



**Garden
Spot of
Colorado**

**MEETING OF THE TOWN BOARD
Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Tuesday, November 28, 2023, 6:30 p.m.**

This is an IN-PERSON meeting at the location and time noted above.
You may also join virtually using Zoom: Phone: 1-346-248-7799 or 301-715-8592
Web: www.zoom.us/join Use this Meeting ID: 210 035 9423

The Town Board may take action on any of the following agenda items as presented or modified prior to or during the meeting and items necessary or convenient to effectuate the agenda items.

1. Meeting Called To Order - Mayor William Karspeck
2. Pledge Of Allegiance - Mayor William Karspeck
3. Roll Call - Mayor William Karspeck
4. Citizen Participation
5. Scheduled Items And Estimated Time For Discussion

5.I. Consent Agenda
Introduction By: Christian Samora

Documents:

MEMO RE CONSENT AGENDA.PDF
A. NOVEMBER 28, 2023 MEETING AGENDA.PDF
B. NOVEMBER 14, 2023 MEETING MINUTE.PDF
C. LETTER OF SUPPORT FOR COLORADO OPEN LANDS GRANT
APPLICATION TO NRCS.PDF
D. DOLA RESOLUTION OF SUPPORT FOR GRANT APPLICATION.PDF
E. ORDINANCE 1331 - CONVEYANCE OF TRACT B IN HILLSDALE
SUBDIVISION.PDF

5.II. Scorchfest Update Presentation
Introduction By: Youth Advisory Commission

Documents:

[MEMO RE SCORCHFEST UPDATE.PDF](#)

5.III. Community Health Plan Presentation
Introduction By: Larimer Health

Documents:

[MEMO RE COMMUNITY HEALTH PLAN PRESENTATION.PDF](#)

5.IV. Water Dedication Requirements At Annexation - Introduction
Introduction By: Ken Matthews

Documents:

[MEMO RE WATER DEDICATION REQUIREMENTS AT ANNEXATION.PDF](#)
[A. WATER DEDICATION ORDINANCE \(DEDICATION OF HISTORICAL WATER RIGHTS - CLEAN\).PDF](#)
[B. WATER DEDICATION ORDINANCE \(DEDICATION OF HISTORICAL WATER RIGHTS - REDLINE\).PDF](#)

5.V. Landscape Design Guidelines - Public Hearing
Introduction By: Anne Johnson

Documents:

[MEMO RE LANDSCAPE DESIGN GUIDELINES PUBLIC HEARING.PDF](#)
[A. ORDINANCE 1327 \(23\) LANDSCAPE GUIDELINES.PDF](#)
[B. LANDSCAPE GUIDELINES 2023 10 18.PDF](#)
[C. PUBLIC NOTICE.PDF](#)

5.VI. Wireless Communication Code - Public Hearing
Introduction By: Anne Johnson

Documents:

[MEMO RE WIRELESS COMMUNICATION CODE.PDF](#)
[A. TELECOMMUNICATIONS ORDINANCE 1325 \(2023\).PDF](#)
[B. BERTHOUD WIRELESS CODE UPDATE 2023 11 06.PDF](#)
[C. LEGAL PUBLICATION WCF.PDF](#)
[D. DESIGN STANDARDS BERTHOUD.PDF](#)
[E. PLANNING COMMISSION MINUTES 2023 09 28.PDF](#)

5.VII. General Code Amendments - Public Hearing
Introduction By: Anne Johnson

Documents:

[MEMO RE GENERAL CODE AMENDMENTS PUBLIC HEARING.PDF](#)
[A. GENERAL 2 ORDINANCE 1326 \(2023\).PDF](#)
[B. ORDINANCE 1326 \(2023\) ATTACHMENT 2023 10 16.PDF](#)
[C. PUBLICATION GENERAL WAVE 2.PDF](#)
[D. PLANNING COMMISSION MINUTES 2023 09 28.PDF](#)

5.VIII. 3rd And Massachusetts Project Design Update

Introduction By: Chris Kirk

Documents:

[INFO RE 3RD AND MASSACHUSETTS.PDF](#)
[3RD AND MASS PRESENTATION.PDF](#)

5.IX. 3-Mile Plan - Introduction

Introduction By: Anne Johnson

Documents:

[MEMO RE THREE MILE PLAN.PDF](#)
[A. ORDINANCE 1328 \(23\) THREE MILE PLAN.PDF](#)
[B. APPENDIX A THREE MILE PLAN.PDF](#)
[C. PUBLIC NOTICE.PDF](#)

5.X. General Code Changes - Introduction

Introduction By: Anne Johnson

Documents:

[MEMO RE GENERAL CODE CHANGES INTRODUCTION.PDF](#)
[A. ORDINANCE 1329 \(23\) GENERAL CODE.PDF](#)
[B. ORDINANCE 1329 \(23\) EXHIBIT A.PDF](#)
[C. PUBLIC NOTICE.PDF](#)

6. Elected Official Reports

1. Town Board - Tim Hardy, May Albrecht, Mike Grace, Sean Murphy, Karl Ayers, and Chris Kurtz.
2. Mayor - William Karspeck
3. Staff - Town Administrator, Attorney

7. Adjourn

The order of agenda items listed above is approximate and intended as a guideline for the

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

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Consent Agenda
Type of Item:	Regular Item
Purpose:	The Consent Agenda contains routine items that can be approved with a single action by the Board.
Presented by:	Christian Samora

ATTACHMENTS:

- a) November 28, 2023, Meeting Agenda
- b) November 14, 2023, Meeting Minutes
- c) Letter of Support for Colorado Open Lands Grant Application to NRCS
- d) DOLA Resolution of Support for Grant Application
- e) Ordinance 1331 - Conveyance of Tract B in Hillsdale Subdivision

BACKGROUND:

"Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The mayor will ask if any Board Member wishes to remove an item for separate discussion. Items removed from the consent agenda should be considered immediately following adoption of the amended Consent Agenda.

UPDATE/NEXT STEPS:

Any updates or next steps for the items on the Consent Agenda will be articulated in the information sheet provided for each item on the Consent Agenda.

FISCAL IMPACT AND FUND SOURCE:

Any fiscal information for the items on the Consent Agenda will be articulated in the information sheet provided for each item on the Consent Agenda.

COMMUNITY TOUCHSTONES:

Any Community Touchstones for the items on the Consent Agenda will be articulated in the information sheet provided for each item on the Consent Agenda.

RECOMMENDED ACTION(S):

"Move to combine and approve the items on the Consent Agenda."

Followed by a second and a vote.



MEETING OF THE TOWN BOARD

Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Tuesday, November 28th, 2023, 6:30 p.m.

This is an IN-PERSON meeting at the location and time noted above.
You may also join virtually using Zoom:

Phone: 1-346-248-7799 or 301-715-8592

Web: www.zoom.us/join

Use this Meeting ID: 210 035 9423

Please note that you will need to call into the meeting if you wish to speak and do not have a microphone on your computer. If you are using a mobile device, it is highly recommended that you download the Zoom app.

The Town Board may take action on any of the following agenda items as presented or modified prior to or during the meeting and items necessary or convenient to effectuate the agenda items.

- I. **REGULAR MEETING CALLED TO ORDER** – Mayor William Karspeck
- II. **PLEDGE OF ALLEGIANCE** – Mayor William Karspeck
- III. **ROLL CALL** – Mayor William Karspeck
- IV. **CITIZEN PARTICIPATION**
- V. **SCHEDULED ITEMS and ESTIMATED TIMES FOR DISCUSSION**
 1. **Consent Agenda** (Christian Samora) (5 Min)
Consent Agenda items are considered to be routine by the Town Board and will be enacted with a single vote. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately.
 - a) November 28, 2023, Meeting Agenda
 - b) November 14, 2023, Meeting Minutes
 - c) Letter of Support for Colorado Open Lands Grant Application to NRCS
 - d) DOLA Resolution of Support for Grant Application
 - e) Ordinance 1331 – Conveyance of Tract B in Hillsdale Subdivision
 2. **Scorchfest Update Presentation** (Youth Commission) (10 Min)
 3. **Community Health Plan Presentation** (Larimer Health) (30 Min)
 4. **Water Dedication Requirements at Annexation – Introduction** (Ken Matthews) (10 Min)
Ordinance 1330 – An ordinance of the Town of Berthoud amending Ordinance 1300, concerning dedication of historical water rights.
 5. **Landscape Design Guidelines – Public Hearing** (Anne Johnson) (10 Min)
Ordinance 1327 – An ordinance adopting the Town of Berthoud Landscape Design Guidelines by reference in Municipal Code Chapter 30.

November 28, 2023, Meeting Agenda

The order of agenda items listed above is approximate and intended as a guideline for the Town Board. Individuals needing special accommodation may request assistance by contacting the Town Clerk 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.

- | | | |
|-----|---|--|
| 6. | Wireless Communication Code – Public Hearing
Ordinance 1325 – An ordinance of the Town of Berthoud, Colorado to repeal and replace the Town of Berthoud Wireless Communications Facilities Code found in Chapter 30, Section 30-3-111 found in the Municipal Code. | (Anne Johnson)
(10 Min) |
| 7. | General Code Amendments – Public Hearing
Ordinance 1326 – An ordinance of the Town of Berthoud, Colorado amending the sections 30-1-116 regarding storage containers and clarifying land use application processing requirements throughout Chapter 30 of the Berthoud Municipal Code. | (Anne Johnson)
(10 Min) |
| 8. | 3rd and Massachusetts Project Design Update | (Chris Kirk)
(30 Min) |
| 9. | 3-Mile Plan – Introduction
Ordinance 1328 – An ordinance adopting the Town of Berthoud Three-Mile Plan. | (Anne Johnson)
(10 Min) |
| 10. | General Code Changes – Introduction
Ordinance 1329 – An ordinance amending certain sections of the Berthoud Municipal Code Chapter 30, specifically Section 2 regarding landscape design, Section 9 regarding historic resources, Section 3 regarding planned unit developments, and Section 2 regarding outdoor lighting and dark sky standards. | (Anne Johnson)
(10 Min) |

VI.	ELECTED OFFICIAL REPORTS	(10 Min)
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1. Town Board – Tim Hardy, May Albrecht, Mike Grace, Sean Murphy, Karl Ayers, and Chris Kurtz
2. Mayor – William Karspeck
3. Staff – Town Administrator, Attorney

VII. ADJOURN

Town Clerk or Deputy Town Clerk

William Karspeck, Mayor

November 28, 2023, Meeting Agenda

The order of agenda items listed above is approximate and intended as a guideline for the Town Board. Individuals needing special accommodation may request assistance by contacting the Town Clerk 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.



MEETING MINUTES OF THE TOWN BOARD

**Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Tuesday, November 14, 2023, 6:30 p.m.**

11/14/2023 - Minutes

1. Meeting Called To Order - Mayor William Karspeck

Mayor Pro-Tem Grace called the meeting to order at 6:30 pm.

2. Pledge Of Allegiance - Mayor William Karspeck

Mayor Pro-Tem Grace led the Pledge of Allegiance.

3. Roll Call - Mayor William Karspeck

The following Board members were present:

Karl Ayers, Trustee
Tim Hardy, Trustee
Sean Murphy, Trustee
Chris Kurtz, Trustee
Mike Grace, Mayor Pro-Tem

The following Board members were absent:

May Albrecht, Trustee
Will Karpseck, Mayor

The following Staff members were present:

Chris Kirk, Town Administrator
Christian Samora, Town Clerk
Lexi Weissman, Deputy Town Clerk
Anne Johnson, Planning Director
Ken Matthews, Director of Water Utilities

4. Citizen Participation

Chris Gage spoke regarding the Sidewalk Replacement Program.

5. Scheduled Items And Estimated Time For Discussion

5.I. Consent Agenda

Items:

- A. November 14, 2023 Meeting Agenda
- B. October 24, 2023 Town Board Meeting Minutes
- C. October 2023 Financial Information

D. Windy Gap Water Purchase
E. Larimer County Mutual Aid Agreement

Trustee Hardy moved to combine and approve the items on the Consent Agenda. Trustee Murphy seconded the motion. In a 5-0 roll call vote, THE MOTION CARRIED.

5.II. Wireless Communication Code - Introduction

Planning Director, Anne Johnson, gave an introduction.

Ken Fellman gave background information.

The Board was supportive of scheduling the ordinance for a Public Hearing on November 28, 2023.

5.III. General Code Amendments - Introduction

Planning Director, Anne Johnson, gave a presentation.

The Board was supportive of scheduling the ordinance for a Public Hearing on November 28, 2023.

5.IV. Water And Wastewater Master Plan And Rate Study

Director of Water Utilities, Ken Matthews, gave an introduction.

Deena Davidson with Tetra Tech provided background information.

The Board was supportive of Staff coming back on November 28, 2023 with a utility rate recommendation.

Mayor Pro-Tem Grace called for a 5 minute break.

5.V. 2024 Annual Budget - 2nd Draft Presentation

Administrator Kirk gave a presentation.

Trustee Murphy moved to continue the meeting past 9:30 pm to 10:30 pm. Trustee Ayers seconded the motion. In a 5-0 vote, THE MOTION CARRIED.

Mayor Pro-Tem Grace opened up public comment.

Ruth Fletcher Carter spoke regarding RAFT.

Mayor Pro-Tem Grace closed the public comment.

6. Elected Official Reports

Trustee Ayers:

Trustee Ayers reported on the most recent PORT meeting and bike trail connectivity in Town, as well as a potential name change for Richardson Park as well as positive feedback on the Bike Park. Ayers inquired about a trail closure. Ayers mentioned discussing bat houses with the Boy Scouts, and reported on the newly elected PORT Committee members and a Youth Advisory vacancy.

Trustee Hardy:

Trustee Hardy reported on a DDA Meeting, the newly elected members of HPAC, and a new HPAC Project. Hardy also discussed concerns regarding stop signs.

Trustee Kurtz:

Trustee Kurtz inquired about having a Google image for Berthoud removed.

Mayor Pro-Tem Grace:

Mayor Pro-Tem Grace reported on the Youth Advisory Committee vacancy and their upcoming presentation to the Board. Grace reports that Trustee Albrecht wanted to inquire about a Tree Lighting. Grace inquired about CDOT's environmental study.

7. Adjourn

The meeting was adjourned at 10:27 pm.

Town Clerk or Deputy Town Clerk

William Karspeck, Mayor

BOARD OF TRUSTEES INFORMATION



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	September 28, 2023
Agenda Title/Subject:	Letter of Support for Colorado Open Lands' grant to the NRCS
Type of Item:	Regular Item
Purpose:	Consider request from Colorado Open Lands to provide a letter of support for a grant application
Presented by:	Chris Kirk, Town Administrator

ATTACHMENTS:

- Letter of Support

BACKGROUND:

The Town routinely works with Colorado Open Lands, a 501(c) (3) nonprofit land trust that exists to protect Colorado's land and water resources. The Town works with Colorado Open Lands on several properties in Berthoud where they hold conservation easements including the Waggener Farm and the Jaskowski Property. In addition to our work together on these properties, the Town has been coordinating with Colorado Open Lands on a variety of land preservation opportunities throughout the Town's Growth Management Area (GMA).

On October 24, 2023, the Town provided a letter of support for Colorado Open Lands' application for a grant application to the Natural Resources Conservation Service (NRCS) to fund a study of the "Buy, Sell, Protect" concept for farmland protection and water sharing on the Colorado front range. Colorado Open Lands is requesting a letter of support for an application to the Colorado Water Conservation Board to cover the required match for the NRCS Grant previously supported.

UPDATE/NEXT STEPS:

If approved, the small sliver of land shall be incorporated into the overall Ludlow Farms project and included in future application submittals.

RECOMMENDED ACTION(S):

Approve the attached letter of support for the Colorado Water Conservation Board grant application made by Colorado Open Lands



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807 Mountain Avenue | PO Box 1229 | Berthoud, CO 80513 | O: 970.532.2643 | F: 970.532.0640 | Berthoud.org

November 28, 2023

Colorado Water Conservation Board
Director Lauren Ris
1313 Sherman Street
Denver, CO 80203

Re: Application of Colorado Open Lands to CWCB

Dear Colorado Water Conservation Board:

On behalf of the Town of Berthoud, I would like to express my support for Colorado Open Lands' application to the upcoming round of Water Plan Grants, titled *Accelerating Conservation to the Speed of Development: Innovating to Protect Colorado's South Platte River Basin*.

The Town of Berthoud recognizes the extreme pressure that Colorado's agricultural producers face in an atmosphere of land and water conversion to feed a rapidly growing population. Located in the middle of Colorado's Northern Front Range, the Town of Berthoud is at the epicenter of this unprecedented growth. Historically, Berthoud was a community built around agriculture. Innovative approaches to protecting these agricultural lands and the water rights that support them, are going to be integral in maintaining the rural economies in this basin.

Colorado Open Lands and the Town of Berthoud have a longstanding relationship. Through traditional conservation easement efforts, Colorado Open Lands has protected multiple farms in our area. However, given the development pressure that has arisen in the last decade, those traditional models are limited in their ability to keep up with development interests and traditional "buy and dry" practices. Their proposal would provide a new approach to protecting irrigated farmland and create meaningful water sharing opportunities for front range communities looking to grow in sustainable and responsible ways. I urge consideration of this Water Plan Grant proposal. Colorado desperately needs a conservation tool that can compete with developers, protecting farms and wildlife habitat, while providing access to beginning farmers and ranchers.

