), and the Comprehensive Plan.

SECONDED by Commissioner Wing.

With all in favor, THE MOTION CARRIED.

6. Public Hearing: Vantage 7th Filing Final Plat

Will Charles (Baseline) introduced the Applicant's request for a Final Plat for the creation of 60 residential lots intended for Single Family Attached (duplexes) residential. This would create 60 units total.

Public Comment was opened at 6:18 p.m.

Public Comment was closed at 6:18 p.m.

MOTION made by Commissioner Wing to APPROVE the Final Plat application for the 7th Filing of Vantage due to the findings in the Staff Report including compliance with the Land Use Code, the Criteria for Approval found in Section 30-3-108(C), the Vantage Neighborhood Master Plan, and the Comprehensive Plan.

SECONDED by Commissioner Van Benthem.

With all in favor, THE MOTION CARRIED.

7. Public Hearing: Westside Crossing Commercial Preliminary Plat

Will Charles (Charles) introduced the Applicant's request for approval of a Preliminary Plat for the creation of seven (7) commercial lots.

Public Comment was opened at 6:57 p.m.

John Terrell shared concerns about the traffic and crosswalks from the project.

Public Comment was closed at 7:01 p.m.

MOTION made by Commissioner Van Benthem to forward a MOTION FOR APPROVAL of the Preliminary Plat for Westside Crossing (Commercial) Replat 2 to the Town Board of Trustees. The motion for approval is due to the findings in the Staff Report including compliance with the Land Use Code, the Criteria for Approval found in Section 30-6-107(B), and the Comprehensive Plan. As stated in the Staff Report, this motion is conditional upon two conditions:

- 01. The applicant addresses outstanding staff comments found as attachments to the Staff Report prior to recording the Preliminary Plat.**
- 02. A request that a Traffic Summary be provided to the Town Board of Trustees that elaborates on traffic to-and-from the site, as well as commercial traffic within the site. The Planning Commissioners would also strongly urge the Applicant to make sure the traffic engineer is available for conversation and discussion with the Town Board of Trustees.**

SECONDED by Commissioner Smith.

With all in favor, THE MOTION CARRIED.

8. Reports by Staff

Commissioner Anderson announced there will be a new Planning Commissioner at the next Planning Commission meeting on August 24. Please welcome Nick Semedallas!

9. Adjourn –

The meeting was adjourned at 7:34 p.m.

CHAIRPERSON

SECRETARY

PLANNING COMMISSION INFORMATION

COMMUNITY DEVELOPMENT DEPARTMENT



Meeting Date:	August 24, 2023
Agenda Title/Subject:	Public Hearing to consider an amendment to the Municipal Code including Sections 30-6-112, 30-1-116, the Definition Section, 30-5-102, 30-3-106, Table 3.3, Chapter 30-7 and Section 18-4-15.A Ordinance 1322 (2023)
Type of Item:	Public Hearing
Purpose:	Request for approval to amend certain provisions in the Municipal Code through Ordinance 1322 (2023)
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1322
- Exhibit A to Ordinance 1322 (2023)
- Legal Publication

BACKGROUND:

It is necessary to update the Municipal Code to keep pace with the Comprehensive Plan update, to clarify intent of the Land Use Code, and to provide surety and transparency in the land use application process.

UPDATE/NEXT STEPS:

After the Planning Commission public hearing, the Board of Trustees will hear the request to amend the Code at their hearing on September 12, 2023. If approved, future development proposals will be required to provide information requested and will be afforded a more clear path forward with land use applications.

FISCAL IMPACT AND FUND SOURCE:

There is no negative impact to the Town in consideration of this request.

COMMUNITY TOUCHSTONES:

Consideration of this request does not negatively impact community touchstones.

RECOMMENDED ACTION(S):

Staff recommends approval of the request. Staff has collaborated with internal staff and consulting team members to clarify the intent of the code and to be reflective of the Comprehensive Plan amendment.

See suggested motions below and note that these are suggestions and may be amended by the Planning Commission as needed for their recommendation to the Town Board of

Trustees.

Suggested Motion for Approval:

I move to forward a recommendation of approval of the proposed changes to Titles 30 and 18 of the Berthoud Municipal Code. This recommendation of approval is outlined in the attached Ordinance 1322 (2023) and includes supporting information in the Ordinance attachment.

Suggested Motion for Denial:

I move to forward a recommendation of denial of the proposed changes to Titles 30 and 18 of the Berthoud Municipal Code to the Board of Trustees for the following reasons:

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1322
(SERIES 2023)**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO AMENDING THE
FOLLOWING SECTIONS OF THE LAND USE CODE:
30-6-112 TO REFINE APPLICATION REQUIREMENTS FOR SITE PLANS; 30-1-116 AND
TABLE 3.3 TO AMEND THE DEFINITION OF CHILD CARE HOME AND TO SEPARATE
THE DEFINITIONS OF INN AND INTEGRATE; 30-5-102 TO UPDATE THE CONSTRUCTION
SITE COMPLIANCE REGULATIONS; 30-3-106 TO CLARIFY THE PURPOSE OF A
CONDITIONAL USE PERMIT; CHAPTER 30-7 TO CLARIFY THE INTENT OF THE SIGN
CODE TO MEET INTERNATIONAL DARK SKY STANDARDS;
AND AMEND SECTION 18-4-15.A TO CLARIFY DISPOSAL OPTIONS OF DECEASED
ANIMALS**

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 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 August 24, 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 30-6-112, 30-1-116, Table 3.3, Sections 30-5-102, 30-3-106, Chapter 30-7, and Section 18-4-15.A 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, ADOPTED, AND APPROVED on this 12th day of September, 2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

EXHIBIT A:

Section 1: To refine the intent, process and application requirements for administrative Site Plans.

The Criteria for approval contains requirements for any new construction such as setbacks rather than reflecting on the goals and visions exemplified in the Comprehensive Plan update as well as the design and development standards of the Town. To refine the intent, process and application requirements for administrative Site Plans.

30-6-112 Site ~~P~~lan Review

- A. *Site Plan Review Purpose.* The site plan review process is a prerequisite to obtaining a building permit for all multi-family (excluding duplexes), commercial, and industrial developments in accordance with the land use table contained in the Zoning Section of this Chapter. The site plan review process shows how the lot will be developed so that the Town can ensure ~~that~~ the site design will be in compliance with the Development Code and all overlay districts, standards and specification, and master plans affecting the property. ~~all Town regulations and this Code.~~
- B. *Site Plan process.*
1. *Site Plan application.*
 - f. Final landscape, ~~and~~ open space, and buffer plan. Provide a plan illustrating an 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.
 - g. Final irrigation plan. Provide a plan illustrating how the proposed landscape material will be irrigated.
 - h. 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.
 - ig. 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.
 - j. 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.
 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.
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3. *Staff reviews application and prepares comments.* Staff will review the application materials site plan map to ensure it is consistent with the site plan review criteria, the Comprehensive Plan and any overlay districts affecting the property. Staff will forward the application materials to appropriate referral agencies. 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 application materials and resubmit a revised copy to the Town.