Sincerely,

Mayor, William Karspeck

**RESOLUTION NO. 23
SERIES 2023
TOWN OF BERTHOUD, COLORADO**

**A RESOLUTION SUPPORTING THE APPLICATION BY THE TOWN OF BERTHOUD TO
THE DIVISION OF LOCAL AFFAIRS AND SPECIFICALLY THE MORE HOUSING NOW
AND LAND USE INITIATIVE GRANT**

WHEREAS, the Colorado Division of Local Affairs recognizes the importance of housing diversity and affordability as an urgent matter in the State of Colorado and has established the More Housing Now and Land Use Initiative Grant to provide financial assistance to communities in enabling affordable housing; and

WHEREAS, the Town wishes to implement the vision and values expressed in the 2021 update to the Comprehensive Plan, as well as support the goals outline in Proposition 123; including strengthening the Town’s sense of place, enhancing community identity, supporting community resilience and sustainability touchstones through housing diversity; and

WHEREAS, the Town of Berthoud intends to illustrate through this Resolution support for development of affordable housing in the Town and the intent to meet the Town’s commitment to Proposition 123; and

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

Section 1. That the Town of Berthoud hereby supports the grant application and efforts to perform a housing analysis and understand the impediments to the development of affordable housing in the Town.

INTRODUCED, READ, ADOPTED, AND APPROVED on this 28th day of November, 2023.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Ordinance 1331 – Conveyance of Tract B in Hillsdale Subdivision
Type of Item:	Consent Agenda
Purpose:	Adopt an Ordinance allowing staff to transfer ownership of unused property remnants in the Hillsdale Subdivision
Presented by:	Chris Kirk

ATTACHMENTS:

- Map of “Triangle Properties”
- Ordinance Disposing of Property Described as Tract ‘B’, Hillsdale Subdivision Less Hillsdale 2nd Subdivision, a Subdivision of the Lewis First Addition to the Town of Berthoud.

BACKGROUND:

In 1981, the Hillsdale Subdivision was platted south of Spartan Avenue and east of Berthoud Parkway. During the platting process, a Tract of land identified as “Tract B” was created in roughly the center of the subdivision. It appears that it may have been intended to function as an open space connection within the neighborhood.

The Hillsdale 2nd Subdivision was later recorded in 1986 and it re-platted the western half of the neighborhood, including the western half of Tract B. Unfortunately, that re-platting did not eliminate the portions of Tract B on the east half of the subdivision and those eastern remnants of Tract B were eventually absorbed into the yards of the adjacent property owners. Town staff refers to these remnants as the “Hillsdale Triangle Properties”.

As a result of the 2nd Subdivision, the Hillsdale Triangle Properties are now 4 disconnected pieces of land that are not accessible to the public and have no public purpose. To clean up this decades old platting issue, Town staff recommends adopting the attached Ordinance allowing staff to split Tract B into multiple parcels based upon their current physical separation and to deed those new parcels to the adjacent property owners that have already absorbed these areas into their back yards.

FISCAL IMPACT AND FUND SOURCE:

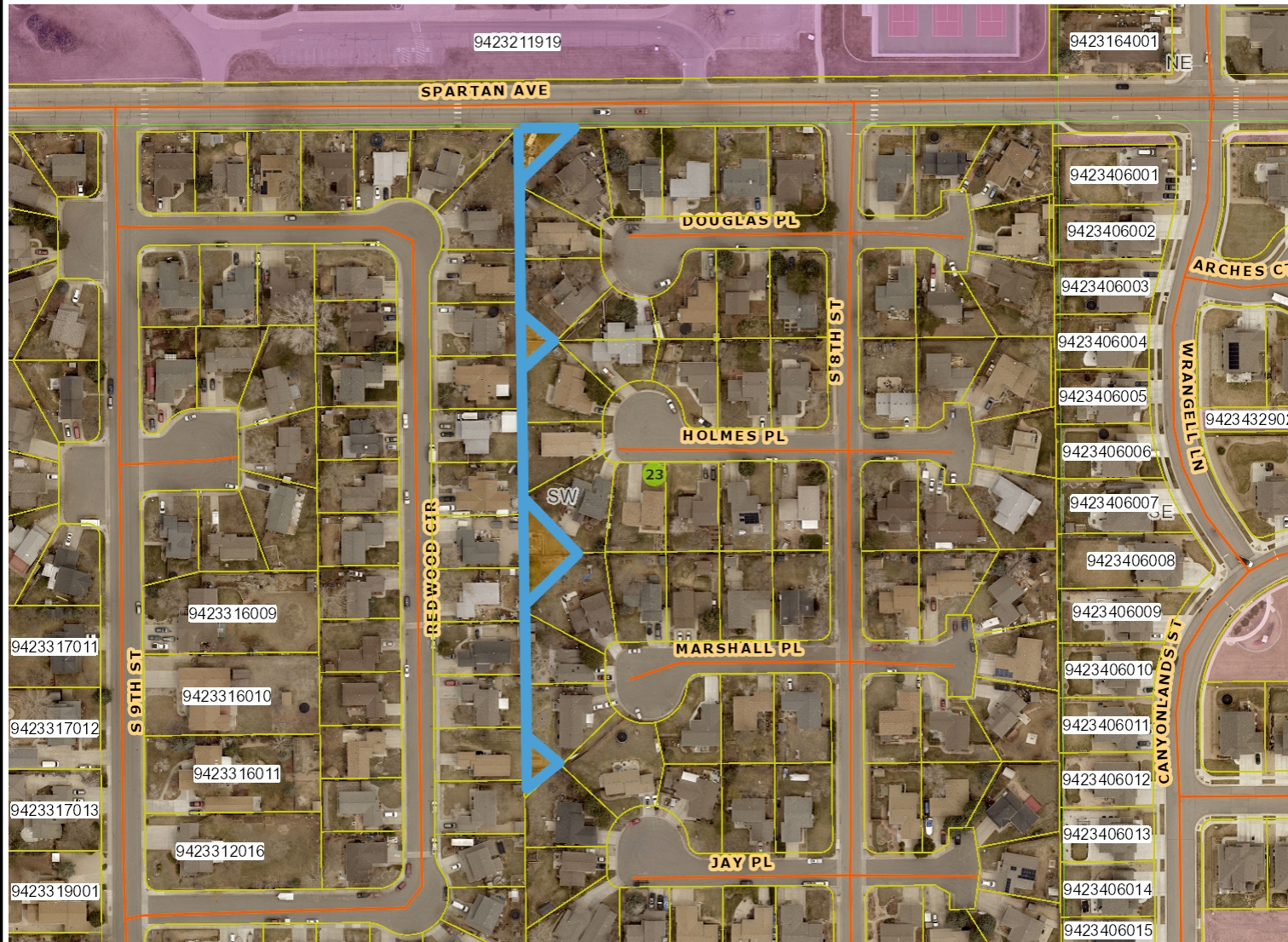
The Town will pay for the survey work and mapping necessary to split Tract B into appropriate parcels. This will be an administrative action and upon completion, staff will then record Quitclaim deeds dedicating the parcels to the adjacent property owners.

Funds needed for the survey work and mapping will be paid for in existing budgets.

RECOMMENDED ACTION(S):

Approve the Ordinance Disposing of Property Described as Tract 'B', Hillsdale Subdivision
Less Hillsdale 2nd Subdivision, a Subdivision of the Lewis First Addition to the Town of
Berthoud

Hillsdale Triangle Properties



Legend

- Addresses
- Tax Parcels
- Recorded Dimensions
- Railroads
- Major Road System
- Road System
- Lakes and Ponds
- Major Rivers and Streams
- Rivers and Streams
- County Boundary
- Rocky Mountain National Park
- PLSS Township and Range
- PLSS Sections
- PLSS Quarter Sections
- City or Town
- County
- State
- Federal
- Other
- 30969E146467N.sid
- Red: Band_1
- Green: Band_2
- Blue: Band_3
- 30969E144091N.sid

Notes

0.1 0 0.03 0.1 Miles

Date Prepared: 11/22/2023 10:59:41 AM

1: 2,400

NAD_1983_HARN_StatePlane_Colorado_North_FIPS_0501_Feet



This map was created by Larimer County GIS using data from multiple sources for informal purposes only. This map may not reflect recent updates prior to the date of printing. Larimer County makes no warranty or guarantee concerning the completeness, accuracy, or reliability of this content.

ORDINANCE NO. 1331

AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO, DISPOSING OF PROPERTY DESCRIBED AS TRACT 'B', HILLSDALE SUNDIVISION LESS HILLSDALE 2ND SUNDIVISION, A SUBDIVISION OF THE LEWIS FIRST ADDITION TO THE TOWN OF BERTHOUD, COLORADO

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

WHEREAS, pursuant to Treasurer's Deed dated February 27, 2009, the Town owns the property described as: TRACT 'B', HILLSDALE SUNDIVISION LESS HILLSDALE 2ND SUNDIVISION, A SUBDIVISION OF THE LEWIS FIRST ADDITION TO THE TOWN OF BERTHOUD COLORADO, Larimer County Assessor Parcel No. 94233-09-902, in Berthoud, Colorado (the "Triangle Property"); and

WHEREAS, the Triangle Property has not been used or held for any governmental purpose and the Town has no intention of using or holding the Triangle Property for any governmental purpose and the Triangle Property is deemed to have no positive value to the Town and in fact may have negative value to the extent such property constitutes a liability; and

WHEREAS, the Town wishes to convey the Triangle Property to the adjacent property owner which will eliminate a liability, may increase property tax revenue, and will generally promote the health, safety, and welfare of the residents of the Town.

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

Section 1. Legislative Findings. Section 31-15-713, C.R.S., grants the power to a governing body of a municipality such as the Town Board of Trustees to sell and dispose of property that has not been used or held for any governmental purpose.

Section 2. Conveyance of Triangle Property. The Trustees therefore order that such adjustments to lot lines as allowed by Code Section 30-6-111 be made and thereafter the Triangle Property be conveyed by quit claim deed executed by the Mayor to the adjacent property owners.

Section 3. Severability Clause. Should any section, clause, or provision of this Ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the balance of this Ordinance.

Section 4. Findings Regarding Police Powers. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the Town of Berthoud, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the

protection of public convenience and welfare. The Town Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED
PUBLISHED IN FULL on this ____ day of _____, 2023.

TOWN OF BERTHOUD

By: _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Scorchfest Update Presentation
Type of Item:	Presentation
Purpose:	Informational Presentation
Presented by:	Youth Advisory Commission

BACKGROUND:

This item will be an informational presentation. There may be additional information distributed during the presentation.

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Community Health Plan Presentation
Type of Item:	Presentation
Purpose:	Informational Presentation
Presented by:	Larimer County Health Department

BACKGROUND:

This item will be an informational presentation. There may be additional information distributed during the presentation.

BOARD OF TRUSTEES INFORMATION



UTILITIES

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Water Dedication Requirements at Annexation
Type of Item:	Regular Item
Purpose:	Introduction of Ordinance regarding Water Dedication Requirements
Presented by:	Ken Matthews

ATTACHMENTS:

- Amendment to Water Dedication Ordinance – Dedication of Historical Water Rights – (Clean)
- Amendment to Water Dedication Ordinance – Dedication of Historical Water Rights – (Redline)

BACKGROUND:

The Town of Berthoud Board of Trustees held two Water Dedication Policy Work Sessions in March and July of 2023 to discuss the Town's current water dedication policy and evaluate different policy options. One option discussed during the work sessions was requiring the dedication of historical water rights associated with any annexation properties, prior to final plat approval. This option would prevent the removal of historical water rights from properties to be annexed and would ensure that any such water rights are made available to the Town for potable and/or nonpotable use. Following the discussion of this policy option, the Board directed legal counsel and Town Staff to develop an amendment to the Town's Water Dedication Ordinance to implement this requirement.

Attached are amendments to the Town's Water Dedication Ordinance in both redline format and clean format, which will implement the requirement of the dedication of historical water rights associated with annexation properties.

ORDINANCE #1330

AN ORDINANCE OF THE TOWN OF BERTHOUD AMENDING ORDINANCE #1300, CONCERNING DEDICATION OF HISTORICAL WATER RIGHTS

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

INTRODUCTION

WHEREAS, The Town of Berthoud previously adopted Ordinance #1300 in January 2022, commonly referred to as the "Town of Berthoud Water Dedication Ordinance"; and

WHEREAS, The Board of Trustees of the Town of Berthoud has determined that certain amendments and modifications to the Town of Berthoud Water Dedication Ordinance are necessary; and

WHEREAS, The modifications shall be accomplished by amendment of the Town of Berthoud Water Dedication Ordinance to be incorporated into the Town of Berthoud Development Code, Chapter 30-10, Section 30-10-114 to read as set forth in this Ordinance.

PART I - AMENDMENTS

IT is therefore ordained by the Board of Trustees of the Town of Berthoud that the following Ordinance is adopted, and Section 30-10-114 of the Town of Berthoud Water Dedication Ordinance shall hereinafter read as set forth below:

30-10-114(C) Definitions

* * *

- C. *Definitions.* Whenever in this section, the words hereinafter defined or construed in this section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

* * *

15. *Historical Water Rights* mean those water rights associated with a particular parcel of land at the time of annexation and which have been applied to beneficial use on that land.
16. *Natural Area* means an area that (a) is appropriately vegetated and free of weeds; (b) is capable of maintaining the existing vegetation without irrigation; (c) has been dedicated to and accepted by the Town; and (d) is a wetland under the criteria in the Wetlands Delineation Manual utilized by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency in effect at the time of dedication to the Town.

All Natural Areas shall be encumbered by a conservation easement. Natural Areas do not require any irrigation. In order to qualify as a Natural Area, the Developer must pay the Town's fees and expenses incurred in determining whether the area is a wetland and appropriately vegetated, and the Natural Area must be accepted by the Town at the Town's sole discretion by and through the Town Administrator.

17. *Open Water* means a body of water, such as a pond or reservoir, whether existing or created and whether for purposes of water storage, aesthetic, or recreation, that has an adequate physical and legal water supply to maintain the open water condition year round, and that has been accepted by the Town for Open Water land use.
18. *Owner* shall be any person owning water using property and/or any person owning real property either corporeal or incorporeal, connected or not connected to the Town water system.
19. *Person* shall include any individual, partnership, association, organization, firm, district, corporation, group or other legal entity of any nature, public or private.
20. *Phase* means a portion of property that is being platted or has been platted.
21. *Raw Water Credit* means the number of S.F.E.s for which dedication credits are certified by the Town in exchange for cash in lieu of water dedication payments or water rights dedications to the Town.
22. *Single Family Equivalent Unit (SFE or S.F.E.)* means a number related to the volume of water necessary to meet the demand and use requirements including systems losses and consumptive use requirements, of an average single family dwelling unit which is defined herein as 0.4 acre feet. An S.F.E. shall be defined as 0.4 acre feet for all purposes. The S.F.E. unit value assigned to such average dwelling unit is 1.0.
23. *Sufficient priority* means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this section. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use(s), the historical use of the water right, the physical flow available, and the administrative practices of the office of the State Engineer.

30-10-114(G) Cash in Lieu of Water Dedications or Dedication of Water Rights for Potable Purposes

* * *

2. *Water Right Dedication Requirement.* It is not the intent of the Town to allow the recalculation of water dedications for existing subdivisions or to increase the water rights requirements for subdivisions for which a final plat has already been approved as of the effective date of this section. The requirements herein shall apply to all new development, unless otherwise agreed to in an applicable annexation or development agreement with the Town.

- a. *Dedication of Historical Water Rights.* As a condition of annexation of land to the Town, ownership of all Historical Water Rights associated with the land to be annexed shall be dedicated to the Town in accordance with section I hereof, and such dedication shall occur upon meeting all other conditions necessary for the finalization of annexation. For any other development or change in land use on lands already annexed to the Town, ownership of all Historical Water Rights associated with the land shall be dedicated to the Town in accordance with section I hereof, prior to the Town's approval of any final plat.
3. From and after the effective date of this section, any person who seeks approval of any of the following:
 - a. an extension of water service;
 - b. annexation;
 - c. subdivision;
 - d. any Change in Land Use, within or outside the limits of the Town, if such Change in Land Use will increase the demand for Town water service;

shall comply with this section and the Town's Development Code.

* * *

PART II –GENERAL PROVISIONS

1. INTERPRETATION

This Ordinance shall be so interpreted and construed as to effectuate its general purpose to make uniform the terms and conditions for the sale of treated water from the Town water system contained herein. However, this Ordinance shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date of this Ordinance. Section headings of this Ordinance shall not be deemed to govern, limit, modify or in any way or manner affect the scope, meaning intent or extent of the provisions of any article or section thereof.

2. VALIDITY

If any part or parts of this Ordinance is/are, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have codified these provisions and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

3. REPEAL OF OLD ORDINANCES

Existing portions of Ordinances and portions of the Town of Berthoud Development Code Sections, specifically Section 30-10-114(C) and Section 30-10-114(G), which are inconsistent with the provisions of this Ordinance are hereby repealed.

4. EFFECTIVE IMMEDIATELY

The Town Board hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Berthoud and the inhabitants thereof, and shall become effective immediately upon final adoption.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, this the _____ day of _____, 2023.

TOWN OF BERTHOUD

By: _____
Will Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

Redline of Changes to Section 30-10-114(C) and Section 30-10-114(G)

ORDINANCE # 1330

AN ORDINANCE OF THE TOWN OF BERTHOUD AMENDING ORDINANCE #1300, CONCERNING DEDICATION OF HISTORICAL WATER RIGHTS

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

INTRODUCTION

WHEREAS, The Town of Berthoud previously adopted Ordinance #1300 in January 2022, commonly referred to as the "Town of Berthoud Water Dedication Ordinance"; and

WHEREAS, The Board of Trustees of the Town of Berthoud has determined that certain amendments and modifications to the Town of Berthoud Water Dedication Ordinance are necessary; and

WHEREAS, The modifications shall be accomplished by amendment of the Town of Berthoud Water Dedication Ordinance to be incorporated into the Town of Berthoud Development Code, Chapter 30-10, Section 30-10-114 to read as set forth in this Ordinance.

PART I - AMENDMENTS

IT is therefore ordained by the Board of Trustees of the Town of Berthoud that the following Ordinance is adopted, and Section 30-10-114 of the Town of Berthoud Water Dedication Ordinance shall hereinafter read as set forth below:

30-10-114(C) Definitions

* * *

- C. *Definitions.* Whenever in this section, the words hereinafter defined or construed in this section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

* * *

15. *Historical Water Rights mean those water rights associated with a particular parcel of land at the time of annexation and which have been applied to beneficial use on that land.*
16. *Natural Area* means an area that (a) is appropriately vegetated and free of weeds; (b) is capable of maintaining the existing vegetation without irrigation; (c) has been dedicated to and accepted by the Town; and (d) is a wetland under the criteria in the Wetlands Delineation Manual utilized by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency in effect at the time of dedication to the Town.

Redline of Changes to Section 30-10-114(C) and Section 30-10-114(G)

All Natural Areas shall be encumbered by a conservation easement. Natural Areas do not require any irrigation. In order to qualify as a Natural Area, the Developer must pay the Town's fees and expenses incurred in determining whether the area is a wetland and appropriately vegetated, and the Natural Area must be accepted by the Town at the Town's sole discretion by and through the Town Administrator.

~~46~~17. *Open Water* means a body of water, such as a pond or reservoir, whether existing or created and whether for purposes of water storage, aesthetic, or recreation, that has an adequate physical and legal water supply to maintain the open water condition year round, and that has been accepted by the Town for Open Water land use.

~~47~~18. *Owner* shall be any person owning water using property and/or any person owning real property either corporeal or incorporeal, connected or not connected to the Town water system.

~~48~~19. *Person* shall include any individual, partnership, association, organization, firm, district, corporation, group or other legal entity of any nature, public or private.

~~49~~20. *Phase* means a portion of property that is being platted or has been platted.

~~20~~21. *Raw Water Credit* means the number of S.F.E.s for which dedication credits are certified by the Town in exchange for cash in lieu of water dedication payments or water rights dedications to the Town.

~~24~~22. *Single Family Equivalent Unit (SFE or S.F.E.)* means a number related to the volume of water necessary to meet the demand and use requirements including systems losses and consumptive use requirements, of an average single family dwelling unit which is defined herein as 0.4 acre feet. An S.F.E. shall be defined as 0.4 acre feet for all purposes. The S.F.E. unit value assigned to such average dwelling unit is 1.0.

~~22~~23. *Sufficient priority* means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this section. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use(s), the historical use of the water right, the physical flow available, and the administrative practices of the office of the State Engineer.

30-10-114(G) Cash in Lieu of Water Dedications or Dedication of Water Rights for Potable Purposes
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* * *

- Water Right Dedication Requirement.* It is not the intent of the Town to allow the recalculation of water dedications for existing subdivisions or to increase the water rights requirements for subdivisions for which a final plat has already been approved as of the effective date of this section. The requirements herein shall apply to all new development, unless otherwise agreed to in an applicable annexation or development agreement with the Town.

Redline of Changes to Section 30-10-114(C) and Section 30-10-114(G)

- a. Dedication of Historical Water Rights. As a condition of annexation of land to the Town, ownership of all Historical Water Rights associated with the land to be annexed shall be dedicated to the Town in accordance with section I hereof, and such dedication shall occur upon meeting all other conditions necessary for the finalization of annexation. For any other development or change in land use on lands already annexed to the Town, ownership of all Historical Water Rights associated with the land shall be dedicated to the Town in accordance with section I hereof, prior to the Town's approval of any final plat.
3. From and after the effective date of this section, any person who seeks approval of any of the following:
 - a. an extension of water service;
 - b. annexation;
 - c. subdivision;
 - ed. any Change in Land Use, within or outside the limits of the Town, if such Change in Land Use will increase the demand for Town water service;

shall comply with this section and the Town's Development Code.

* * *

PART II –GENERAL PROVISIONS

1. INTERPRETATION

This Ordinance shall be so interpreted and construed as to effectuate its general purpose to make uniform the terms and conditions for the sale of treated water from the Town water system contained herein. However, this Ordinance shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date of this Ordinance. Section headings of this Ordinance shall not be deemed to govern, limit, modify or in any way or manner affect the scope, meaning intent or extent of the provisions of any article or section thereof.

2. VALIDITY

If any part or parts of this Ordinance is/are, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have codified these provisions and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Redline of Changes to Section 30-10-114(C) and Section 30-10-114(G)

3. REPEAL OF OLD ORDINANCES

Existing portions of Ordinances and portions of the Town of Berthoud Development Code Sections, specifically Section 30-10-114(C) and Section 30-10-114(G), which are inconsistent with the provisions of this Ordinance are hereby repealed.

4. EFFECTIVE IMMEDIATELY

The Town Board hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Berthoud and the inhabitants thereof, and shall become effective immediately upon final adoption.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, this the _____ day of _____, 2023.

TOWN OF BERTHOUD

By: _____
Will Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

BOARD OF TRUSTEES INFORMATION



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Public Hearing to present the Town of Berthoud Landscape Design Guidelines for adoption by reference
Type of Item:	Public Hearing
Purpose:	Recommendation to the Town Board of Trustees regarding adoption of the Town of Berthoud Landscape Design Guidelines by reference
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Appendix A, Draft Landscape Guidelines
- Ordinance 1327 (Series 2023)
- Public Notice

BACKGROUND:

The Town of Berthoud updated its Comprehensive Plan in 2021. This update included many action items regarding strengthening the Town's sense of place, as well as enhancing community identity, community resiliency and sustainability touchstones. The attached draft is a set of guidelines to enable the desired outcome for the Town of Berthoud inclusive of landscaped parcels, water conservation, and stormwater management. This draft is a basic set of standards and empowers builders, developers, and residents with a landscape design/expectation toolkit. Water-wise landscaping can include lush trees, shrubs and perennials that contribute to year-round interest with color and texture; while insuring the Town's natural beauty, design expectations, and visual character are maintained. The included maintenance plan provides practical assistance to the development community.

UPDATE/NEXT STEPS:

The Tree Committee provided their approval of the proposed guideline on Monday, October 16, 2023. Planning Commission provided their approval of the proposed guidelines at their public hearing October 26, 2023. The public hearing to adopt the Landscape Design Guidelines by reference before the Town Board of Trustees is to be held on November 28, 2023.

FISCAL IMPACT AND FUND SOURCE:

There is no negative fiscal impact to the Town in setting a public meeting date to consider adoption of the final Town of Berthoud Landscape Design Guidelines.

COMMUNITY TOUCHSTONES:

Consideration of this request to set a public meeting does not negatively impact community touchstones.

RECOMMENDED ACTION(S):

Planning Commission recommends the Town Trustees approve the adoption of the Town of Berthoud Landscape Design Guidelines by reference.

Suggested Motions:

Approval: I move to approve the Town of Berthoud Landscape Design Guidelines and adopt by reference. The rationale for approval is that the proposed guidelines provide tips and tools for water conservation, stormwater management and offer homeowners and developers tools for their use in implementing successful landscapes in Berthoud.

Denial: I move to deny the adoption of the Town of Berthoud Landscape Design Guidelines to the Town Board of Trustees for the following reasons: _____.

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1327
(SERIES 2023)**

**AN ORDINANCE ADOPTING THE TOWN OF BERTHOUD LANDSCAPE DESIGN
GUIDELINES BY REFERENCE IN MUNICIPAL CODE CHAPTER 30**

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 implement the vision and values expressed in the 2021 update to the Comprehensive Plan, including strengthening the Town's sense of place, enhancing community identity, supporting community resilience and sustainability touchstones; 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 Planning Commission, after proper notice, has held a public hearing on October 26, 2023 on this ordinance providing for a recommendation of approval from the Town Board of Trustees; 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. The attached Town of Berthoud Landscape Design Guidelines shall be referenced in Chapter 30 and adopted.

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

Section 3. Effective Date: The provisions of this Ordinance shall take effect thirty (30) days following the date of public hearing to adopt the Guidelines by reference.

[INTENTIONALLY LEFT BLANK]

INTRODUCED, READ, ADOPTED, AND APPROVED on this 28th day of November,
2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk



LANDSCAPE DESIGN GUIDELINES

PLACE TYPES

TOWN OF BERTHOUD DESIGN GUIDELINES



INTRODUCTION

These guidelines provide expectations regarding landscaped spaces in new development as well as information for use in the renovation of existing landscaped areas. These guidelines are organized to communicate town-wide requirements for plant selection and maintenance. Additional specific guidelines for the following character districts found in the Berthoud Comprehensive Plan update are included.

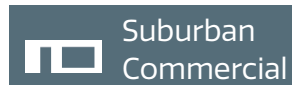
PLACETYPE General Urban Areas



PLACETYPE Urban Center



PLACETYPE Suburban Areas



PLACETYPE Natural Areas



Pages 8-11

Pages 12-15

Pages 16-17

Pages 18-21

Organization:

Within each section are a number of design principles and measures that address the different elements of landscape design and environmental sensitivity based on land use. Each section of the town wide Design Guidelines will cover overarching objectives (e.g., planting, maintenance, water use etc) based on place types.

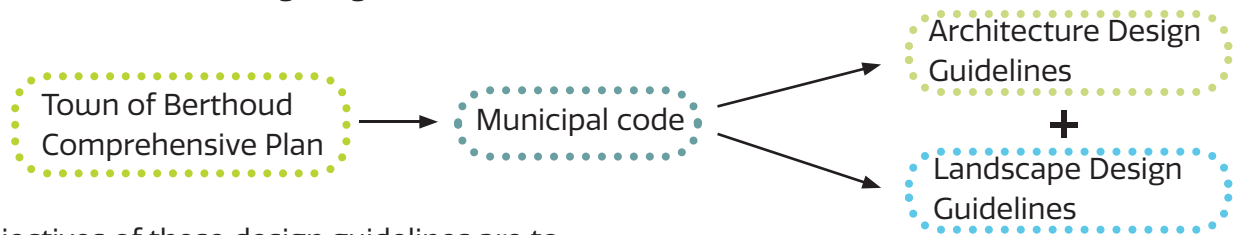
Guidelines that promote water wise and sustainable practices are designated by the water wise leaf  symbol.

How To Use the Guidelines:

Property owners, developers, designers, and contractors proposing new development in Berthoud should first review the zoning of the property being developed and familiarize themselves with the Berthoud Municipal Code. They should then proceed to the most recent **Berthoud Comprehensive Plan Update**, the **Berthoud Municipal Code (Landscape Design 30-2-112)**, adopted master plans affecting the property, and finally, these **Landscape Design Guidelines**. The provisions set forth in this document identify the desired level of planting and design quality for all development; however, flexibility is necessary and encouraged to achieve excellent design. Each application for development should demonstrate to what extent it incorporates these guidelines. Applications that do not meet specific guidelines applicable to that project should provide rationale for the design and explain how the project will meet the **intent** of the Comprehensive Plan, the Municipal Code, and these Guidelines. Whether the design intent is justified will be determined through Planning Department review. Appeals to Planning Department decisions will be made to the Planning Commission.

How the Guidelines are Applied:

The Landscape Guidelines are intended for the Planning Department, as well as other town agencies and department staff, developers, architects, engineers, and community members to use in processing and evaluating project designs and applications together with relevant policies from the **Berthoud Comprehensive Plan as amended**, the **Berthoud Municipal Code (Landscape Design 30-2-112)**, and finally, these **Landscape Design Guidelines**. To achieve the stated purpose, the Guidelines will apply to all new construction and substantial building alterations that require approval by the Town of Berthoud Community Development staff in the Planning Department and Building Department. Incorporating these guidelines into a project's design will result in aesthetically pleasing and compatible landscaping in new developments, with plantings appropriate to the Colorado Front Range region's climate, soil, and environmental conditions.



The objectives of these design guidelines are to:

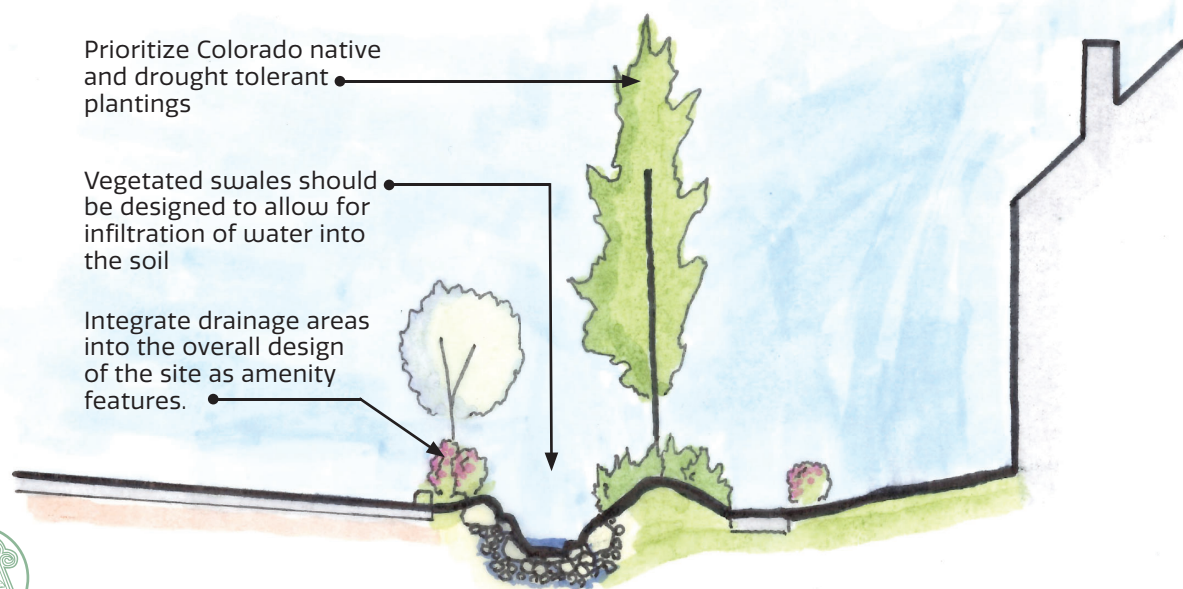
- a. Reflect the vision and policies set forth in the Town of Berthoud Comprehensive Plan.
- b. Supplement landscape development standards found in the Town of Berthoud Municipal Code.
- c. Maintain or improve property values.
- d. Enhance the town's natural beauty, visual character, and climate resilience.
- e. Encourage high-quality landscapes.
- f. Facilitate a high level of resource conservation.
- g. Provide designers and decision makers with a tool that is reflective of the town's Colorado climate landscape character and sense of place as the 'Garden Spot of Colorado'.



This section will incorporate overall landscape strategies to be implemented in all place types.

 An ecology based stormwater management system is the baseline for creating a resilient and sustainable city. The core principles of these guidelines are to enhance landscape biodiversity, maximize water infiltration, and create a distributed network for stormwater management that is redundant and well connected.

-  1. Impervious surfaces should be kept to a minimum when not required by town.
-  2. Infiltration of water into the soil should be promoted by best practice grading and drainage design.
-  3. Permeable paving materials should be used to the extent practical in hardscaping areas like driveways and parking lots to recharge groundwater and reduce stormwater runoff.
-  4. Vegetated swales should be designed to allow for infiltration of water into the soil. Where practical, swales should be located along the edges of streets and along parkways.
-  5. Stormwater runoff should be diverted from impervious roofs and paths into permeable landscaping areas to increase water infiltration into the ground.
-  6. In areas with poor drainage, subsurface water storage or bioswales should be provided.
-  7. Drainage systems should be decentralized, to distribute storm water across the site instead of channelizing it.
-  8. Consider using multiple stormwater strategies (bioswales, permeable pavers, rain gardens) that cleanse water and increase infiltration.
-  9. Landscape designs should slow, spread and soak stormwater, allowing plants to filter stormwater instead of piping directly to retention ponds.



TOWN OF BERTHOUD
**PLANT SELECTION
DESIGN GUIDELINES**

Landscape Design Guidelines

1. Plant selection should be specific to Berthoud's climate, in addition to site conditions such as location on site/exposure, light intensity, soil types, site drainage, and irrigation.
2. Plant selection should enhance the plants likelihood of becoming established and reduce potential disease, death, or maintenance.
3. Colorado native and drought tolerant species should be prioritized as much as possible.
4. Select plants that are beneficial to native pollinators and incorporate landscape features that provide habitat for native pollinators.
5. Plants and trees for a new development project should meet the following criteria:
 - 1.5" - 2" caliper or larger (for trees)
 - Shrubs should be in 5 gallon containers
 - Vines and Espaliers should come in 1 gallon containers or larger
 - Perennials and ornamental grasses should come in 1 gallon containers or larger
 - Ground cover should be in quart sized containers or larger
6. Street trees of the same species along the same street should be the same size and shape, and meet the following size criteria at the time of planting:
 - 1.5" - 2" caliper preferred, up to 5" maximum (for healthy establishment)
7. When replacing dead or dying trees, the size of the replacement tree should closely match the size of the trees next to it up to a 5" caliper.
8. The target percentage of low water use plants is eighty percent (80%). See master plant list.
9. Select plants that will contribute to winter color, texture, and form when possible to provide visual interest year round.
10. When using hardscape mulch (rock, gravel, cobble), ensure seventy five percent (75%) of any planter or landscape area is living plant material (includes tree lawns).



Town of Berthoud Facts -

- Berthoud has been a part of the **Tree City USA** program since 1990
- Berthoud is nicknamed the '**Garden Spot of Colorado**' because of its abundance of trees, open space and sweeping mountain views
- In 2020, Berthoud passed resolution 2020-01 with the sole purpose of protecting and supporting pollinators in town.