5. *Development Agreement.* Staff may require that the applicant execute a Development Agreement as detailed in this Chapter of the Municipal Code to assure the construction of on-site and off-site improvements as a condition of approval of the site plan.

8. *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.

c. Application process conclusion. The applicant shall satisfy all conditions of approval and provide adequate information to Town Staff. Once materials have been completed to the satisfaction of Staff and in accordance with the approval, the applicant shall finalize the Development Agreement, if not completed, and shall provide materials requested by Staff to Staff for recording with the records of the County Clerk and Recorder.

C. *Site Plan review criteria.* In addition to all requirements of this Code, the site plan must meet the following review criteria:

~~1. All of the information required on a site plan is shown.~~

~~2. The lot size and lot dimensions are consistent with what is shown on the approved final plat.~~

~~3. No buildings or structures infringe on any easements.~~

~~4. The proposed site grading is consistent with the requirements of any applicable adopted storm drainage criteria or master drainage plans.~~

~~5. The density and dimensions shown conform to Section 3: the particular zoning district the project site is located within Zoning.~~

~~6. The applicable provisions of this Chapter have been met and the proposed improvements conform to this Chapter and the Comprehensive Plan.~~

1. Application materials are complete.

2. The proposed land use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulations unless a variance is being concurrently requested.

3. The proposed land use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.

4. The proposed land use will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm

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- drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
5. The proposed land use will not substantially alter the basic character of the district in which it is in or impair the development or redevelopment potential of the district.
 6. The proposed land use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
 7. Potential negative impacts of the proposed land use on the rest of the neighborhood or of the neighborhood on the proposed land use have been mitigated through setbacks, architecture, screening, landscaping, site arrangement or other methods. The applicant shall, at a minimum, satisfactorily address impacts including: traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
 8. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

D. Amendments to approved Site Plans.

1. Minor variations in the location of structures, improvements, or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff. Such changes shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
2. Changes to approved site plans that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. ~~Such amendments shall require Planning Commission review and approval to become effective.~~ A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

Section 2: To clarify the permit intent, process and requirements for a Use by Special Review. A Use by Special Review may have conditions of approval and development standards. Uses by Special Review may be approved, denied, or approved with conditions. The changes proposed do not alter the permitting process. The changes proposed clarify the terminology and includes more robust review criteria and expectations for application materials as well as reflecting on the goals and visions exemplified in the Comprehensive Plan update and the design and development standards of the Town.

30-3-106 Conditional Uses, Use by Special Review

A. *Purpose.* In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a Use by Special Review conditional use or use by special review permit. ~~For purposes of this Section, the term conditional use applies to both conditional uses and uses by special review.~~ Because of their unusual or special characteristics, these conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to assure compatibility and harmonious development between adjacent land conditional uses, surrounding properties, the vision of the Comprehensive Plan for the property and surrounding area, applicable overlay districts, and the Town at large. Use by Special Review permits Conditional uses may be permitted, denied or permitted subject to conditions of approval, such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses proposed in the permit application will be in accordance with the Conditional Use Use by Special Review criteria. The scope and elements of any Use by Special Review conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for a Use by Special Review Conditional Use Permits shall be denied.

B. *Conditional Use review process.*

1. ~~Optional Pre-application conference.~~ The applicant ~~shall~~may attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the conditional-proposed use, submittal requirements and review process.
2. ~~Conditional Use by Special Review~~ application submittal. The applicant shall submit the complete conditional use application package to the Town. The application ~~and shall request that the application~~ be reviewed by Town staff, the Planning Commission and Board. Application materials Conditional use requests shall include the following:
 - a. Land use application form.
 - b. Application fee and fee agreement.
 - c. Use by Special Review map – the map shall be a minimum of 18 inches by 24 inches and shall provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (no greater than one inch equals 50 feet) and date of preparation.
 - iii. Vicinity map.
 - iv. Address of project.
 - v. Legal description of property.
 - vi. Name, address and phone number of property owner.
 - vii. Name, address and phone number of person or firm responsible for plan.
 - viii. Lot size (square footage).
 - ix. Bearings and distances of all lot lines.
 - x. Existing and proposed easements and rights-of-way.

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- xi. Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and buildings.
 - xii. Gathering areas for people.
 - xiii. Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
 - xiv. Existing and proposed two-foot contours.
 - xv. Existing waterways on or adjacent to the site.
 - xvi. Finished floor elevations for all structures.
 - xvii. Footprint (including roof overhangs and eaves, decks, balconies, outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.
 - xviii. Existing structures and their use.
 - xix. Square footage of the proposed building(s) and the footprint of the proposed building(s).
 - xx. Proposed structure height.
 - xxi. For commercial and industrial uses, the type of activity and number of employees.
 - xxii. For multi-family residential, the number of residential units and bedrooms per unit.
 - xxiii. Location of proposed signs and lights.
 - xxiv. Specifications for the signs and lights, including type, height and general conformance to the Code. For commercial and industrial uses, a photometric plan prepared by a qualified electrical or lighting engineer shall be submitted that depicts all lighting fixtures and the light spread (in footcandles) of these fixtures across the site to all property boundaries.
 - xxv. Proposed traffic controls and striping for parking areas (all lanes, driveways, and parking spaces must be dimensioned).
 - xxvi. Trash disposal areas and enclosures including specifications for enclosures.
 - xxvii. Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
 - xxviii. Location and size of water and sewer lines to which the service connections will be or are made.
 - xxix. Location and size of water meter(s).
 - xxx. Location and size of backflow-prevention devices.
 - xxxi. Indication of how and where perimeter drain will drain (if one exists).
 - xxxii. Location of existing electrical lines and poles on or adjacent to the site.
 - xxxiii. Location of proposed electrical service connection and meter location.
 - xxxiv. Location of electric transformer.
 - xxxv. Location of all fire hydrants. If none exist on site, note distance and direction of the closest hydrant adjacent to the site within 500 feet.
 - xxxvi. Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
 - xxxvii. The distance from the proposed building(s) or structure(s) to adjacent lot lines, easements, and adjacent structures.
 - xxxviii. A land use chart (table).
 - xxxix. Certificate blocks for signatures of owner, surveyor, utility providers, and Town approval, as applicable. Refer to the Site Plan section of this Chapter for examples.
- db.** Title commitment. The title commitment must be current and dated no more than 30 days from the date of conditional use application submittal.
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~~ee.~~ Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how the criteria for approval of a Use by Special Review can be met~~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.