1. Street side landscaping should present a unified design that adds to the built environment. The design should accentuate development entries with planting, monument signs, and lighting. (As needed in accordance with Berthoud's Dark Sky requirements.)
2. Landscape structures and features, hardscape, and site furnishings and fixtures should be designed as integral parts of the overall landscape concept, and they should be consistent or compatible with the neighborhood architectural style, scale, material, and finishes.
3. Where irrigation systems and/or plant materials can cause damage to sensitive building materials, a two- (2') to three- (3') foot space should be left between the outside building wall and adjacent landscaping elements to minimize damage to the building structure. This space should be filled with decorative hardscape materials.
4. Monoculture and/or plant palettes including five (5) or less species are discouraged.
5. Regionally sourced or manufactured landscape construction materials, such as lumber, mulches, pavers, trees, shrubs, groundcover, and quarried gravel/cobbles/rocks or other hardscape materials, should be utilized where practical.
6. Permeable paving materials should be used where feasible.
7. Select street trees that are appropriate to their intended location and function.
-  8. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce storm-water runoff, and increase the capacity for groundwater recharge.
9. Use perennials, annuals, ornamental trees and ornamental grasses to accentuate gateway locations and special sites in town.
10. Hardscape materials and installation should meet the standard of care for all applicable professionals and should not result in an unsafe condition.
11. Enhanced paving materials should be provided at key focal points such as points of entry, pedestrian crossings, plazas, and other locations that warrant special visual emphasis.
12. Trees and shrubs should be located and spaced to allow for mature and long-term growth.
-  13. Trees should be selected on a performance basis with the objective of minimizing water use, providing shade, minimizing root intrusion, and providing color and contrast (see Master Plant List).



Sustainability Tip – A gas powered leaf blower emits nearly 300 times the amount of air pollution as a pick up truck. Replace your two stroke lawn equipment with battery powered options and reduce air pollution and help ozone levels.

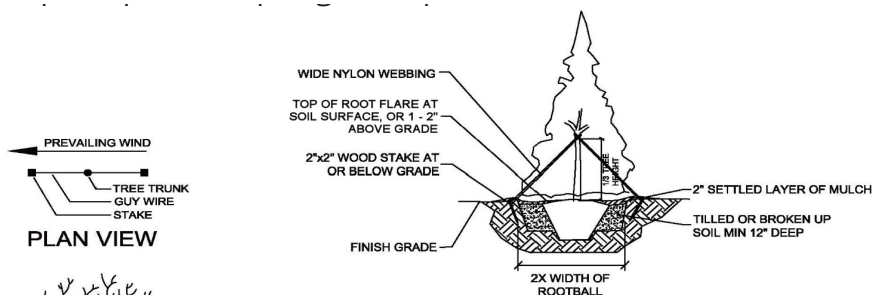


TOWN OF BERTHOUD
**MAINTENANCE
 DESIGN GUIDELINES**

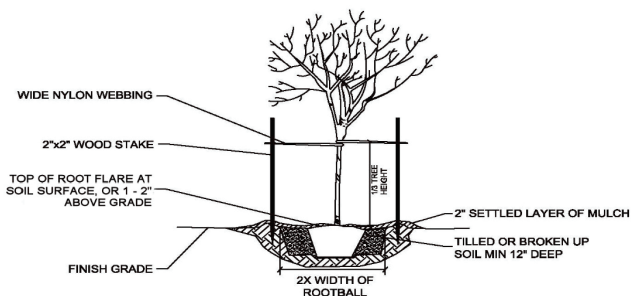
Landscape Design Guidelines

By following an ecology based strategy for landscape design, maintenance costs and effort can be reduced. When a landscape design mimics the naturally occurring ecosystem, the need for pest control and new planting is reduced.

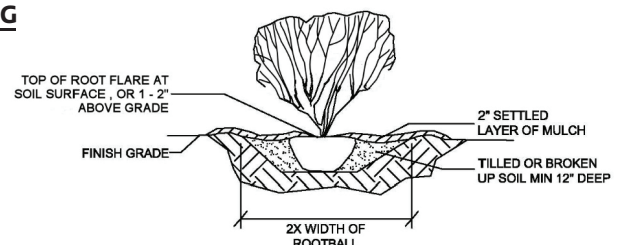
1. Yard waste from landscaping maintenance should be collected and composted where possible. Organic materials that enter landfill contribute to climate change by releasing greenhouse gasses when decomposing in the anoxic conditions of a landfill. Conversely, organic material that is reincorporated into the soil increases soil carbon and nutrients available to plants.
2. When turf grass is used in landscaping, do not collect grass clippings and leaves that fall on the lawn. Instead, allow the organic material to break down and “feed” the soil. This will decrease the need for inorganic fertilizers and also recycle carbon as mentioned above.
3. All common area landscaping and trees will be maintained to keep plants in good condition.
4. Conduct soil analysis to determine if soil has poor organic or physical properties. Amend soil if necessary using compost or other renewable organic materials.
5. Stabilize stockpiled topsoil with native grass seed like buffalo grass during construction to prevent erosion, reduce dust, and protect microbial life.
6. Properly mulch newly planted trees and plantings and ensure they are adequately irrigated until established. Commitment to survival between 1-3 years, depending on the planting.
5. Property owners, HOA's, Metro Districts to replace dead, dying, damaged or diseased plant materials during the same growing season as the removal.
7. Diversity of plantings will decrease the cost and need for maintenance by leveraging beneficial ecosystem services like beneficial birds and insects as well as nutrient cycling.
8. When located within the pedestrian realm, always trim tree limbs and plantings to maintain pedestrian circulation. Locate rock mulch away from the pedestrian realm or contain within landscape to prevent spillage into pedestrian traffic.



EVERGREEN TREE PLANTING



SMALL TREE PLANTING



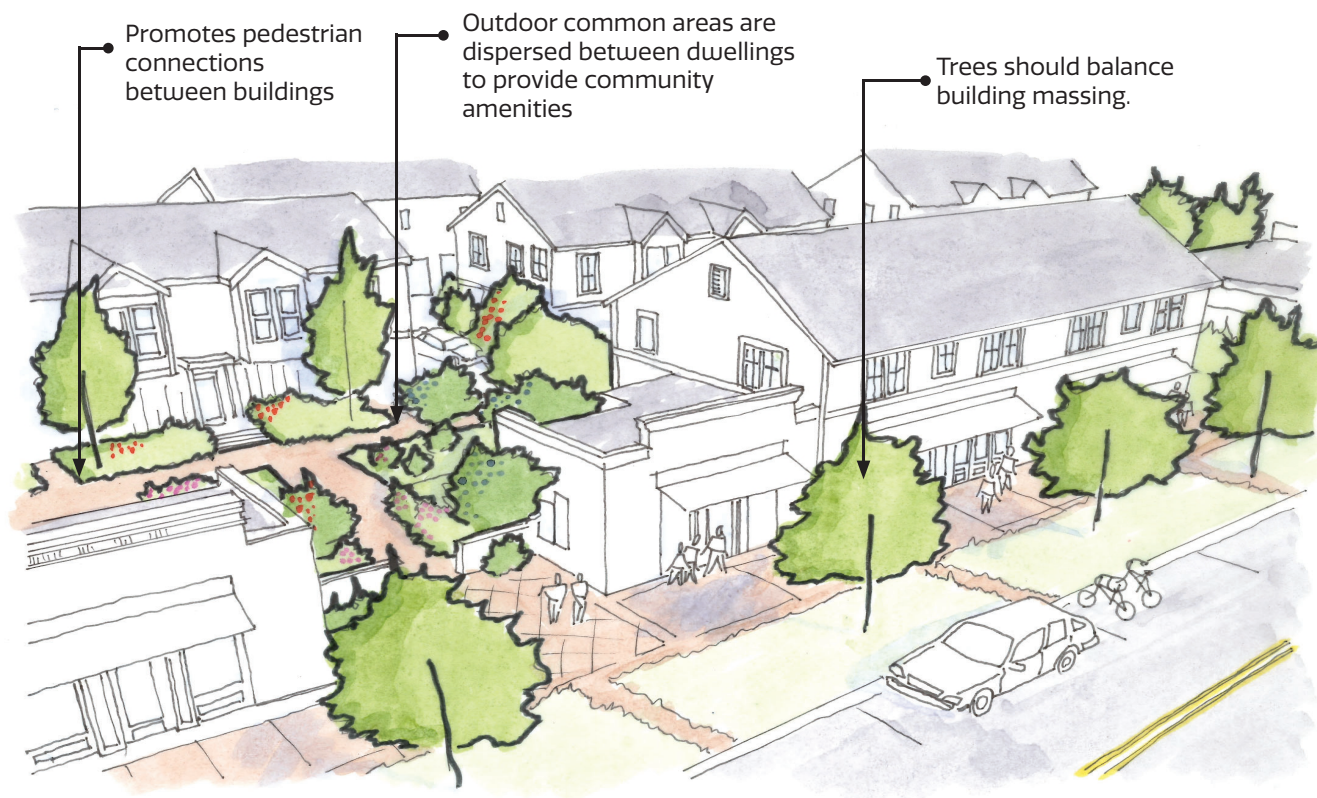
TYP. SHRUB PLANTING

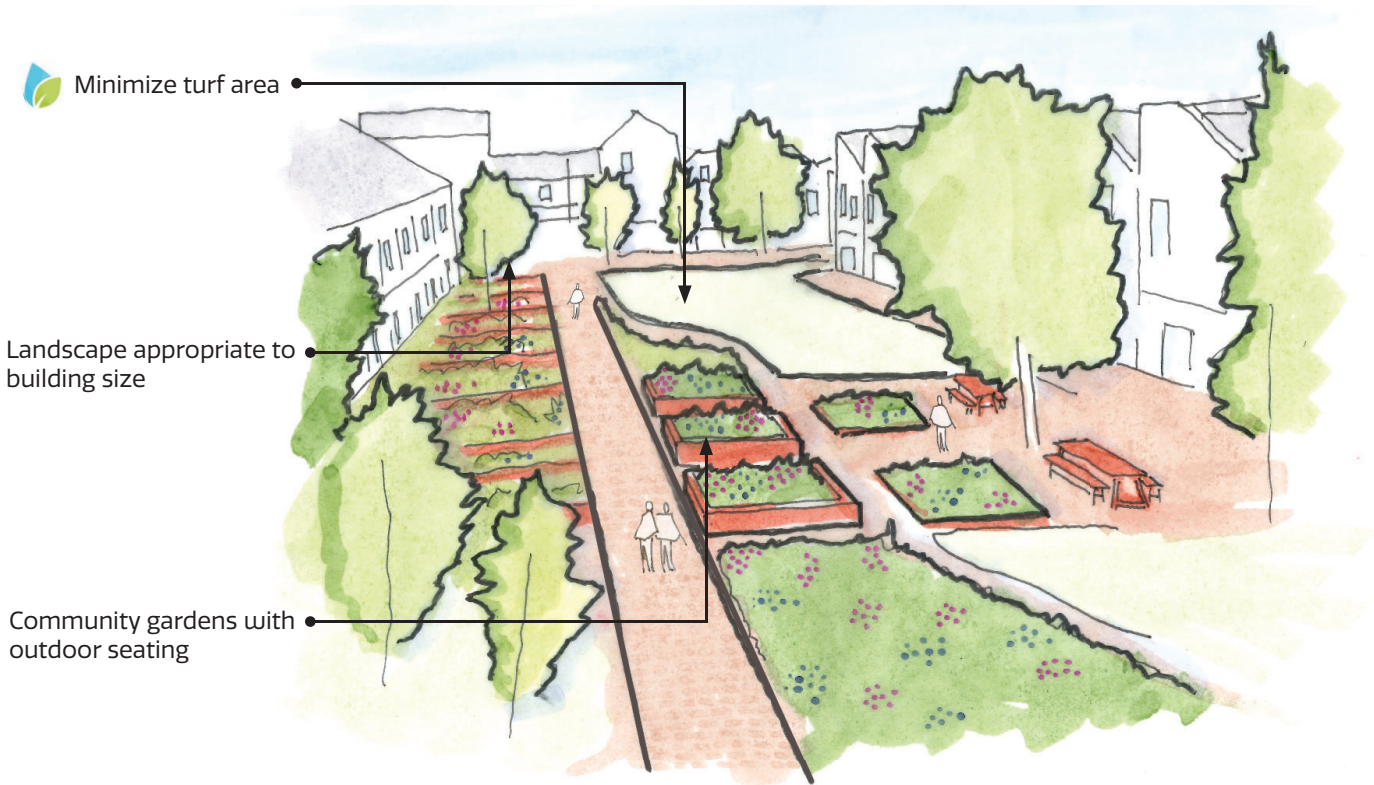




The urban residential Landscape Design Guidelines apply to all new projects within the Urban Residential Character district.

1. Landscape plans shall be prepared by a Colorado Licensed Landscape Architect for new development.
2. All landscaping in public and common use areas should be maintained to attractive conditions by the owner, HOA, or Metro District (whichever applies).
3. Landscaping should be provided in common use areas associated with urban residential development.
4. Trees should be selected with consideration to their size at maturity to balance building massing.
5. Landscape design should be pedestrian-centric, focusing on designing safe pedestrian-friendly, and comfortable environments with strong connectivity and sense of place.





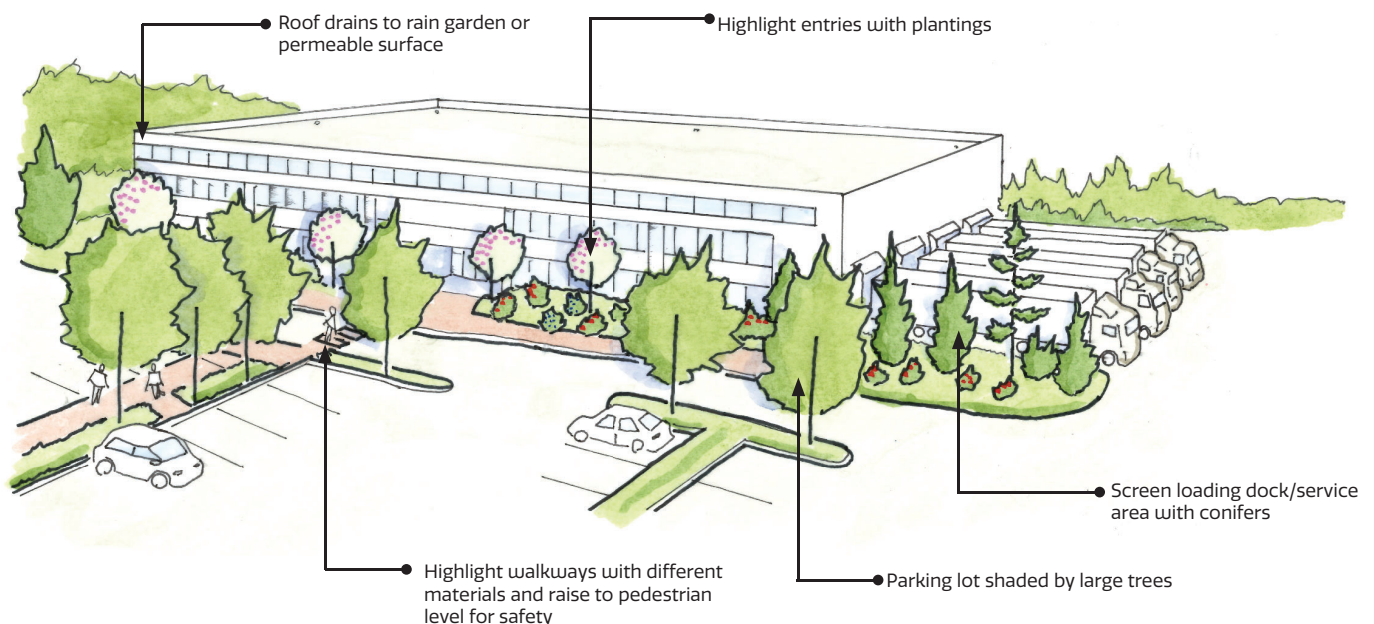
6. Urban residential developments in which the majority of the dwelling units do not have ground level garden space, should set aside land for a community garden (or other community open space) sized at 1/8 acre per 50 dwellings.
7. Thoughtfully developed hardscape design should be integrated into the overall landscaping and may include decorative pedestrian pavements, site furnishings, and landscape features like sculptures, decorative planters, garden ornaments, arbors, trellises, screens, gazebos. These landscape elements should be compatible with the architectural character of the surrounding neighborhood.
8. Design common spaces to provide a sense of security derived from visibility from residential dwellings.
9. Common spaces should have clearly defined separation from vehicular areas to ensure pedestrian safety.
10. Turfgrass lawns should be limited for spaces for active and passive recreation for activities such as sports, games, and group events.





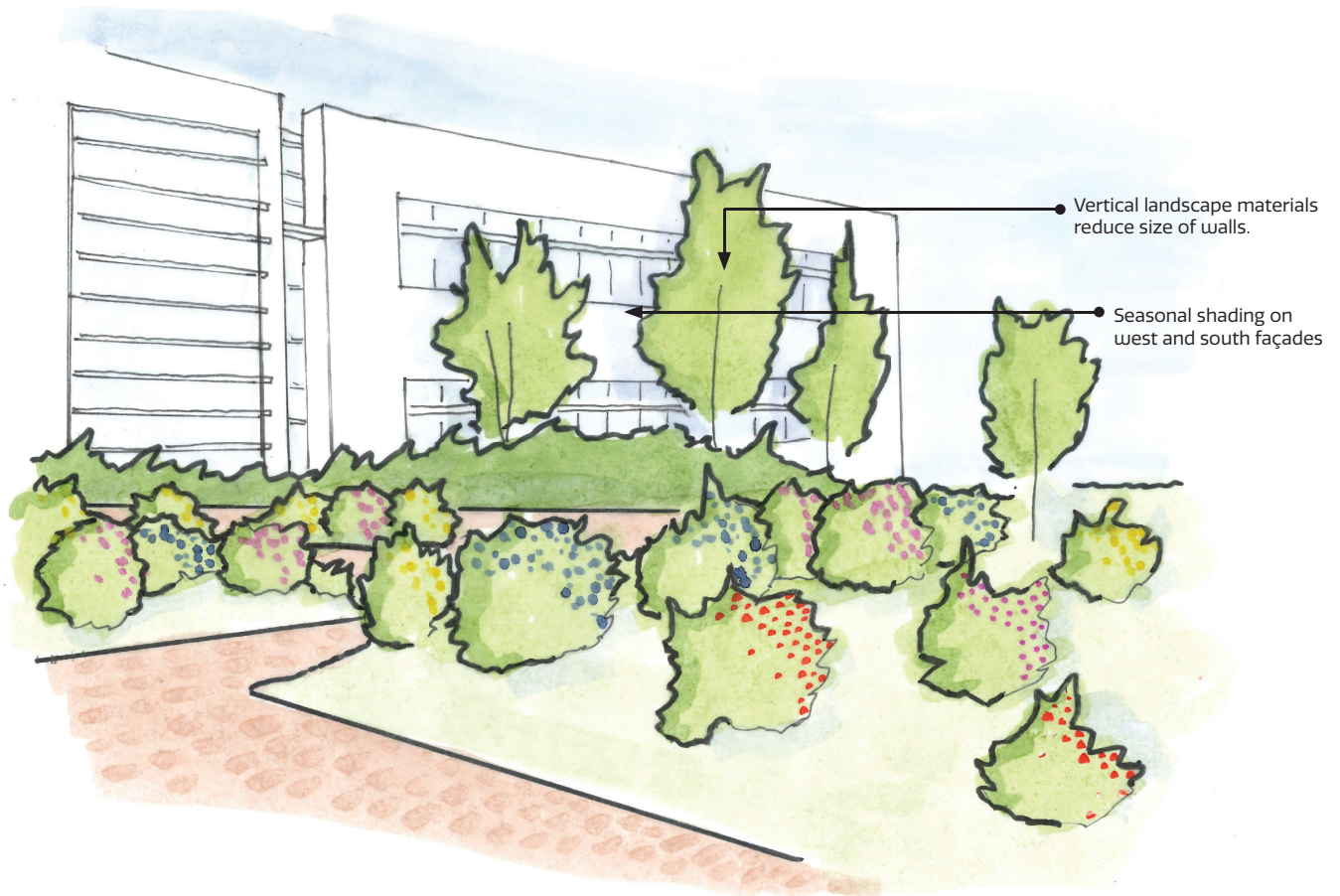
The following urban industrial landscape design guidelines apply to all new projects within the Urban Industrial Character District.

1. Landscape plans shall be prepared by a Colorado Licensed Landscape Architect for new development.
2. Landscaping should create an environment that softens the expanses of buildings and parking spaces. Landscaping elements include trees, shrubs, and ground cover at the base of buildings and to emphasize key architectural features.
3. Landscaping should be used to focus attention on entrances to buildings, shade parking lots, and screen loading and service areas.
4. Landscaping should be in scale with adjacent buildings and be of an appropriate size to accomplish its intended goals.
5. Vines and potted plants should be used, when necessary, to provide wall, column, and post texture and color, as well as to accentuate entryways, courtyards, and sidewalks.





6. Vertical landscape materials should be used to visibly reduce the size of large walls.



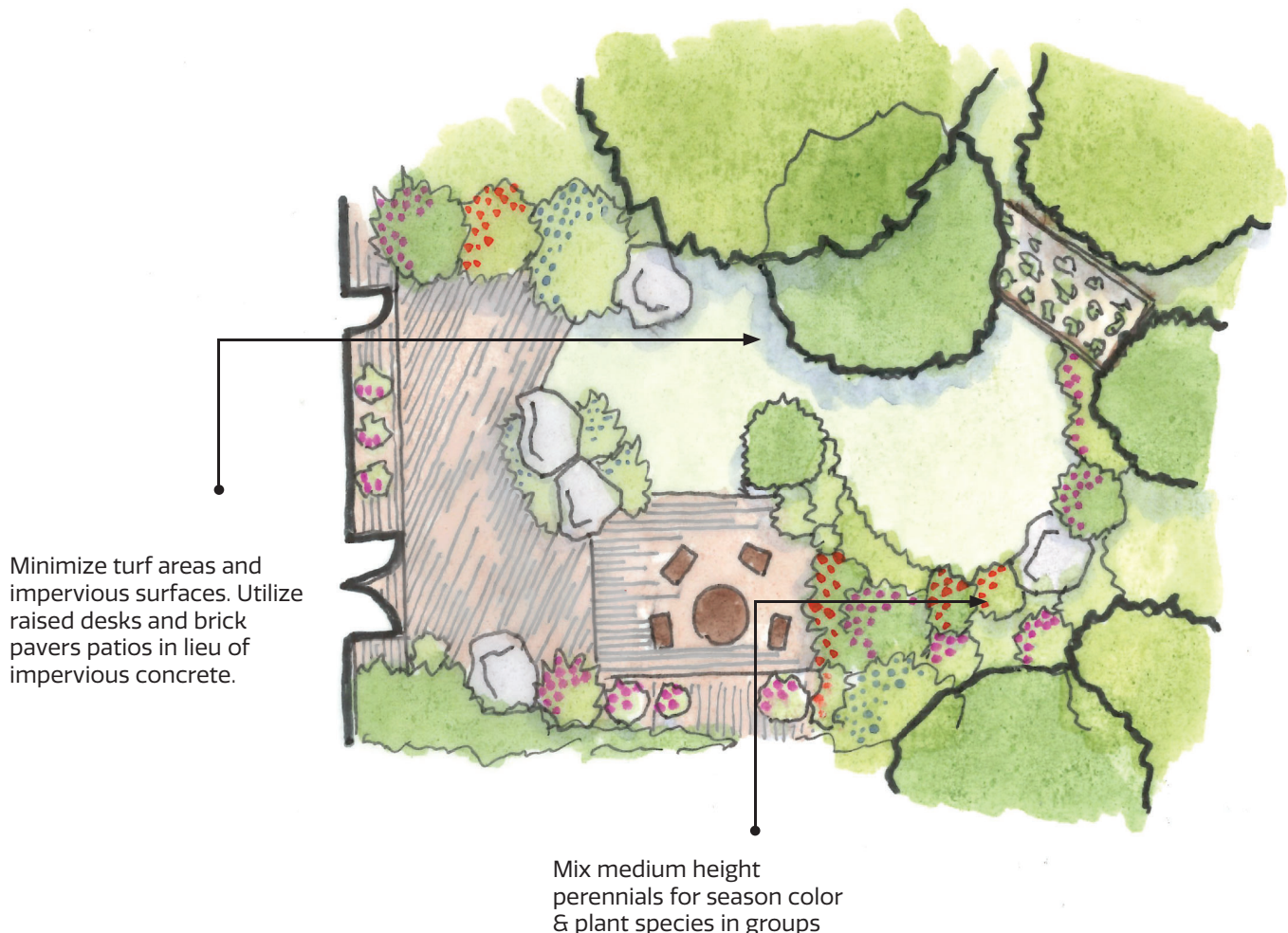
CHARACTER DISTRICT
**SUBURBAN & OLD
TOWN RESIDENTIAL**

Landscape Design Guidelines



The following suburban and old town residential landscape design guidelines apply to all new projects within the Suburban Residential Character District and the Old Town Residential Character District.

1. All new land development applications except building permits for individual single family home residences should retain a licensed landscape architect to prepare landscape plans.
2. Residential homeowners are encouraged to retain a licensed landscape architect or licensed landscape contractor to prepare landscape plans.
3. Landscaping should include a variety of plant, tree, and groundcover species.
4. Front yard landscaping should visually integrate the adjacent natural landscape where possible.
5. Artificial turf should only be used in private backyards or for sports fields.



CHARACTER DISTRICT
**SUBURBAN & OLD
TOWN RESIDENTIAL**

Landscape Design Guidelines



Plant trees away from utility lines and property borders.

Incorporate landscape features that softens transition from residence to street



6. Dwellings should incorporate landscaping features to soften the transition between the home and the street.
7. Locate trees away from utility lines extending to the residence.
8. Turfgrass lawns are discouraged within single-family landscape areas except where adjacent to outdoor living areas such as patios.
9. Residential driveway pavement incorporating decorative material (e.g., pavers, bricks, and colored concrete) to break up and accentuate the surface is encouraged.
10. Permeable paving materials should be used where feasible.
11. Whenever possible, each front yard should have at least two ornamental trees on the property. Front yard trees should have mature sizes in scale with the massing and height of the residence. One tree should be located between 4'-5' of attached sidewalks, and within the tree lawn at detached side walks.



Correct ratio living plant material in rock beds



Incorrect ratio of living plant material within rock bed





The following urban downtown landscape design guidelines apply to all new projects within the Urban Downtown Character District.

1. Landscape plans shall be prepared by a Colorado Licensed Landscape Architect for new development.
2. Keep in mind that the conditions of various planting sites in the downtown area will vary and should be evaluated for individual landscape objectives and suitability to the specific street on which they are to be planted. The following guidelines should be followed:
 - Large trees should be located along wide right-of-way streets, and principal access streets such as along Mountain Ave.
 - Large trees should also be used to highlight corners, to provide cover for large plazas, or as accents against the skyline.
 - Ornamental trees should be used to provide seasonal color and a visual focal point for special locations such as a building entrance, corner areas, sitting areas, bus stops, or other significant areas or view corridors.
 - Use of streetscape elements that define the urban palette are encouraged, including tree grates within sidewalk zone, benches and planters with durable materials, decorative paving to define special areas.
 - Where tree grates are used they should be sized to accommodate tree growth, minimum 6' x 8'.
 - When appropriate, use native grasses, paved areas, and ground covers within the design of a tree lawn.
 - Street trees should be properly planted and maintained for health and growth. Replace diseased, damaged or dying trees immediately.



Correct placement and care of successful street tree



Incorrect upkeep of street tree replacement and maintenance





A. **Buffer zone:** plant street trees and use planters to protect the pedestrian path and separate walkways from the street.

B. **Pedestrian walkway:** provide adequate space for pedestrians and do not block with outdoor seating.

C. **Storefront zone:** activate storefront zone with plantings and seating



3. Landscaping must be incorporated in the design of pedestrian areas along the building fronts. Plantings for pedestrian areas should be designed with attention to color, texture and form. Use a variety of trees, shrubs, perennials, and ground covers. Provide seasonal plantings in planters, pots, hanging pots and beds to add color, beauty and variation.
4. New developments should provide for opportunities for the installation of art in landscaped areas and in front of buildings.
5. Do not use gravel or loose stone in place of ground cover in the curb zone
6. Consider maintenance with any improvement made within the right of way.

Provide pedestrian crosswalks at intersections. Mark the zone with a minimum standard marking. Alternative markings will be reviewed for safety and design appropriateness



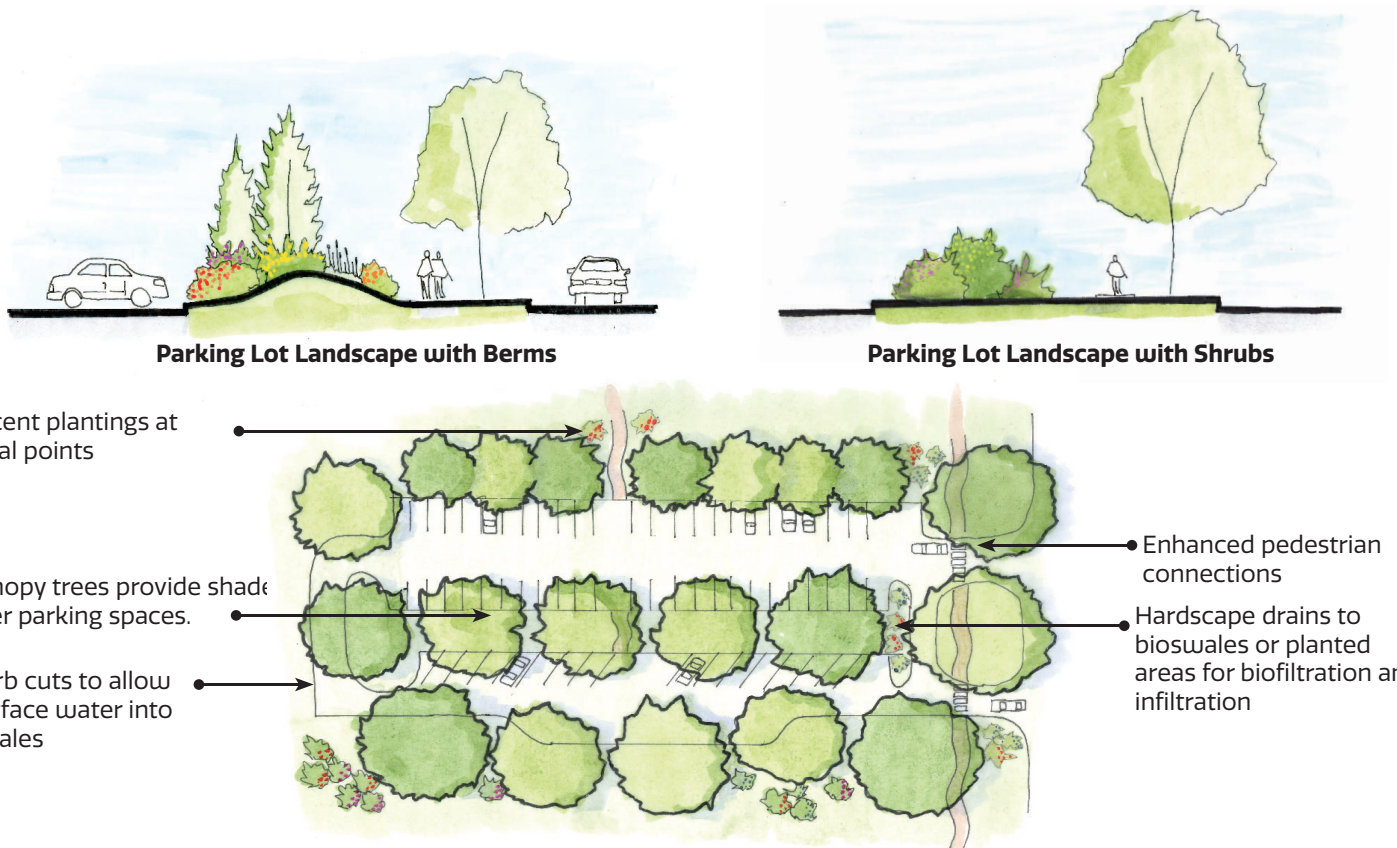
Create amenity areas to incorporate benches, bike racks, planters or informational elements

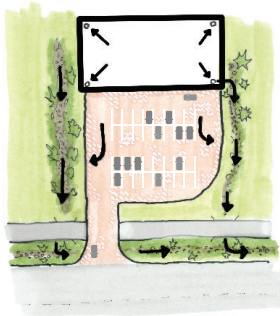
Create safe and enjoyable pedestrian zones with stamped concrete or pavers to distinguish corner



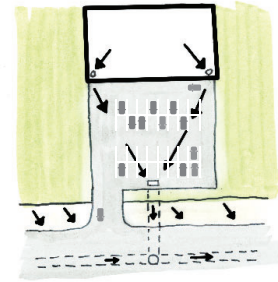
The following suburban commercial landscape design guidelines apply to all new projects within the Suburban Commercial District.

1. Landscape plans shall be prepared by a Colorado Licensed Landscape Architect for new development.
2. Landscapes should be designed to be low maintenance and compatible with the purpose of the facility.
3. Pedestrian connections should be utilized to create an open network of walkways, sidewalks, and trails throughout the commercial development.
4. The use of shade trees and shade structures may be used to diminish heat by providing shade in summer and allowing solar gain in winter to reduce dust, provide visual screening, and wind breaks.
5. Accent planting should be used around entryways and key focal points.
6. Vines and potted plants should be used to provide wall, column, and post texture and color, in addition to accentuating entryways, courtyards, and sidewalks.
7. Canopy trees should be used in parking lots to ensure shading of paved areas. Shade cover at maturity should meet or exceed fifteen percent (15%) of parking stall paved surfaces.
8. Pedestrian walkways should be provided in all parking areas.



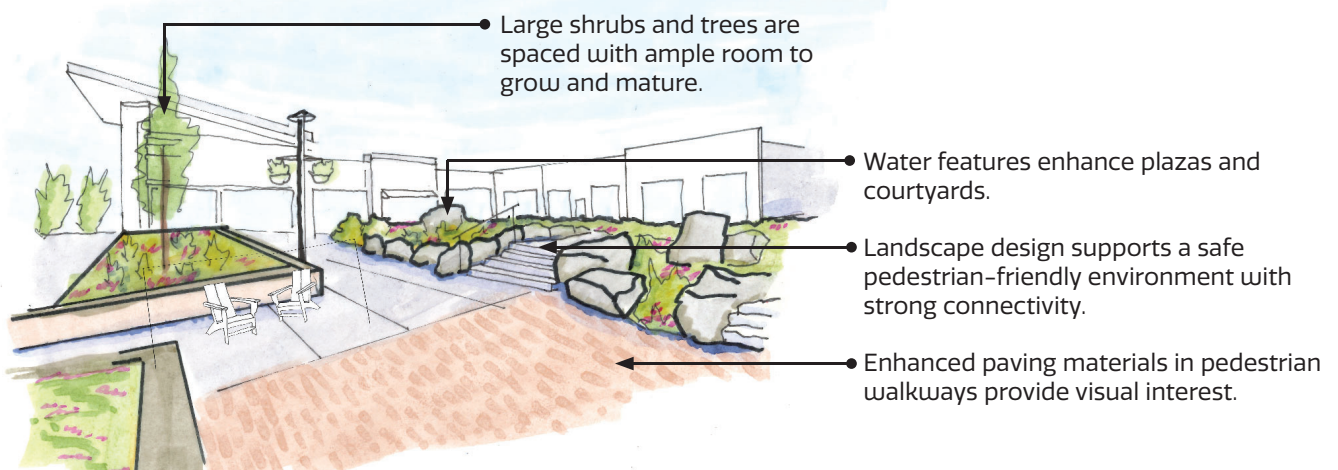


SURFACE DRAINS TO LANDSCAPE



SURFACE DRAINS TO INLET ONLY

9. Landscape design should be placed to support a safe pedestrian-friendly environment with strong connectivity.
10. The use of hardscape elements such as textured pavers, large ornamental flower pots, decorative walls, and water fountains are encouraged.
11. Water features may be considered with plantings and natural materials in courtyards and plazas.
12. Direct water from parking lots, roof drains and other areas into landscape areas that could benefit from additional water and /or improve the quality of stormwater.