~~fe.~~ 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. ~~Preliminary building plans and elevations. Provide sufficient detail to indicate the dimensions, general appearance and scale of all buildings to illustrate how the proposed structure(s) will be consistent with the Architectural Guidelines and any Overlay Districts identified in this Chapter.~~

~~g.~~ Certified drainage report – A certified drainage report, including an erosion control study and plan.

~~h.~~ 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.

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

~~j.~~ 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.

~~k.~~ 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.

~~lg.~~ Surrounding and interested property ownership report — Provide the Town with a current 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 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 and provide the source of the information.

~~mf.~~ Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.

3. Conditional Special Use Permit 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. Staff reviews application and prepares comments. Staff will review the application to ensure it is consistent with the review criteria. Referral agencies will also have the opportunity to review the application materials and provide comments to Town staff. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the application materials can be recommended for approval, conditional approval, or if staff will be recommending denial of the application. This report and all referral agency responses will be forwarded to the applicant.

5. Applicant addresses staff comments. Applicant shall make all necessary changes to the application materials and resubmit a revised copy to the Town.

6. Development Agreement. Staff may require that the applicant execute a Development Agreement as detailed in this Code to assure the construction of on-site and off-site improvements as a condition of approval of the site plan.

74. 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, and all mineral interest owners of record, oil and gas lessees for the property, ~~and to the appropriate referral agencies per this Code.~~ The ~~notice 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.

85. 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.

96. Board public hearing and action on the ~~Conditional Use~~ application. 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.

10. Application process conclusion. The applicant shall satisfy all conditions of approval and provide adequate information to Town Staff. Once materials have been completed to the satisfaction of Staff and in accordance with the direction of the Board, the applicant shall finalize the Development Agreement, if not completed, and shall provide materials requested by Staff to Staff for recording with the records of the County Clerk and Recorder.

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

1. Application materials are complete.
2. The ~~conditional-proposed land~~ use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulations unless a variance is being concurrently requested.
2. The ~~conditional-proposed land~~ use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
3. The ~~conditional-proposed land~~ use will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
4. The ~~conditional-proposed land~~ use will not substantially alter the basic character of the district in which it is in or impair the development or redevelopment potential of the district.
5. The ~~conditional-proposed land~~ use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
6. Potential negative impacts of the ~~conditional-proposed land~~ use on the rest of the neighborhood or of the neighborhood on the ~~conditional-proposed land~~ use have been mitigated through setbacks, architecture, screening walls, landscaping, site arrangement or other methods. The applicant shall, at a minimum, satisfactorily address impacts including: traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
7. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

Section 3: Amend the definition section of the Land Use Code to incorporate changes to child care rules and regulations enacted by the State of Colorado.

30.1.116.A

65. *Child care home* means a residential home providing care to no more than ~~six~~ **twelve** children.

~~66. *Child care home, large* means a family child care home that provides care for seven to 12 children.~~

Table 3.3

	AG	TN	R1	R2	R3	R4	R5	C1	C2	M1	M2
☒ Principal Use by Right											
☐ Conditional Use											
<i>Residential land uses</i>											
Child care home (up to 12 6 persons)	☒	☒	☒	☒	☒	☒		☒			
Child care home, large	☒	☐	☐	☐	☐	☐		☒			

Section 4: To clarify the intent of Section 18.4-15 for animal disposal following death.
18-4-15 Disposal of Dead Animals

- A. If any animal dies in the Town, it shall be the duty of the keeper of the animal to cause the animal to be at once ~~removed from the Town and~~ buried at a sanitary landfill, cremated, or rendered at a professional rendering service facility. No person shall dispose of any dead animal by dumping said animal on any public or private property or disposing of the animal by any means other than those set forth in this Section B. In the event the owner of any such animal shall neglect or refuse to remove the same within 24 hours after its death, the Town may cause the animal to be removed at the expense of such owner.

Section 5: To separate the definition of “Inn” and “Integrate” found in Section 30-1-116. 208 and renumber subsequent definitions accordingly.

- **208.** *Inn* means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are less than 12 guest rooms.
- **209.** *Integrate* means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

Section 6: To clarify the intent of keeping construction sites in compliance with State regulations regarding stormwater management, sites clear of debris, and to establish standards mitigating common construction nuisance conditions.

30-5-102 Construction Rules and Regulations

A. *Applicability and Purpose.* This section shall apply to all new development or re-development construction projects that include work visible to the public within the Town except for the renovation of an individual single-family home.

To ensure ~~all that any~~ Construction Activity conducted within the Town is done in the most sensitive manner possible and to minimize impacts ~~to guests and Owners~~, the following Construction Regulations shall be enforced during the construction period of all development projects unless otherwise approved by the Town. This document shall be known as the "Construction Rules and Regulations" and may be referred to herein as the "Regulations." The Town has the power to amend these Regulations from time to time, without notice. Each Owner shall ensure that all Construction Activity ~~that is performed~~ on their Construction Site shall be performed in accordance with the following requirements. Anyone found in violation of these rules shall be subject to citation, fines and other enforcement actions as allowed by the Town Municipal Code and Development Code.

1. Construction Activity is defined as any building, infrastructure, and/or construction related activity conducted outdoors at any time. Interior construction activity ~~in no way~~ conducted ~~entirely indoors~~~~outdoors~~, such as painting and some finishing work, is exempt from the requirements of this ordinance.
2. Large Construction Vehicle is defined as vehicles with more than two axels engaged in activity related to Construction Activity.

B. *Drainage, Erosion Control, and Vegetation Management.* The Town requires the owner or operator of a construction site to receive permit certification issued by the State of Colorado for any proposed construction activity that falls under the category of a General Construction Stormwater Permit as defined by the Colorado Department of Public Health and Environment (CDPHE). In addition, the Town must review, approve and permit a site-specific Stormwater Management Plan (SWMP) submitted by the owner of the construction site prior to the Town approving the construction activity. The ~~o~~Owner of the ~~c~~Construction ~~s~~Site is responsible for preparing and submitting the SWMP to the Town~~such plans~~. In no event shall silt, mud, debris, or other stormwater related issues be allowed to accumulate on lots, roads, Rights-of-Way (ROW), or other public areas for more than 72 hours.