ENVIRONMENTALLY SENSITIVE AREAS

1. Provide a buffer zone from all environmentally sensitive areas adjacent development. Buffer to be maintained by the HOA or Metro District.
2. Identified environmentally sensitive areas and their buffers should be protected from disturbance unless necessary based on the following circumstances:
 - Landscape improvements would protect and mitigate effects from adjacent development.
 - Restoration of area is necessary based on existing conditions.
 - Improvements are needed for public safety.
 - Improvements are necessary and cannot be located elsewhere.
 - Improvements include trails and public use areas designed to be compatible and complementary with the sensitive natural area.



Restoration of environmentally sensitive areas with compatible passive uses



Wetland area with needed improvements to existing conditions



Water Saving Tips

- ***Don't water between 10 am and 6 pm. Instead, aim for watering at dawn or dusk to reduce evaporation and maximize water absorbed by plantings.***
- ***Set your lawnmower to the highest setting. Longer grass will keep the ground cooler and retain more water.***
- ***Minimize runoff by allowing for soak-time between short water cycles. For instance, water for 5 minutes, wait an hour, then water for 5 more minutes.***
- ***Consider looking into a rainwater collection system for lawn and garden watering, which not only cuts down on your costs but cuts out the energy cost associated with water from the treatment plant.***

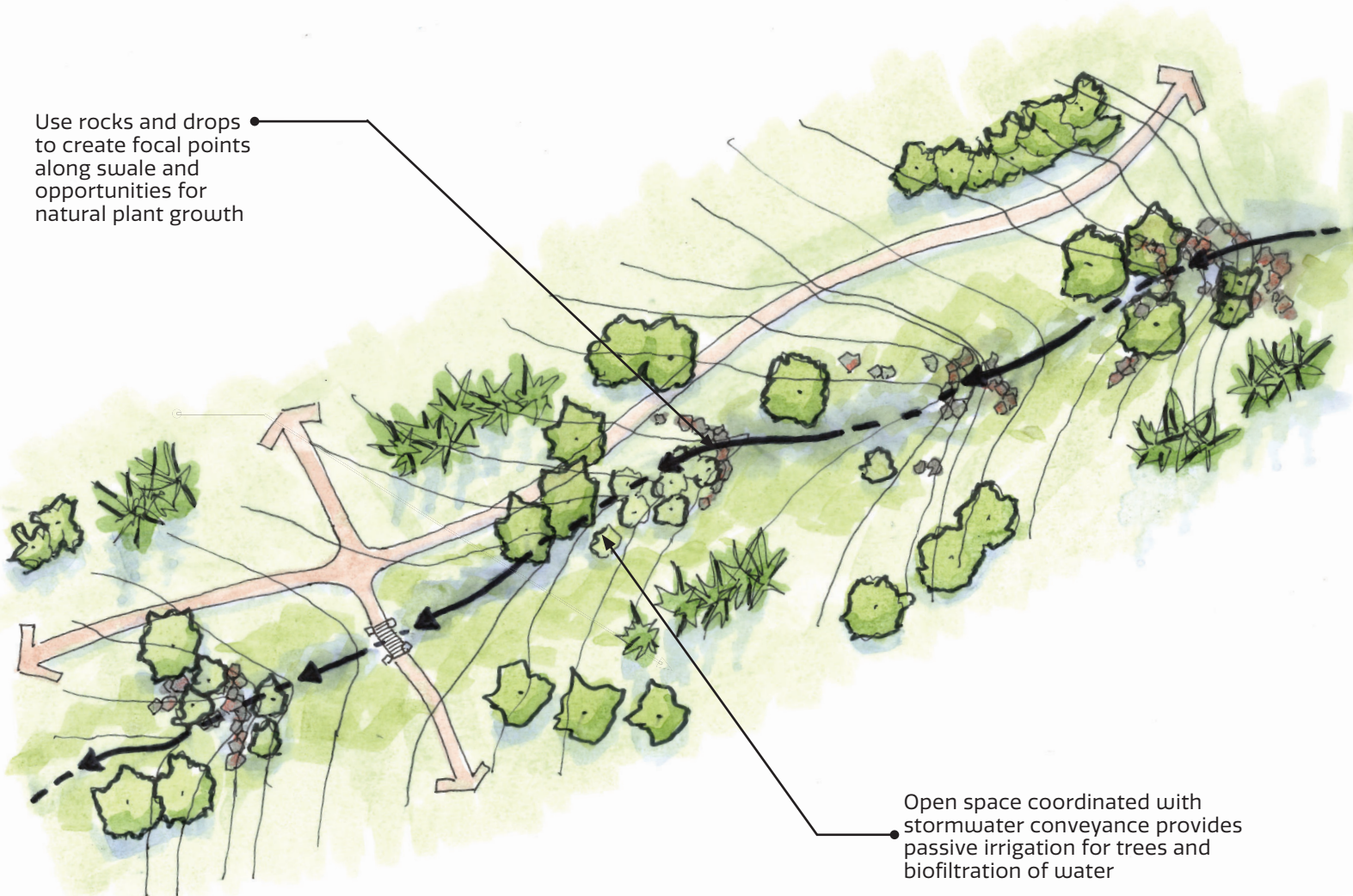




OPEN SPACE

1. Provide open space as a transition between development parcels and natural areas.
2. Provide open space at trail corridors, drainage areas and as a relief from the built environment.
3. Plan open space areas with native or regionally adapted plant materials, primarily unirrigated after being established.
4. Trees, shrubs and grasses that are not expected to receive enough water through natural precipitation to be irrigated temporarily for the establishment of plant growth for up to 3 years. Once established, water as necessary based on seasonal conditions.
5. Coordinate open space with the design of storm water conveyance and water quality systems and allow for passive irrigation of plantings when possible.

Use rocks and drops
to create focal points
along swale and
opportunities for
natural plant growth



Open space coordinated with
stormwater conveyance provides
passive irrigation for trees and
biofiltration of water





NATURAL AREAS

PARKS, RECREATION AND TRAILS

1. Design parks to serve the active and passive needs of people on-site and on nearby properties.
2. Amenities such as picnic shelters, playgrounds, amphitheaters, gardens, etc. should be appropriate to the project.
3. Reserve Irrigated turf grass for areas of parks subject to human activity.
4. Parks in residential areas:
 - Provide more than 50% street frontage.
 - At the discretion of the town staff, visibility and access from public trails or public properties (e.g. schools, civic buildings, etc.) may be an alternative to the street frontage requirement
 - Types and locations of parks will be based upon accessibility to all residents; needs according to the Town of Berthoud; and classification according to who the park serves (e.g., Community Park, Neighborhood Park, Pocket Park, etc.).
5. Parks in commercial and mixed-use areas:
 - Provide more than 25% street frontage.
 - At the discretion of the town, visibility and access from public trails maybe an alternative to the street frontage requirements.
 - Provide natural area transitions in parks where parks abut natural open space areas.

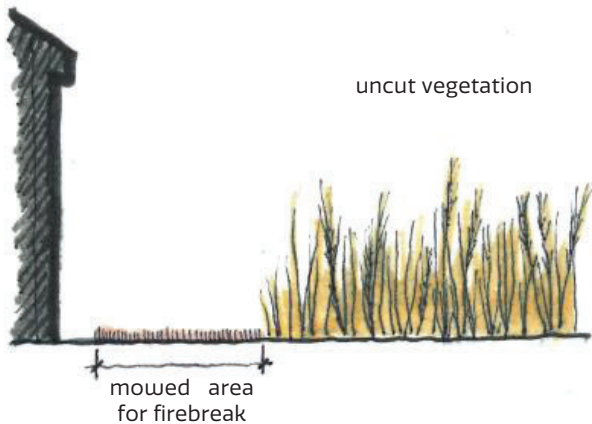




EMERGENCY PLANNING WILDLAND URBAN INTERFACE – WUI

Landscape Design Guidelines

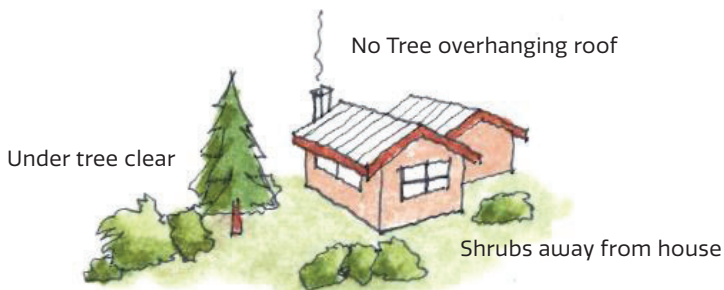
The Wildland Urban Interface (WUI) is the area where homes and the urban environment press against the wildland. Berthoud is included in the WUI for the Front Range of Colorado. Property owners are encouraged to protect their property and their community from wildfire. More resources can be found at <https://csfs.colostate.edu/wildfire-mitigation>



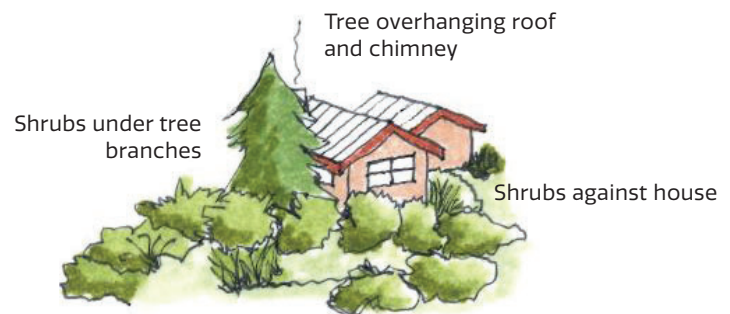
Multi-use path as fire break

LANDSCAPE WILDFIRE PREVENTION METHODS

1. Keep trees pruned and away from structures. Install hardscape at the base of trees.
2. Use fire-resistant plantings where possible to prevent spread. Firewise plantings are carefully spaced, low-growing and free of resins, oils and waxes that burn easily.
3. Practice good mowing techniques. Mow properties regularly, according to land use. Create fuel breaks from grassland open space areas to adjacent structures/communities by keeping a 10' boundary mowed from tall grasses. Use multiuse paths within open space areas as fire breaks by mowing each side to create the 10' firebreak.
4. Report overgrown vegetation in open space land to the Town of Berthoud Neighborhood Services Manager.
5. Establish defensible space zones around structures
 - Zone 0 – Ember resistant zone (0-5 feet away from building and structures)
 - Zone 1 – Lean clean and green zone (5-30 feet away from building and structures)
 - Zone 2 – Fuel zone (30-100 feet away from buildings)



Well maintained landscape to prevent fire spread



Poorly maintained landscape for fire spread



PLANT SELECTION

The Master Plant List is a general guide to the plant species suitable for landscape use along the Front Range. In general, the Master Plant List is not intended to be a fixed and limiting list. Plants not found in the Master Plant List may be approved for use provided that they meet the criteria noted below. The licensed landscape architect will provide guidance material affirming compliance when selecting plants not on the list.

Due to the ever changing nature of the nursery trade, some plants on the Master Plant List will become unavailable and new species, cultivars, and hybrids will be introduced. New plants and other plants with desirable characteristics may be adopted, provided that they meet the criteria described above. Plant species may need to be erased from the Master Plant List in the future if they become susceptible to serious diseases and pests that are not currently known. An alternate up to date resource for plant selection can be found at <https://plantselect.org/> and the town forestry website. Please contact the town forester to review suitability of trees not found within the given resources.

MASTER PLANT LIST



= Colorado Native Plant



= Pollinator Friendly



= Street Tree Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Cacti and Succulents				
Coryphantha (Escobaria) missouriensis	Yellow Nipple Cactus	Full sun	Low	☉
Coryphantha (E.) vivipara	Pink Nipple Cactus	Full sun	Low	☉
Opuntia macrorhiza	Prickly Pear	Full sun	Low	☉
Yucca glauca	Plains Yucca	Full sun	Medium	☉

Plains Yucca, AKA Soapweed

- This plant is a very draught tolerant native species.
- It is the only host plant for the yucca moth.
- Plant Yuccas away from paths and walkways, as it's blue green leaves are very sharp
- In mid to late summer, it produces stalks of bell-shaped greenish white flowers.



MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly



= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Groundcovers				
Antennaria parvifolia	Pussytoes (perennial)	Full sun	Low	☉ ☐
Callirhoe involucrata	Wine Cups (perennial)	Full sun	Low	☉ ☐
Erigeron divergens	Spreading Daisy (perennial)	Full sun	Low	☉ ☐
Eriogonum umbellatum	Sulphur Flower (perennial)	Full sun	Low	☉ ☐
Berberis repens (Mahonia repens)	Creeping Mahonia (shrub)	Full sun	Low	☉ ☐
Rhus trilobata 'Gro-Low'	Gro-Low Fragrant Sumac (shrub)	Partial Sun	Medium	☉ ☐
Arctostaphylos uva-ursi	Kinnikinnick	Full sun	Low	☉ ☐

Rabbitbrush

- This globe-shaped shrub is typically 2-6 feet wide, with silvery leaves and clusters of yellow flowers.
- It's deep root system allows this plant to thrive in dry climates.
- Consider planting with companion plants like russian sage, purple aster, or blue mist spirea.
- In the winter, Rabbitbrush sports fluffy seed clusters which add interest and texture to landscapes in the winter.



Shrubs				
Amelanchier alnifolia	Serviceberry	Sun/part shade	Low-med	☉ ☐
Amorpha canescens	Silvery Leadplant	Sun/part shade	Low	☉ ☐
Cercocarpus montanus	Mountain Mahogany	Sun/part shade	Low	☉ ☐
Ericameria nauseosa	Rubber Rabbitbrush	Sun	Low	☉ ☐
Fallugia paradoxa	Apache Plume	Sun/part shade	Low	☉ ☐

MASTER PLANT LIST



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Plant



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Friendly



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Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Shrubs				
Prunus besseyi	Western Sandcherry	Sun/part shade	Low	☺ ☐
Ribes aureum	Golden Currant	Sun	Medium	☺ ☐
Ribes cereum	Wax Currant	Sun	Low	☺ ☐
Rhus glabra	Smooth Sumac	Sun/part shade	Low-med	☺ ☐
Rhus trilobata	Skunkbush Sumac	Sun	Low	☺ ☐
Rosa woodsii	Western Wild Rose	Sun/part shade	Low-med	☺ ☐
Symphoricarpos occidentalis	Snowberry	Sun/part shade	Low-med	☺ ☐

Jointfir AKA Mormon Tea

- This plant is extremely draught tolerant, and does not need additional watering after it is established. This is due to it's tiny leaves, resulting in very little water lost through evapotranspiration.
- Jointfir keeps it's blue-green color through the winter, making it a great addition for year round visual interest.
- At maturity, this plant grows to 4-6ft high and 3-8ft wide.



Chamaebatiaria millefolium	Fernbush	Full sun	Low	☺
Chrysothamnus viscidiflorus	Yellow Rabbitbrush	Full sun	Low	☺ ☐
Cornus sericea	Redosier / Red Twig Dogwood	Full sun	Medium	☺ ☐
Crataegus phaenopyrum	Washington Hawthorn	Full sun	Medium	☐
Ephedra americana	Jointfir	Full sun	Low	☺

MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly



= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Philadelphus lewisii	Mock Orange	Full sun	Low	☉ ☐
Physocarpus opulifolius	Ninebark	Full sun	Low	☉ ☐
Rhus trilobata	Three-leaf Sumac	Full sun	Low	☉ ☐

Swamp Milkweed

- As it's name implies, this milkweed thrives in wet environments. Look to this plant for the wet spot in your yard, or in a rain garden
- Like other milkweeds in Colorado, the flowers will attract various species of native bees and butterflies, and is a host plant for monarch butterfly caterpillars.
- At maturity, this plant grows to 3-5ft high



Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Perennials				
Achillea lanulosa	Woolly Yarrow	Full sun	Low	☉ ☐
Adenolium (inum) lewisii	Blue Flax	Full sun	Low	☉ ☐
Agastache cana	Double Bubblemint	Full sun	Low	☉ ☐
Amsonia jonesii	Jones' Bluestar	Full sun	Low	☉ ☐
Aquilegia chrysantha	Golden Columbine	Full sun	Low	☐
Artemisia frigida	Fringed Sagebrush	Full sun	Low	☉
Artemisia ludoviciana	Prairie Sage	Full sun	Low	☉
Asclepias incarnata	Swamp Milkweed	Full sun	Medium	☉ ☐
Aster alpinus 'Goliath'	Goliath Alpine Aster	Full sun	Low	☐
Aster ascendens	Western Aster	Full sun	Low	☉ ☐
Aster ericoides	Many-flowered Aster	Full sun	Medium	☉ ☐

MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly

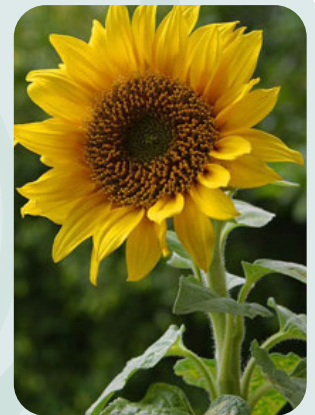


= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Aster falcatus	Rough white aster	Full sun	Medium	☺ ☐
Aster hesperius	Western Aster; Violet Aster	Full sun	High	☺ ☐
Aster porteri	Porter's Aster	Full sun	Low	☺ ☐
Baptisia australis	Blue Wild Indigo	Full sun	Low	☐
Berlandiera lyrata	Chocolate Flower	Full sun	Low	☺ ☐
Callirhoe involucrata	Poppy Mallow	Full sun	Low	☺ ☐
Centranthus ruber	Red Valerian	Full sun	Low	☐

Sunflower

- There are 5 sunflowers native to Colorado: common sunflower, Maximilian sunflower, Nuttall's sunflower, prairie sunflower, and the bush sunflower
- Sunflowers are among the easiest flowers to grow in Colorado, because they are tough and draught tolerant.
- The common sunflower can grow to 9ft tall.



Ceratostigma plumbaginoides	Plumbago	Full sun	Low	
Digitalis obscura	Sunset Foxglove	Full sun	Medium	
Engelmannia peristenia	Englemann Daisy	Full sun	Low	☺
Erigeron speciosus	Aspen Daisy	Full sun	Low	
Eriogonum umbellatum	Sulfur Flower	Full sun	Low	☺ ☐
Gaillardia aristata	Blanket Flower	Full sun	Low	☺ ☐
Gaura lindheimeri	Beeblossom	Full sun	Low	
Helianthus annuus	Annual Sunflower	Full sun	Low	

MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly

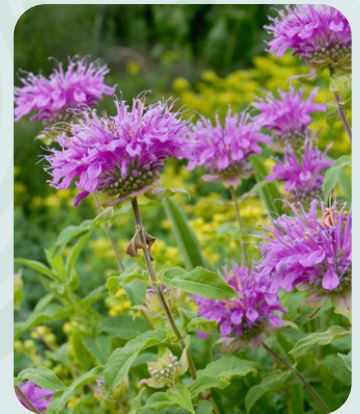


= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Hesperaloe parviflora	Red Yucca	Full sun	Low	☐
Lavandula angustifolia	English Lavender	Full sun	Low	☐
Liatris pycnostachya	Prairie Blazing Star	Full sun	Medium	☐
Liatris spicata	Prairie Gayfeather	Full sun	Low	☐
Lonicera spp.	Vining Honeysuckles	Full sun	Low	☐
Mirabilis multiflora	Four O'Clock	Full sun	Low	@ ☐
Monarda fistulosa	Wild Bergamot	Full sun	Low	@ ☐
Oenothera caespitosa	White Stemless Evening Primrose	Full sun	Low	@ ☐
Oenothera macrocarpa	Evening Primrose	Full sun	Low	☐

Wild Bergamot AKA Native Lavender Bee Balm

- Wild bergamot is less colorful and showy than other cultivars of bee balm, but is more tolerant of dry conditions.
- In fall, its leaf color can be gold, red and yellow.
- This native perennial flower attracts bees and butterflies



Penstemon eatonii	Firecracker Beardtongue	Full sun	Low	@ ☐
Penstemon grandiflorus	Large Beardtongue	Full sun	Low	@ ☐
Penstemon pinifolius	Pine-leaf Beardtongue	Full sun	Low	@ ☐
Penstemon	Desert Beardtongue	Full sun	Low	@ ☐
Penstemon secundiflorus	One-sided Penstemon	Full sun	Low	@ ☐

MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly



= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Penstemon strictus	Rocky Mountain Penstemon	Partial Sun	Low	☉ ☐
Penstemon virens	Greenleaf Penstemon	Full sun	Low	☉ ☐
Penstemon virgatus	Tall One-Sided Penstemon	Partial Sun	Low	☉ ☐
Ratibida columnifera	Prairie Coneflower	Full sun	Low	☉ ☐
Ratibida pinnata	Pinnate Prairie Coneflower	Full sun	Low	☉ ☐
Rudbeckia hirta	Black-eyed Susan	Full sun	Medium	☉ ☐
Rudbeckia maxima	Great Coneflower	Full sun	Low	☐
Rudbeckia triloba	Brown-Eyed Susan	Full sun	Medium	☐
Salvia azurea var. grandiflora	Pitcher Sage	Full sun	Low	☉ ☐
Zauschneria latifolia var. arizonica	Hardy Hummingbird Trumpet	Full sun	Low	☐
Sphaeralcea coccinea	Scarlet Globemallow	Full sun	Low	☉ ☐
Salvia azurea	Pitcher Sage	Partial Sun	Low	☉ ☐
Monarda fistulosa	Bee Balm/Horsemint	Full sun	Low	☉ ☐
Helianthus pumilus	Bush Sunflower	Full sun	Low	☉ ☐
Dalea purpurea	Purple Prairie Clover	Full sun	Low	☉ ☐
Solidago canadensis	Canada Goldenrod	Full sun	Medium	☉ ☐

Prairie Coneflower

- Prairie coneflower is a native, drought-tolerant wildflower of the Great Plains.
- This short-lived plant reseeds readily. Since it normally grows in open patches in grasslands and mountain foothills, it is a great choice for mixing with native grasses or a naturalistic landscape.



MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly



= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Grasses				
Bouteloua gracilis	Blue Grama	Full sun	Low	@ ☐
Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama	Full sun	Low	☐
Muhlenbergia reverchonii	Undaunted Ruby Muhly Grass	Full sun	Low	
Orzyopsis hymenoides	Indian Ricegrass	Full sun	Low	@ ☐
Bouteloua curtipendula	Side-Oats Grama	Full sun	Low	@ ☐

Blue Grama

- The official state grass of Colorado, this grass has distinctive seed heads which make it easy to identify.
- Blue Grama can be used as a lawn, but does not tolerate heavy foot traffic well. It uses about 1/3 of the water required by traditional turf, making it a water wise alternative alrenative.
- This grass is critical to the shortgrass prairie ecosystem encompassing Berthoud due to it's extensive root network that hold down soil.



Trees				
Crataegus crus-galli 'Inermis'	Inermis' Cockspur Hawthorn	Full sun	Low	☐
Crataegus x mordenensis 'Toba'	Toba Hawthorn	Full sun	Low	☐
Gleditsia triacanthos f. inermis 'Imperial'	Imperial Honeylocust	Full sun	Low	☐
Gleditsia triacanthos f. inermis 'Skyline'	Skyline Honeylocust	Full sun	Low	☐
Juniperus chinensis	Chinese Juniper	Full sun	Low	
Juniperus scopulorum	Rocky Mountain Juniper	Partial Sun	Low	@

MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly



= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Picea pungens	Colorado Spruce	Full sun	Medium	
Quercus alba	White Oak	Full sun	Medium	
Quercus bicolor	Swamp White Oak	Full sun	Medium	
Quercus rubra	Red Oak	Full sun	Medium	
Q u e r c u s shumardii	Shumard Oak	Full sun	Low	
Q u e r c u s macrocarpa	Bur Oak	Full sun	Low	
Quercus muehlenbergii	Chinkapin Oak	Full sun	Low	
Quercus robur	English Oak	Full sun	Medium	
Quercus shumardii	Shumard Oak	Full sun	Low	
Quercus gambelii	Gambel Oak	Partial Sun	Low	@
Sophora japonica	Japanese Pagoda Tree	Full sun	Medium	
Tilia cordata	Littleleaf Linden	Full sun	Medium	
Syringa reticulata	Japanese Tree Lilac	Full sun	Low	
Pinus • edulis • flexis • heldreichii • mugo • nigra • strobiformis	• 'Pinyon pine' • 'Limber pine' • 'Bosnian pine' • 'Mugo pine' • 'Austrian pine'	• Full sun • Full sun • Full sun • Full sun • Full sun • Full sun	Low-Med Low-Med Medium Low-Med Medium Low-Med	@ @ @

MASTER PLANT LIST



= Colorado Native
Plant



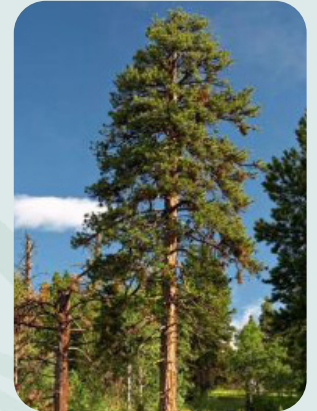
= Pollinator
Friendly



= Street Tree
Approved

Ponderosa Pine

- This majestic tree is well adapted to high temperatures and low moisture and is highly resistant to low-intensity fire.
- A long taproot helps the drought-resistant pine obtain adequate moisture and also decreases its chances of being uprooted by strong winds.
- Scientists don't know why, but older ponderosa pines smell like butterscotch!

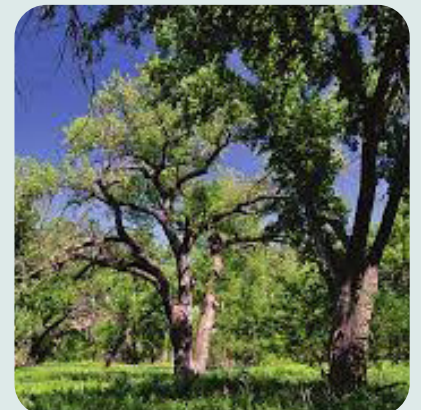


Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
<i>Tilia americana</i>	American Basswood	Full sun	Medium	☐
<i>Tilia amurensis</i>	Linden	Full sun	Low	☐
<i>Tilia tomentosa</i>	Silver Linden	Full sun	Medium	☉ ☐
<i>Tilia x flavescens</i> 'Glenleven'	Glenleven Linden	Full sun	High	☉ ☐
<i>Prunus virginiana</i> 'Shubert'	Canada Red Chokecherry	Full sun	Low	☉ ☐
<i>Pinus ponderosa</i>	Ponderosa Pine	Full Sun	Low	☉ ☐
<i>Acer glabrum</i>	Rocky Mountain Maple	Full sun	Medium	☉ ☐
<i>Populus Deltoides</i> <i>Monilifera</i>	Plains Cottonwood	Full Sun	High	☉ ☐

Plains Cottonwood

- Adapted to Colorado's eastern plains, this is the largest native broadleaf tree in the state.
- One of the most ecologically and culturally significant trees in Colorado, it thrives in riparian zones.
- Cottonwoods reduce erosion, capture and filter sediment, and increase water infiltration.

*** Appropriate in natural corridors and private open space, requires approval from town forester.**



MASTER PLANT LIST



= Colorado Native
Plant



= Pollinator
Friendly



= Street Tree
Approved

Scientific Name	Common Name	Sun/Shade	Moisture Needs	Notes
Acer tataricum	Tartarian Maple	Full sun	Low-Med	
Acer grandidentatum	Big Tooth Maple	Full sun	Low-Med	
Aesculus arguta	Texas Buckeye	Full sun	Low-Med	
Aesculus glabra	Ohio Buckeye	Full sun	Medium	 
Amelanchier alnifolia	Saskatoon Serviceberry	Full sun	Low-Med	
Amelanchier canadensis	Shadblow Serviceberry	Full sun/ Light shade	Low-Med	
Catalpa Sp.	Catalpa	Full sun	Low-Med	 
Celtis occidentalis	Hackberry	Full sun	Low-Med	 
Cercis canadensis	Eastern redbud		High	
Crataegus • ambigua • phaenopyrum • viridis	• Russian • Washington • Green	• Full sun • Full sun • Full sun	• Low • Med • Low-Med	 
Ginko biloba (Male trees)	Ginko tree	Full sun	Med	 
Gymnocladus dioicus	Kentucky Coffeetree	Full sun	Low-Med	
Malus 'Spring Snow'	Spring snow crabapple	Full sun	Low-Med	
Prunus padus	European Birdcherry	Full sun	Medium	 
Prunus virginiana	Sucker Punch Canada Red	Full sun	Low-Med	
Pyrus calleryana	'Chanticleer', 'Cleveland Select', 'Capital', 'Redspire'	Full sun	Low-Med	
Ulmus • americana • davidiana	• "ValleyForge-Triumph" • David Elm	• Full sun • Full sun	Low-Med	  
Abies concolor	White fir	Full sun	Med	

PROHIBITED LIST

Trees Prohibited in Town of Berthoud right of ways or on public lands.

Scientific Name	Common Name
Fraxinus spp.	Any Ash species- Due to EAB presence in northern front range
Populus spp.	Any Poplar species- Cottonwood, Aspen, Silver Poplar, Lombardy Poplar
Salix spp.	Any Willow species
Acer negundo	Box Elder Tree *does not include Sensation Boxelder
Ulmus pumila	Siberian (Chinese) Elm
Robinia pseudoacacia	Purple Locust/ Black Locust
Morus alba	Mulberry
Pyrus calleryana 'Bradford'	Bradford Pear
Juglans nigra	Black Walnut
Elaeagnus angustifolia	Russian Olive
Ailanthus altissima	Tree of Heaven
Tamarix spp.	Tamarisk (Salt Cedar)
Acer Rubrum	Red Maple
Acer saccharinum	Silver Maple
Acer x freemanii	Freeman Maple (Autumn Blaze Maple)
Betula spp.	Birch
Any weeping or pendulous tree type eg., Weeping birch	
Any shrub or hedge which by its habit of growth would obstruct, restrict, or conflict with necessary and safe use of the public rights-of-way.	
Conifers or evergreens which would eventually grow over the sidewalks or streets.	
Pod producing Honeylocust	

Colorado Noxious Weeds

Noxious weeds threaten valuable wildlife habitat and natural resources, cause economic hardships to agricultural producers, and are a nuisance for recreational activities. The Noxious Weed Act requires all Colorado residents to control noxious weeds using integrated methods to manage noxious weeds if the same is likely to be materially damaging to the land of neighboring landowners.

*Find a list of Colorado Noxious Weeds here : [Noxious Weed List](#)
or go to <https://ag.colorado.gov/conservation/noxious-weeds/species-id>*

APPENDIX

MAINTENANCE PLANS

All property owners/occupants of residential, mixed use, commercial, or industrial property with a site-specific development plan such as a Site Plan or Use by Special Review are responsible for the maintenance and replacement of landscaping as shown on that approved plan. The below maintenance checklist should be used to establish a landscape maintenance plan, to be submitted to the Town of Berthoud for review.

Introduction

- Provide a description of the development and the area of coverage.
- Provide contact information for specific questions or concerns (names, phone numbers and hours of operation).

Plant Material

- Provide direction on pruning and trimming of plant material.
- Provide direction for establishment of native grasses and seeded areas. Include information about mowing frequency based on season. If shrub beds are within seeded areas, provide direction to mow and trim to maintain visibility. If grasses are within areas used for fire breaks, provide direction on height and frequency of mowing.
- Provide direction for watering in irrigated areas throughout the year. Use season specific standards for winter watering and growing season watering to ensure that plants get the proper amount of water throughout the year.
- Provide direction on fertilization of trees and shrubs. Include information about when to fertilize and the fertilization process.

Mulch

- Provide direction on maintenance for all mulch beds to ensure that the standard depth remains constant and per specifications.
- Provide direction on water required to establish native grasses

Irrigation Systems

- Provide information on monitoring and repairs to irrigation systems. Include start up (spring start up procedures) and shut down (winterization procedures) as well as weekly, monthly and yearly maintenance instructions. Include contact for reporting all problems with system and maintenance of the systems.

Landscape Maintenance Schedule

- Provide a general monthly checklist for landscape maintenance for each month of the year.

APPENDIX
**SAMPLE
MAINTENANCE
PLAN**

Project Name
Maintenance Manual

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APPENDIX
**SAMPLE
MAINTENANCE
PLAN**

PLANT MATERIAL

Pruning/Trimming:

- 1) In general, prune or trim shrubs and trees just after their flowering period and only as necessary. No shearing is allowed. Remove any dead or dying branches. Notify Contact Name of any tree pruning needs observed during regular maintenance. Tree pruning will be done by either the _____ or by a certified arborist employed by _____ under the direction of and with prior consent from _____. Pruning of all shrubs will be completed by _____, at appropriate times determined by them.
- 2) Make all cuts clean; keep saws and pruners sharp.
- 3) Pruning will take place as needed to prune all dead, diseased, or injured branches.

Native Grass Seeded Areas:

- 1) Native grass areas will be mowed 2 times per growing season or as needed to help control weeds. All bare areas will be touch up seeded in spring or fall seeding windows.
- 2) For shrub beds within native seed area, mow or trim as necessary to maintain visibility of shrubs and keep grass from overshadowing view of shrubs.
- 3) Irrigate native seeded areas for 2 years (or until established). Once established, water as necessary based on seasonal conditions.

Watering in Irrigated Areas during Winter Months:

- 1) Winter watering is extremely important and should take place monthly or more when there are periods of dry, warm weather or heavy winds. Deep root watering on all trees is also a good practice. Trees planted on the project shall be watered once per month or more at the rate of 30 gallons per tree for the months of November through April until the Landscape Establishment period ends. Shrubs planted on the project shall be watered at the rate of 10 gallons per shrub for the months of November through April. Winter watering will be completed for both years of the maintenance plan requirement.
- 2) It is better to water heavily a fewer number of times than to water lightly a greater number of times. Over-watering is a major cause of problems in plant material and is much more difficult to correct than under-watering.
- 3) Check soil moisture as often as possible, specifically during periods of prolonged dry/windy weather and especially when there is no snow cover, to determine water needs of the plant. The soil should be moist, not wet.
- 4) Winter watering frequency shall be adjusted based upon amount of snowfall and frozen conditions/warm, windy conditions.

Watering Irrigated Areas during Growing Season Months:

- 1) Do not over-water plantings. Drip systems should be left on for enough time to saturate the root zone. Avoid multiple start times with Drip system. Do not allow run-off from the Drip system. The trees will need to receive 30-40 gallons of water per week where as shrubs will receive 6-10 gallons per week.

APPENDIX

**SAMPLE
MAINTENANCE
PLAN**

Fertilizing Trees and Shrubs:

- 1) All plant material should be fertilized each spring with a well-balanced, slow release synthetic or organic fertilizer in early spring.
- 2) Granular slow release fertilization will be of 5-5-5 formulation or similar, applied per label directions. Hand water immediately after fertilizing to force fertilizer into soil and wash any fertilizer from plant surfaces.

Weed, Insect and Disease Management:

An Integrated Pest Management (IPM), approach will be used to control pests, weeds, insects and diseases. The IPM program coordinates long-term prevention or suppression of pest problems to minimize impacts to human health, the environment, and non-target organisms.

Pesticides are to be used as a last resort after exhausting all other options. If pesticides are used they must be chosen from the list of products that have been reviewed, evaluated and approved by the IPM Subcommittee.

Weeds in planting beds will be removed on a weekly basis as the weeds emerge. Dispose of all weeds off site. Regular maintenance of the mulch layer will help minimize weeds in the planting beds. If herbicides must be used, they are to be chosen from the list approved by the IPM subcommittee. Use the least toxic herbicide available and spot apply on weeds.