1. In addition to implementing, monitoring, and updating the SWMP throughout construction, the Owner shall not allow standing water exceeding an area greater than areas over 25 square feet to remain in place longer than 72 hours. Temporary pumps and associated piping may be used to remove areas of standing water and but shall ~~must~~ conform to ~~any~~ best practices identified in the SWMP.
2. All open space areas in each phase of a development are to be seeded or landscaped pursuant to the approved SWMP, erosion control plan, and approved ~~or~~ Landscape Plans prior to the time when 51 percent of the building permits are being issued in said phase. Delays associated with weather will not be granted.
3. Any material storage on site shall be done in such a way that proper vegetation management can continue unimpeded.

C. *Construction Equipment and Material Storage.* Each Owner or Owner's Representatives and their contractors shall ensure ~~that~~ all construction material is stored in a designated materials storage area.

Such storage area shall only be located on lots with approved permits and shall be located to minimize the visual impact from adjacent properties and roadways. Construction materials shall not be stored in the Right-of-way for more than 72 hours without prior approval from the Town. Any materials stored with in Right-of-way shall not impede pedestrian and/or vehicular traffic and shall be marked with high visibility cones or other signage.

D. *Debris and Trash Removal.* Owners, Owner's Representatives, and their contractors shall be responsible for assuring ~~that~~:

1. ~~At the end of each day, all trash and debris on the Construction Site is cleaned up and stored in proper containers~~ ~~or organized piles~~ and not permitted to be blown about the Site or adjacent property, and

2. ~~At least once a week, all trash and debris are removed from the Construction Site to a proper~~ ~~dumpsite located off the Property.~~

3. All trash and debris containers shall be located on the Construction Site, ~~kept off the road right-~~ ~~of-~~ way, and not on including ~~sidewalks or,~~ ~~and~~ adjacent property except for in pre-approved storage areas. Any trash and debris containers shall be set in such a way that they do not create visual barriers for traffic and pedestrians. Determination of such barriers shall be at the sole discretion of the Town.

E. *Construction Hours and Noise.* Construction Activities shall be limited to the following hours of operation:

1. Monday through Friday: 7:00 a.m.; 7:00 p.m. or Sundown, whichever occurs earlier

2. Saturday: 8:00 a.m. — 7:00 p.m. or Sundown, whichever occurs earlier

3. Sunday: 9:00 a.m. — 4:30 p.m.;

4. Entrance to Construction Sites ~~work site~~ for SET-UP only, is permitted one half hour prior to hours of operation. (e.g. M—F 6:30 a.m. ~~— Sat. 7:30 a.m.~~) During the half-hour set-up, the operation of heavy equipment, compressors, impact tools, or any activity that creates loud noise shall be prohibited. At all times each Owner shall use reasonable efforts to minimize external noise resulting from Construction Activity. No loud music shall be permitted.

F. *Large Construction Vehicle Routes.* Delivery and haul routes for all vehicles with more than two axels shall avoid all local or neighborhood roads outside of the construction site. Large Construction Vehicles as defined herein must obey all posted speed limits and traffic regulations within the Town.

G. *Prohibited General Practices.* All Owners will be responsible for the conduct and behavior of their Owner's Representatives in the Town. The following practices are prohibited within the Town and will result in an automatic fine:

1. Changing oil on any vehicle or equipment on the Construction Site without spill protection, containment and safeguards. This activity shall take place in an approved containment area;

2. Allowing concrete suppliers and contractors to clean their equipment on any property within the Town of Berthoud lot, roadway, right-of-way, ditch, easement, or other property without prior approval;

3. Removing ~~any~~ rocks, plant material, topsoil, or similar items from the ~~any~~ property of others within Town;

4. Using disposal methods or units other than those approved by the Town;

5. Careless disposition of cigarettes and other flammable materials;

-
6. Disturbing or removal of any native plant materials not identified for removal on the approved construction plans;
 7. Disruptive activity including, but not limited to, public drinking, public nuisances, and disturbing the peace;
 8. Working before or after the scheduled construction hours without prior permission;
 9. Driving haul trucks with uncovered loads in the Town.
 10. Storing building or landscape materials within the right-of-wayROW, even prior to Town acceptance, for more than 72 hours.
- H. *Roadway Maintenance.* Owners and their contractors and sub-contractors shall keep all Town roads and road rights-of-way free and clear of all materials, rubbish, and debris resulting from Owner's Construction Activity and shall repair and revegetate any damage to roads, road rights-of way, landscaping, and other streetscape improvements within the Town caused by Construction Vehicles used in connection with Construction Activity by Owner's or Owner's Representative. Construction Activity. No road cuts, deletions, or additions shall be made without a permit from the Town EngineerPublic Works Director, or their designee. Contractors must keep the Site driveway and all adjacent roads clean from dust, dirt, mud, and debris at all times. If a contractor fails to keep roads clean and if the Town arranges for cleaning, the cost of cleaning will be billed to the Owner, in care of the contractor, at a rate then set by the Town.
- I. *Sanitary Facilities.* On-Site, enclosed, chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be located to minimize any adverse impacts on adjacent lots. In no instance shall chemical toilets be placed within any road right-of-way or on the road.
- J. *Signage.* At least one temporary construction sign, a minimum of 12 square feet and a maximum of 32 square feet in size, shall be located within the Site boundary and shall be easily visible and readable from the adjacent roadway or entry to the Site. The sign shall be either attached to construction fencing in a secure method; or posted separately with stable sign supports. Sign posting shall be done in a manner to withstand weather including wind. The sign is temporary and shall be removed following construction completion. The sign must contain the information shown below.
1. Project logo and/or namePROJECT LOGO AND/OR NAME
 2. Job site address
 3. Developer/Owner name and phone number: {Name and Phone #}
 4. -Contractor name and phone number Contractor: {Name and Phone #}
 5. Builder name and phone number: {Name and Phone #}
 6. CDPHE Number and phone number for CDPHE Inspector
 7. Job Site Rules
-

Section 7: To clarify the Sign Code to meet International Dark Sky requirements.

30-7-101 Purpose and intent

- A. The regulations in this Section are intended to coordinate the use, placement, physical dimensions, and design of all signs within the Town. The purpose of these regulations is to:
3. Provide a reasonable balance between the right of an individual to identify ~~their~~ ~~his or her~~ business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
 8. Ensure signs adhere to the Town's Dark Sky regulations.

30-7-102 Sign permits and administration

- C. *Application for a sign permit.*
1. *Sign permit application requirements.* Applications for sign permits shall be made in writing on forms furnished by the Town. The application shall contain:
 - f. A description of the lighting to be used, if applicable and a narrative detailing how the proposed lighting will be compliant with the Town's Dark Sky regulations;
- D. *Sign permit review criteria.* The following review criteria will be used by the Town to evaluate all sign permit applications:
7. Sign would not detract from the pedestrian quality of a street or area, if applicable; ~~and~~
 8. Sign meets the Town's Dark Sky standards; and
 - 9 8. Sign would not add to an over-proliferation of signs on a property or area.

30-7-105 Prohibited signs

- A. *Prohibited signs.* The following privately owned or sponsored signs are inconsistent with the purposes and standards in this Section and are prohibited in all zoning districts.
1. Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement, except for time and temperature devices, and signs which convey a static digital message such as a price sign at fueling stations.
 2. Electronic messaging signs are prohibited in the Town of Berthoud.

Renumber subsequent sections accordingly.

154. Any sign or sign structure which:

- a. Is internally illuminated.

Renumber subsequent sections accordingly.

30-7-107 Sign design

A. Design compatibility.

1. *Creative design encouraged.* Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The Town encourages imaginative and innovative sign design.
2. *Proportionate size and scale.* The scale of signs shall be appropriate for the building or property on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted upon.
- 4 5. *Landscaping.* Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer. A landscape plan for the sign base shall be provided.
- 5 6. *Reduce sign impact.* Because residential and commercial uses generally exist in close proximity, signs shall be designed, located and/or screened with landscaping so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.

B. Sign Illumination

9. Signs shall not be internally illuminated.

10.9. All commercial signs within 150 linear feet of a pre-existing residential structure or use, and visible from that structure, shall be dimmed to one-half the standard illumination level between the hours of 11:00 p.m. and 6:00 a.m. unless the hours outside those listed above are part of the normal business operation. A residence shall be deemed "pre-existing" for purposes of this Section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of this Section. Signage facing residential property must be able to extinguish or dim any lighting during the period listed above in order to avoid an unreasonable impact to residential properties. 30-7-109 Allowable sizes and specifications by type of sign

- F. ~~Electronic signs. An electronic sign uses display techniques that contain alphanumeric characters, graphics or symbols defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination device within the display area, including computer programmable, microprocessor controlled electronic displays and projected images or messages with these characteristics onto the sign face. Any sign utilizing electronic display techniques in whole or in part must meet Berthoud Dark Sky standards as well as the following operational standards:~~

- ~~1.—Duration. In all zone districts where allowed, the full sign image or any portion thereof must have a minimum duration of 15 seconds and must be a static display. No portion of the image may flash, scroll, twirl, change color, in any manner imitate movement, or meet the characteristics of a flashing sign.~~
- ~~2.—Transition. In all zone districts where a sign image changes, the change sequence must be accomplished by means of instantaneous re-pixelization.~~
- ~~3.—Brightness. Any electronic sign may not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 600 nits (candelas per square meter) between 11:00 p.m. and 6:00 a.m. as measured from the sign's face. If normal business hours~~

are outside of those listed above then the higher level of illumination may be allowed until close of business but no later than 1:00 a.m.

4. ~~*Dimmer control.*~~ Electronic signs must have an automatic dimmer control to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes as traffic hazard or is otherwise detrimental to the public health, safety or welfare.
5. ~~*Audio or pyrotechnics.*~~ Audio speakers or any form of pyrotechnics are prohibited.
6. ~~*Fluctuating or flashing illumination.*~~ No portion of any sign may fluctuate in light intensity or use intermittent, strobe or moving light or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any manner creates the illusion of movement.
7. ~~*Video display.*~~ No portion of any sign may change its message or background in a manner or by a method of display characterized by motion or pictorial imagery, or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes.

PLANNING COMMISSION INFORMATION

COMMUNITY DEVELOPMENT DEPARTMENT



Meeting Date:	August 24, 2023
Agenda Title/Subject:	Public Hearing to consider a request to adopt the Town of Berthoud Flood Damage Prevention Code as Section 12 to Chapter 30 of the Berthoud Municipal Code
Type of Item:	Public Hearing
Purpose:	Request for approval of the Town of Berthoud Flood Damage Prevention Code
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1323
- Section 12, Chapter 30 content
- Colorado Water Conservation Board approval of content
- Resolution 2021.2 Approval National Floodplain Insurance Maps
- Legal Publication

BACKGROUND:

The Town of Berthoud approved National Flood Plain Insurance Maps on January 12, 2021. Both Larimer and Weld Counties contacted property owners during the map revision process. The Town of Berthoud does not have Code language to support how the flood overlay district is to be managed. The Colorado Water Conservation Board (CWCB) has a model code and provides this to communities for regulation of activities in the flood overlay zones. This was used to create the proposed Code language for the Town of Berthoud.

UPDATE/NEXT STEPS:

After the Planning Commission public hearing, the Board of Trustees will hear the request to amend the Code at their hearing on September 12, 2023. If approved, future development proposals for building or land use activity in the flood overlay zone will need to follow the Town Code processes and procedures.

FISCAL IMPACT AND FUND SOURCE:

There is no negative impact to the Town in consideration of this request. For the Town to participate in the National Flood Insurance Program, the Town is required to have Code language to guide development that may occur in the overlay. By doing so, the Town's residents with property containing a flood overlay zone will be able to participate in the National Flood Insurance Program.

COMMUNITY TOUCHSTONES:

Consideration of this request does not negatively impact community touchstones.

RECOMMENDED ACTION(S):

Staff recommends approval of the request. Staff has collaborated with the State of Colorado's regulatory agency managing the flood program for the State, the CWCB. The CWCB has provided review of the proposed language and finds the Town of Berthoud proposed Code meets their standards.

See suggested motions below and note that these are suggestions and may be amended by the Planning Commission as needed for their recommendation to the Town Board of Trustees.

Suggested Motion for Approval:

I move to forward a recommendation of approval of the Town of Berthoud Flood Damage Prevention Code as Section 12 to Chapter 30 of the Municipal Code to the Board of Trustees. This recommendation of approval is outlined in the attached Ordinance and includes supporting the National Flood Insurance Rate Program and protecting the flood overlay district in the Town of Berthoud.

Suggested Motion for Denial:

I move to forward a recommendation of denial of the Town of Berthoud Flood Damage Prevention Code as Section 12 to Chapter 30 of the Municipal Code to the Board of Trustees for the following reasons: _____.

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1323
(SERIES 2023)**

**AN ORDINANCE ADOPTING THE TOWN OF BERTHOUD FLOOD DAMAGE PREVENTION
CODE, MUNICIPAL CODE CHAPTER 30, SECTION 12**

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 participate in the National Flood Insurance Program (NFIP) and must adopt and enforce floodplain management regulations that meet or exceed the minimum NFIP standards and requirements. These standards are intended to prevent loss of life and property, as well as economic and social hardships that result from flooding. In return for the local adoption and enforcement of floodplain management regulations, the Federal Emergency Management Agency (FEMA) provides the availability of flood insurance coverage within the community; and

WHEREAS, the State of Colorado adopted higher standards for floodplain management, which are outlined in the Rules and Regulations for Regulatory Floodplains in Colorado (Rules), 2 CCR 408-1, effective January 14, 2011, and updated January 14, 2022. The Rules are the effective minimum standards for the State of Colorado; and

WHEREAS, the Colorado Water Conservation Board supports the NFIP and serves as the state liaison with FEMA to coordinate activities and provide support, technical assistance, training, and outreach to local officials in the execution of their duties to identify, prevent, and resolve floodplain management issues; and

WHEREAS, the Town adopted FEMA Flood Insurance Rate Maps (FIRM) on January 12, 2021 through Resolutions 2020-16 and 2021-2; and

WHEREAS, FEMA provided notice to property owners impacted by the updated FIRM; and

WHEREAS, the adoption of Section 12 to Chapter 30 of the Berthoud Municipal Code meet state and federal requirements, and will improve safety for persons and property in the Town.

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

Section 1. The attached Section 12 to Chapter 30 shall be effective immediately and included in the Town Municipal Code.

Section 2. Interpretation: This Resolution shall be so interpreted and construed to effectuate its general purpose.

Section 3. Effective Date: The provisions of this Ordinance shall take effect immediately and shall apply to all development and construction permitted after such date.

INTRODUCED, READ, ADOPTED, AND APPROVED on this 12th day of September,
2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

CHAPTER 30 BERTHOUD DEVELOPMENT CODE

SECTION 12 FLOOD DAMAGE PREVENTION ORDINANCE

30-12-101. TITLE AND PURPOSE

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Board of Trustees of the Town of Berthoud, Colorado, does hereby adopt the following floodplain management regulations:

A. Findings of fact.

1. The flood hazard areas of the Town of Berthoud are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

B. Statement of Purpose

It is the purpose of this ordinance to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is located in a flood hazard area.

C. Methods of reducing flood losses. In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

30-12-102. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD – The flood which has a one percent chance of being equaled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - Any area of a building having its floor sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY – A structure or related infrastructure, but not the land on which it is situated, as specified in the Section regarding Standards for Critical Facilities, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See the Section regarding Standards for Critical Facilities.

DEVELOPMENT - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in

Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR - The community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

FLOODPLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPROOFING - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) – FEMA’s modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

MATERIAL SAFETY DATA SHEET (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – FEMA’s program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NO-RISE CERTIFICATION – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

30-12-103. GENERAL PROVISIONS

- A. *Lands to which this Ordinance applies.* The ordinance shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Berthoud, Colorado.
- B. *Basis for establishing the special flood hazard area.* The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "*The Flood Insurance Study for Larimer County, Colorado, and Incorporated Areas*", dated January 15, 2021; and "*Flood Insurance Study, Weld County, Colorado, and Incorporated Areas*", dated January 20, 2016, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the Town of Berthoud. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, and FIRMs on file and available for public inspection.
- C. *Establishment of floodplain development permit.* A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.
- D. *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the Town of Berthoud from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.
- E. *Abrogation and greater restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. *Interpretation.* In the interpretation and application of this ordinance, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under State statutes.
- G. *Warning and disclaimer of liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This ordinance does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Community or any official or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decision lawfully made thereunder.

- H. *Severability.* This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

30-12-104. ADMINISTRATION

- A. *Designation of the Floodplain Administrator.* The Town Engineer, or their assignee is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- B. *Duties and responsibilities of the Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by the Section on Permit Procedures.
 2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
 3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
 6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
 7. When Base Flood Elevation data has not been provided in accordance with the Section on the Basis for Establishing the Special Flood Hazard Area, the Floodplain Administrator

shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of the Section on Provisions for Flood Hazard Reduction.

8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
 9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
 10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 11. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- C. *Permit Procedures.* Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:
1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria found in the Section of Provisions for Flood Hazard Reduction and specifically Specific Standards for Construction;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

5. Maintain a record of all such information in accordance with the Section on the Duties and Responsibilities of the Floodplain Administrator.
6. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - j. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures.

1. The Appeal Board, as established by the Community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in

Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

6. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in the Statement of Purpose Section.
7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
9. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - i. Showing a good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
10. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
 - a. The criteria outlined in the Administration Section and Specifically the Variance Procedures Section, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- E. *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and Title 30 of the Berthoud Municipal Code. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall proceed through the Enforcement procedures outlined in the Municipal Code.

30-12-105. PROVISIONS FOR FLOOD HAZARD REDUCTION

- A. *General Standards.* In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
 8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- B. *Specific Standards.* In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) the General Provisions Section, Basis for establishing the Special Flood Hazard Area; (ii) the Administrative Section, Duties and Responsibilities of the Floodplain Administrator item 7; or (iii) the Provisions for Flood Hazard Reduction Section, Standards for Subdivision Proposals, the following provisions are required:

1. RESIDENTIAL CONSTRUCTION.

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in the Administration Section, Permit Procedures.

3. ENCLOSURES

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the

manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, or
- c. Meet the permit requirements of the Administration Section, Permit Procedures, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

6. PRIOR APPROVED ACTIVITIES

Any activity for which a Floodplain Development Permit was issued by the Town of Berthoud or a CLOMR was issued by FEMA prior to the effective date of the Flood Damage Prevention Ordinance adopting the Berthoud Flood District may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.

- C. *Standards for areas of shallow flooding (AO/AH Zones).* Located within the Special Flood Hazard Area established in the General Provisions Section, Basis for Establishing the Special Flood Hazard Area, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Section regarding Provisions for Flood Hazard Reduction and Standards for Critical Facilities, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in the Administration, Permit Procedures Section, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

- D. *Floodways.* Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in the Definition Section). Located within Special Flood Hazard Area established in the General Provisions, Basis for Establishing the Special Flood Hazard Area, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
 2. If the Section on Provisions for Flood Hazard Reduction, Floodways above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of the Section on Provisions for Flood Hazard Reduction.

3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.
- E. *Alteration of a watercourse.* For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:
1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
 2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
 3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
 4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
 5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Berthoud floodplain requirements and regulations.
 6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
 7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
- F. *Properties removed from the floodplain by fill.* A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:
1. **RESIDENTIAL CONSTRUCTION**
The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.
 2. **NONRESIDENTIAL CONSTRUCTION**
The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is

watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

G. *Standards for Subdivision proposals.*

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of General Provisions, Basis for Establishing the Special Flood Hazard Area; Administration, Permit Procedures; and the provisions of the Section on Provisions for Flood Hazard Reduction of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to the General Provisions and Administration sections of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

H. *Standards for critical facilities.* A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. Classification of critical facilities. It is the responsibility of the Town of Berthoud to identify and confirm that specific structures in their community meet the following criteria:
 - a. Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.
 - b. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

- c. These facilities consist of:
 - i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 - ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
 - iii. Designated emergency shelters;
 - iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 - v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 - vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).
- d. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
- e. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town of Berthoud that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Berthoud on an as-needed basis upon request.
- f. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
 - i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - iii. Refineries;
 - iv. Hazardous waste storage and disposal sites; and
 - v. Above ground gasoline or propane storage or sales centers.
- g. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND

the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Ordinance but exclude later amendments to or editions of the regulations. Specific exemptions to this category include the following:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- h. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
 - i. Elder care (nursing homes);
 - ii. Congregate care serving 12 or more individuals (day care and assisted living);
 - iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- i. Facilities vital to restoring normal services including government operations. These facilities consist of:
 - i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Town of Berthoud that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant

facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Berthoud on an as-needed basis upon request.

2. *Protection for critical facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:
 - a. Location outside the Special Flood Hazard Area; or
 - b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.
3. *Ingress and egress for new critical facilities.* New Critical Facilities shall, when practicable as determined by the Town of Berthoud, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community Town of Berthoud C.I.D. 80296 State Colorado

Reviewed by: Willem Lensink Date of Review: 6/20/2023

Community Floodplain Management Regulations Reviewed by (circle one): FEMA State Other: (Agency Name) _____

Reviewer's Determination: / / The floodplain management regulations are compliant. / / The floodplain management regulations are not compliant.

Approved by: _____ (FEMA only) Date of Approval: / / /

The "Item Description" is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program Floodplain Management Regulations at Title 44 Code of Federal Regulations (CFR) Part 59 and 60 for the complete description of the required minimum criteria. Below the "Level of Regulations" column, you can indicate whether the community ordinance meets or exceeds the respective provision in the non-shaded areas.

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ₁	e ¹	
ORDINANCES MUST CONTAIN THE FOLLOWING PROVISIONS:						
1. Citation of Statutory Authority						30-1-103 & 30-12-101
2. Framework for administering the ordinance (including permit system, establishment of the office for administering the ordinance, record keeping, etc.).						30-12-104(A-C)
3. Adequate enforcement provisions (including a violation and penalty section specifying actions the community will take to assure compliance).						30-12-104(E)
4. Variance section with evaluation criteria and insurance notice. [60.6(a)]						30-12-104(D)
5. Effective Date: Adoption Date:						
6. Signature of Appropriate Official and Certification Official.						

¹ If a community has both floodways and coastal high hazard areas, it must meet the requirements of both level 60.3(d) and 60.3(e).

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
OTHER PROVISIONS AND ACTIONS THAT MAY BE NECESSARY TO MAKE THE ORDINANCE LEGALLY ENFORCEABLE AND ENSURE THAT IT CAN BE PROPERLY ADMINISTERED:						
7: Purpose section citing health, safety, and welfare reasons for adoption.						30-12-101(B)
8: Disclaimer of Liability section advising that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.						30-12-103(G)
9. Abrogation and Greater Restriction section. (e.g., This Ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.)						30-12-103(E)
10. Severability section. (e.g., If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.)						30-12-103(H)
11. Public hearing (State/local laws may require hearings)						30-8-106
12. Publication (State/local laws may require public notices)						4.8

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NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
MINIMUM NFIP CRITERIA:						
13. Definitions: [59.1] __ Base Flood; __ Base Flood Elevation; __ Development; __ Existing manufactured home park or subdivision; __ Expansion to an existing manufactured home park or subdivision; __ Flood Insurance Rate Map; __ Flood Insurance Study; __ Floodway; __ Lowest Floor; __ Manufactured Home; __ Manufactured Home Park or Subdivision; __ New Construction; __ New Manufactured Home Park or Subdivision; __ Recreational Vehicle; __ Special Flood Hazard Area; __ Start of Construction; __ Structure; __ Substantial Damage; __ Substantial Improvement; __ Violation; Other Definitions as appropriate such as __ Floodproofing; __ Highest adjacent grade for community's with mapped AO Zones; __ Historic Structures						30-12-102
14. Adopt or reference correct Map and date. [60.3(b)]						30-12-103(B)

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NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description <i>(Section reference to the NFIP Regulations follows)</i>	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
(If the community has an automatic adoption provision in its ordinance, is it valid?)						
15. Adopt or reference correct Flood Insurance Study and date. [60.3(c), (d), and/or (e)] (If the community has an automatic adoption provision in its ordinance, is it valid?)						30-12-103(B)
16. Require permits for all proposed construction or other development including placement of manufactured homes to determine whether such construction or development is in a floodplain. [60.3(a)(1)]						30-12-104(C)
17. Require permits for all proposed construction and other development within SFHAs. [60.3(b)(1)]						30-12-104(C)
18. Assure that all other State and Federal permits are obtained. [60.3(a)(2)]						30-12-104(B)(4)
19. Review permits to assure sites are reasonably safe from flooding and require for new construction and substantial improvements in flood-prone areas [60.3(a)(3)]: (a) Anchoring (including manufactured homes) to prevent flotation, collapse, or lateral movement of the structure. [60.3(a)(3)(i)]						30-12-105(A)(5) & 30-12-104(3)

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NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
(b) Use of flood-resistant materials. [60.3(a)(3)(ii)]						30-12-105(A)(3)
(c) Construction methods and practices that minimize flood damage. [60.3(a)(3)(iii)]						30-12-105(A)(2)
(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry to accumulation. [60.3(a)(3)(iv)]						30-12-105(A)(4)
20. Review subdivision proposals and other development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding [60.3(a)(4)]. If a subdivision or other development proposal is in a flood-prone area, assure that: (a) Such proposals minimize flood damage. [60.3(a)(4)(i)]						30-12-105(G)(1)
(b) Public utilities and facilities are constructed so as to minimize flood damage. [60.3(a)(4)(ii)]						30-12-105(G)(5)
(c) Adequate drainage is provided. [60.3(a)(4)(iii)]						30-12-105(G)(4)
21. Require new and replacement water supply and sanitary sewage systems to be designed to minimize or eliminate infiltration. [60.3(a)(5) and 60.3(a)(6)]						30-12-105(A)(6-7)

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description <i>(Section reference to the NFIP Regulations follows)</i>	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
22. Require onsite waste disposal systems be designed to avoid impairment or contamination. [60.3(a)(6)(ii)]						30-12-105(A)(8)
23. Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [60.3(b)(3)]						30-12-105(G)(3)
24. In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and for floodproofing or elevating non-residential structures to or above the base flood level. [60.3(b)(4)]						30-12-104(B)(7)
25. Where BFE data are utilized in Zone A, obtain and maintain records of the lowest floor and floodproofing elevations for new and substantially improved construction. [60.3(b)(5)]						30-12-104(B)(1)
26. In riverine areas, notify adjacent communities of watercourse alterations and relocations. [60.3(b)(6)]						30-12-104(B)(10)
27. Maintain the carrying capacity of an altered or relocated watercourse. [60.3(b)(7)]						30-12-104(B)(11)

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
28. Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. [60.3(b)(8)]						30-12-105(A)(5)
29. Require all new and substantially improve <u>residential</u> structures within A1-30, AE, and AH Zones have their lowest floor (including basement) elevated to or above the Base Flood Elevation. [60.3(c)(2)]						30-12-105(B)(1) – language includes CO higher standard 1 foot freeboard requirement.
30. ² In AO Zones, require that new and substantially improved <u>residential</u> structures have their lowest floor (including basement) to or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)]						30-12-105(C)(1) – language includes CO higher standard 1 foot freeboard requirement.
31. Require that new and substantially improved <u>non-residential</u> structures within A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the Base Flood Elevation. [60.3(c)(3)]						30-12-105(B)(2) – language includes CO higher standard 1 foot freeboard requirement.
32. ² In AO Zones, require new and substantially improved <u>non-residential</u> structures have their lowest floor elevated or completely floodproofed above the highest adjacent						30-12-105(C)(2)

² Item 30 and 32 are not required if the community has no AO Zones.

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description <i>(Section reference to the NFIP Regulations follows)</i>	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
grade to at least as high as the depth number on the FIRM. [60.3(c)(8)]						
33. Require that for floodproofed non-residential structures, a registered professional engineer/architect certify that the design and methods of construction meet requirements at 60.3(c)(3)(ii). [60.3(c)(4)]						30-12-104(C)(3)
34. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters in accordance with the specifications in 60.3(c)(5). (Openings requirement)						30-12-105(B)(3)
35. ³ Until a regulatory floodway is designated, no encroachment may increase the Base Flood level more than 1 foot. [60.3(c)(10)]						30-12-104(B)(8) – language includes CO higher standard one-half foot rise.

³ Item 35 is not required if all streams have floodways designated.

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
36. ⁴ In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [60.3(c)(11)]						30-12-105(C)(1)
37. Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following location criteria, to be elevated such that the lowest floor is to or above the Base Flood Elevation and be securely anchored: (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(c)(6)]						30-12-105(B)(4) – language includes CO higher standard 1 foot freeboard requirement.

⁴ Item 36 is not required if the community has no AO or AH Zones.

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description <i>(Section reference to the NFIP Regulations follows)</i>	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
38. In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored. [60.3(c)(12)]						30-12-105(B)(4)(a-b) – language includes CO higher standard 1 foot freeboard requirement.
39. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(c)(14)]						30-12-105(B)(5)(a-c)
40. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot. [60.3(d)(2)]						30-12-105(D) & 30-12-102 (“Floodway” definition, language includes CO one-half foot higher standard)
41. In a regulatory floodway, prohibit any encroachment, unless hydrologic and hydraulic analyses prove that the proposed encroachment would not cause an increase in flood levels during the Base Flood discharge. [60.3(d)(3)]						30-12-105(D)(1)
42. In V1-30, VE, and V Zones, obtain and maintain the elevation of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures. [60.3(e)(2)]						

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NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description <i>(Section reference to the NFIP Regulations follows)</i>	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
43. In V1-30, VE, and V Zones, require that all new construction and substantial improvements:						
(a) Are elevated and secured to anchored pilings or columns so that the bottom of the lowest horizontal structural member is at or above the Base Flood Elevation. [60.3(e)(4)]						
(b) A registered professional engineer/architect certify that the design and methods of construction meet elevation and anchoring requirements at 60.3(e)(4)(i) and (ii). [60.3(e)(4)]						
(c) Have the space below the lowest floor either free of obstruction or constructed with breakaway walls. Any enclosed space shall be used solely for parking, building access, or storage. [60.3(e)(5)]						
(d) All new construction must be landward of mean high tide. [60.3(e)(3)]						
(e) Prohibit use of fill for structural support. [60.3(e)(6)]						
(f) Prohibit alterations of sand dunes and mangrove stands, which would increase potential flood damage. [60.3(e)(7)]						
44. Require that manufactured homes placed or substantially improved within V1-30, VE, and V Zones, which meet one of the following location criteria, meet the V Zone standards in 60.3(e)(2) through (e)(7):						

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NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d 1	e ¹	
(i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; (iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(e)(8)]						
45. In V1-30, VE, and V Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers that are not less than 36 inches in height above grade and securely anchored. [60.3(e)(8)(iv)]						
46. In V1-30, VE, and V zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(e)(9)]						

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NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community	C.I.D.	State
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Reviewed by: _____ Date of Review: _____

Comments

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**TOWN OF BERTHOUD
RESOLUTION NO. 2021-2**

**A RESOLUTION Approving the National Floodplain Insurance Maps by
Reference**

WHEREAS, FEMA routinely updates the National Floodplain Insurance Maps, which reflect changing conditions of the area; and

WHEREAS, FEMA follows a lengthy public process in adopting new Floodplain maps, including a public hearing held within the Town

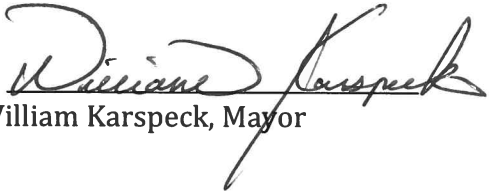
WHEREAS, To participate and remain in good standing in the National Floodplain Insurance program, the Town must formally adopt the proposed Floodplain Insurance Maps,

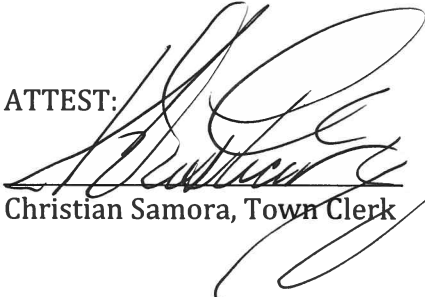
NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO AS FOLLOWS:

The proposed revised National Flood Plain Insurance Maps are hereby adopted.

PASSED, ADOPTED AND APPROVED THIS JANUARY 12, 2021.

TOWN OF BERTHOUD

BY: 
William Karspeck, Mayor

ATTEST: 
Christian Samora, Town Clerk