Plant material deemed dead or irreparably damaged will be removed and replaced each month and within 30 days of notification with healthy, like plant materials.

Warranty plants shall not be installed during the summer months (June, July and August)

General IPM Steps and Methods:

- 1) Prevention first: Follow accepted maintenance practices (correct watering, mulching, pruning, etc).
- 2) Identify the pest life cycle and characteristics.
- 3) Set action thresholds – tolerate minimum damage.
- 4) Monitor regularly and include any findings in project log.
- 5) When pests exceed threshold, use control methods with the least non-target impacts. "Know the Pest" by treating it when it is in its most vulnerable state and when its natural enemies are in their least susceptible state.
- 6) Keep records in the project log of control methods and results.

APPENDIX
**SAMPLE
MAINTENANCE
PLAN**

Wrapping/Staking:

- 1) All deciduous trees should be wrapped by November 1st – 15th of the year they are planted. Specific tree wrap will be cut in a continuous strip of sufficient length to wrap tree. Wrap from soil surface to the first branch of each tree. Wrap with over-lapping wraps of 1.5". Secure wrapping with wrapping tape and do not use electrical tape or string. Deciduous trees should be wrapped for the first four to five years after planting. Wrapping shall be removed between April 1st – 15th of the following spring.
- 2) Remove stakes after the second full growing season, depending on the type of tree, root growth and wind at the site.

WOOD MULCH

Check the depth of Wood Mulch during maintenance activities. Add additional mulch in areas that have decayed or have thinned out over time. All mulch beds will be kept at the depth specified in the specifications.

AUTOMATIC IRRIGATION SYSTEM

Start-up, Shut-down and weekly operations will be coordinated with _____. If a problem has been identified with the irrigation system notify _____ and will proceed in troubleshooting and fixing the problem.

Monitor the moisture levels around all plant material. Report problems, including browning or oversaturation, to _____. Recommend necessary adjustments and then coordinate with the owner rep to alleviate the problem. Control all irrigation systems, including clock settings. Fix any leaks or other problems with the material installed on this project. Any repair work to be coordinated with owner rep.

Provide the following maintenance items/extra stock to the owner rep prior to final acceptance:

- 1) 2 sets of special tools required for removing, disassembling and adjusting each type of sprinkler head and valve supplied on this project.
- 2) Two 6-foot valve keys for operation of gate valves or stop and waste valves (if applicable).
- 3) 2 keys for each automatic controller.
- 4) 2 quick coupler keys and 2 matching hose swivels for each type of quick coupling valve installed.
- 5) 2 aluminum drain valve keys of sufficient length for operation of drain valves.
- 6) 4 Rotor heads of each type used.
- 7) 100' of Inline Emitter Tubing of each type used.

APPENDIX
**SAMPLE
MAINTENANCE
PLAN**

Spring Start-up Procedures: Coordinate with owner rep at site to be on hand during start-up procedures.

- 1) Run through the zones attached to the project to test for any winter damage.
- 2) Set programs for watering frequency and duration of the project zones in coordination with the owner rep. Run through clock to ensure a working system.
- 3) Verify that all drip emitters are functioning properly. Repair if needed.

Weekly Maintenance:

- 1) Inspect valves and Drip system weekly for any damage or leaks. Any repairs made shall be made with materials of the same manufacturer and model as the original equipment.
- 2) Check for dry or oversaturation of planting areas and coordinate with owner rep to make changes.
- 3) Clean up: Continuous clean up operations will be performed throughout the duration of the work. Remove rubbish from site on at least a weekly basis, or when on site for other maintenance tasks.
- 4) Trench settling will be repaired and re-seeded if it occurs.

Monthly Maintenance:

- 1) All weekly procedures.
- 2) Coordinate with owner rep to adjust times on controller to compensate for different temperatures and precipitation each month.
- 3) Run through controller to assure proper working condition for project zones.

Yearly Maintenance:

- 1) All monthly procedures.
- 2) Inspect all components (valves, Drip pipe, etc.) to assure proper working condition.
- 3) Flush Drip pipes once per year to remove any possible sediment.
- 4) "Start-up" and "winterize" system (see detailed explanations below). Coordinate with owner rep.

APPENDIX
**SAMPLE
MAINTENANCE
PLAN**

Winterization Procedures: Coordinate with owner rep at site to be on hand during winterization procedures.

- 1) Close the main supply.
- 2) Connect air compressor to the service tee located on the vacuum breaker.
- 3) Turn controller to station #1 and start compressor.
- 4) Force air through station #1 until all water has been blown out. Continue process through stations #2, #3, etc., until all stations have been blown out completely (a minimum of 3 minutes).
- 5) Open all drain valves and petcocks on the vacuum breaker.
- 6) Turn off controller, but allow to run so that lubricants stay on clock motors.

General Notes:

- 1) It is important to repair any malfunctioning equipment as soon as possible especially during the hot mid-summer months.
- 2) Check for spots that appear to be dry. The sooner these are corrected, the less damage there will be.
- 3) Time of year and conditions will affect watering times. A base time of 35 to 50 minutes shall be used for Drip zones. The trees require 30 to 40 gallons of water per week where as shrubs will require 6-10 gallons of water per week. These times are averages only and will vary depending on time of season, plant material type, wind conditions and soil conditions.

APPENDIX

SAMPLE MAINTENANCE PLAN

GENERAL MONTHLY CHECKLIST

As Needed Items

- Tree pruning needs for dead or damaged limbs.
- Trash removal

January

- Winter water

February

- Winter water

March

- Winter water

April

- Remove tree wrap
- Activate and troubleshoot sprinkler system
- Remove weeds as needed
- Re-mulch beds as needed
- Remove weeds

May

- Fertilize trees and shrubs
- Re-mulch beds as needed
- Inspect sprinkler system operation/adjust timing as needed
- Prune trees and shrubs as needed
- Remove weeds

June

- Check all trees and shrubs for insect pests
- Inspect sprinkler system operations/adjust timing as needed
- Remove weeds
- Re-mulch beds as needed

July

- Inspect sprinkler system operation/adjust timing as needed
- Remove weeds
- Re-mulch beds as needed

August

- Inspect sprinkler system operation/adjust timing as needed
- Remove weeds
- Re-mulch beds as needed

September

- Inspect sprinkler system operation/adjust timing as needed
- Remove weeds
- Re-mulch beds as needed

October

- Adjust staking of new trees
- Reduce watering times on sprinkler system
- Remove weeds

November

- Wrap trees
- Winterize irrigation sprinkler system
- Winter water

December

- Winter water

.....

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARING
Amendments to the Berthoud Development Code

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Berthoud Planning Commission on Thursday, October 26, 2023 at 6:00 p.m. and before the Town Board on Tuesday, November 28, 2023 at 6:30 p.m. to consider adoption of a Landscaping Ordinance; adoption of an annual Three-Mile Plan; and to make amendments to Chapter 30 of the Municipal Code, specifically amending Section 2 regarding Landscape Design, Section 9 regarding Historic Resources, Section 3 regarding Planned Unit Developments, and Section 2 regarding Outdoor lighting and dark sky standards. The public hearings will be held at Town Hall, 807 Mountain Avenue Berthoud 80513.

Given and Posted on this 5th day of October, 2023.

Published: Loveland Reporter Herald October 5, 2023-2008191

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Larimer
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Loveland Reporter Herald*.
2. The *Loveland Reporter Herald* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Larimer County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Loveland Reporter Herald* in Larimer County on the following date(s):

Oct 5, 2023

Shayla Najera
Signature

Subscribed and sworn to me before me this

5th day of October 2023

Melissa L. Najera
Notary Public

(SEAL)

MELISSA L. NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20064049936
MY COMMISSION EXPIRES DEC. 11, 2026

Account: 1051549
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BOARD OF TRUSTEES INFORMATION



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Public Hearing to consider repealing and replacing Section 30-3-111 of the Berthoud Municipal Code to update the Wireless Communications Facilities Code Ordinance 1325 (2023); Reading 2
Type of Item:	Public Hearing
Purpose:	2nd Reading of Ordinance 1325
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1325
- Exhibit A to Ordinance 1325 (2023)
- Legal Publication
- Draft design guidelines for wireless communications facilities
- Planning Commission minutes

BACKGROUND:

It is necessary to update the Municipal Code to keep pace with Federal and State regulations regarding Wireless Communications Facilities. The Town has contracted with Ken Fellman, an attorney with national expertise regarding Wireless Communications Facilities and coordinated with the Town's Attorney, Erin Smith regarding the proposed Ordinance and Attachment.

UPDATE/NEXT STEPS:

After the Planning Commission public hearing, the Board of Trustees heard the request to amend the Code at their hearing on November 14, 2023. A second reading has been scheduled for November 28, 2023. If approved, future development proposals will be provided with a clear path forward regarding land use applications and installation standards in the Town of Berthoud. There have been no changes since the 1st reading.

FISCAL IMPACT AND FUND SOURCE:

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

COMMUNITY TOUCHSTONES:

Consideration of this request does support the Touchstones of Resilience, Sustainability and Community Identity. The Town has developed draft design guidelines to manage the look of wireless communications facilities. Keeping pace with Federal and State regulations regarding Wireless Communications Facilities by updating the Town's Municipal Code is resilient and provides a sustainable path forward by having current regulations.

RECOMMENDED ACTION(S):

Planning Commission heard the proposal at their September 28, 2023 public hearing and recommended approval of the proposed code language to the Town Board of Trustees. See suggested motions below and note that these are suggestions and may be amended by the Town Board of Trustees.

Suggested Motion for Approval:

I move to approve the proposed changes to Chapter 30, Section 30-3-111 of the Berthoud Municipal Code on second reading. This recommendation of approval is outlined in the attached Ordinance 1325 (2023) and includes supporting information in the Ordinance attachment.

Suggested Motion for Denial:

I move to deny the proposed changes to Chapter 30, Section 30-3-111 of the Berthoud Municipal Code for the following reasons: _____ .

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1325
(SERIES 2023)**

**AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO TO REPEAL AND
REPLACE THE TOWN OF BERTHOUD WIRELESS COMMUNICATIONS FACILITIES
CODE FOUND IN CHAPTER 30, SECTION 30-3-111 FOUND IN THE MUNICIPAL CODE**

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

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

WHEREAS, the Board of Trustees, after proper notice has held two public hearings 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, Section 30-3-111 -116, is hereby repealed and replaced in its entirety as set forth in Exhibit A, attached and is hereby adopted;

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

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

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

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

INTRODUCED, READ, AND APPROVED on this 14th day of November, 2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

READ, ADOPTED, AND APPROVED on this 28th day of November, 2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

EXHIBIT A, Ordinance 1325

30-3-111 - Wireless Communication Facilities (WCFs)

- A. Purpose and Goals.** The purpose of these provisions is to establish requirements for the siting of Wireless Communications Facilities. The goals of these provisions are to:
1. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.
 2. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to concealment design techniques and undergrounding of the equipment associated with WCFs.
 3. Encourage the deployment of smaller, less intrusive WCFs where appropriate to supplement existing larger WCFs.
 4. Encourage the use of wall mounted panel antennas.
 5. Encourage roof mounted antennas when wall mounted antennas will not provide adequate service or are not otherwise feasible.
 6. Encourage the location of Towers in non-residential areas, in a manner that minimizes the total number of Towers needed throughout the community.
 7. Encourage strongly the collocation of WCFs on new and existing Sites.
 8. Encourage owners and users of antennas and Towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.
 9. Enhance the ability of WCF providers to provide such services to the community quickly, effectively, and efficiently.
 10. Effectively manage WCFs in the Right-of-Way.
- B. Definitions**
1. Alternative Tower Structure: Any man-made clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures approved by the Town, that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this Section. A stand-alone pole in the Right-of-Way that accommodates Small Cell Facilities is considered an Alternative Tower Structure provided it meets the concealment standards of this Section. Alternative Tower Structures are not considered Towers, for the purposes of this Section.
 2. Antenna: Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.
 3. Antennas, panel: An array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.
 4. Antenna, whip: A single antenna that is cylindrical in shape and omni-directional.
 5. Base Station: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a Tower as defined herein or any equipment associated with a Tower. Base Station does include, without limitation:
 - a. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant

application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

- b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small cell networks) that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under this Section, does not support or house equipment described in paragraphs A and B above.

6. Camouflage or Camouflage Design Techniques: Measures used in the design and siting of Wireless Communication Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF Site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of Concealment design elements so that a facility looks like something other than a wireless Tower or Base Station.
7. Collocation:
 - a. For the purposes of Eligible Facilities Requests, means the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.
 - b. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.
8. Concealment: Utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless Tower or Base Station. Language such as "stealth," "camouflage," or similar in any permit or other document required by the Town Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site's approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate Concealment design elements so that the facility looks like something other than a wireless Tower or Base Station.

9. Eligible Facilities Request: Any request for modification of an Existing Tower or Base Station that does not Substantially Change the physical dimensions of such Tower or Base Station involving:

- a. Collocation of new Transmission Equipment.
- b. Removal of Transmission Equipment.
- c. Replacement of Transmission Equipment.

A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

10. Eligible Support Structure: Any Tower or Base Station as defined in this Section, provided that it is Existing at the time the relevant application is filed with the Town under this Section.

11. Equipment Cabinets: A cabinet or building used to house equipment used by wireless communications providers at a Wireless Communications Facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

12. Existing: For purposes of this Section, a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an Eligible Facilities Request, provided that a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

13. OTARD Antenna:

- a. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
- b. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
- c. An antenna that is designed to receive television broadcast signals.

14. OTARD antenna structure: Any pole, Tower, or other structure designed and intended to support an OTARD Antenna.

15. Related Accessory Equipment: The Transmission Equipment customarily used with, and incidental to Wireless Communication Facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

16. Right-of-Way: In the context of this Section, any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within the Town limits.

17. Site: In the context of this Section, for Towers and Eligible Support Structures, a Site means the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. For Alternative Tower Structures, Base Stations and Small Cell Facilities in the Right-of-Way, a Site is further restricted to that area comprising the base of the structure and to other Related Accessory Equipment already installed on the ground.
18. Small Cell Facility: A WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.
19. Substantial Change: A modification substantially changes the physical dimensions of an Eligible Support Structure if after the modification, the structure meets any of the following criteria:
 - a. For Towers, it increases the height of the Tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other Eligible Support Structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;
 - b. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
 - c. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four cabinets per application; or for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
 - d. It entails any excavation or deployment outside of the current site, except that, for Towers other than Towers in the Public Rights-of-Way, it entails any excavation or deployment of Transmission Equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.
 - e. For any Eligible Support Structure, it would defeat the Concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;

- f. For any Eligible Support Structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs a, b, and c of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

- 20. Tower: Any structure that is designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated Site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative Tower Structures and Small Cell Facilities in the Rights-of-Way are not Towers.
 - 21. Transmission Equipment: Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - 22. Wireless Communications Facility or WCF: A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, Base Stations, support equipment, Small Cell Facilities, Alternative Tower Structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.
- C. Applicability; Waiver; Exemptions.** The requirements set forth in this Section shall apply to all WCF applications for Base Stations, Alternative Tower Structures, Alternative Tower Structures located within Right-of-Way, and Towers as defined elsewhere herein. The Town,

through an appropriately designated and authorized person, shall have the authority to waive any requirement or standard set forth in this Section as it may be proposed to be applied to a specific WCF, if the Town makes a determination that the specific requirement or standard as proposed to be applied is preempted by federal or state law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town Administrator and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific Town requirement or standard set forth in this Section. The requirements set forth in this Section shall not apply to:

1. *Amateur Radio Antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the nearest property line is met. The Town or their designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.
2. *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to the effective date of this Section, shall not be required to meet the requirements of this Section, other than the requirements of subparagraphs Section D.1, Section D.5 and Section D.6 below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this Section.
3. *Miscellaneous Antennas.* Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the nearest property line are met. The Town Administrator or their designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

D. Operational Standards.

1. *Federal Requirements.* All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.
2. *Radio Frequency Standards.* All WCFs shall comply with federal standards for radio frequency emissions. The Town may require that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may require the owner or operator of the WCF to submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all Antennas installed at the subject Site, and which compares the results with established federal standards. If, upon review, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

3. *Signal Interference.* All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The Applicant shall provide a written statement (“Signal Interference Letter”) from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems.
4. *Legal Access.* In all applications for WCFs outside of the Right-of-Way, an Applicant shall demonstrate that it owns or has lease rights to the Site.
5. *Operation and Maintenance.* To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
6. *Abandonment and Removal.* If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the Town. If such WCF is not removed within said thirty (30) days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

E. Design Standards. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the Town may waive any one or more of these requirements if it determines that the goals of this Section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town, consistent with other provisions of this Code. In addition to the provisions of this Code, applicants shall comply with the Town’s Wireless Communications Design Standards, which may be adopted and amended from time to time by the Town Administrator.

1. *Camouflage/Concealment.* All WCFs and any Related Accessory Equipment shall, to the maximum extent possible, use Concealment Design Techniques, and where not possible utilize Camouflage Design Techniques. Camouflage Design Techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment.
 - a. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.

- b. A Concealment design may include the use of Alternative Tower Structures should the Town determine that such design meets the intent of this Code and the community is better served thereby.
- c. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and Towers shall be constructed of non-reflective materials (visible exterior surfaces only).

2. *Siting.*

- a. No portion of any WCF may extend beyond the property line.
- b. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless communications providers on the same WCF. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or Site.
- c. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.
- d. WCFs shall not encroach into any sight triangles.
- e. WCFs shall not encroach into recorded/documented easements without permission from the underlying property owner and the easement holder.

3. *Lighting.* WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall comply with the Town's Dark Sky Standards, and be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

4. *Landscape and Fencing Requirements.*

- a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable Code standards including without limitation, Planned Unit Development standards.
- b. Except for WCFs in the Right-of-Way, the Site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the Site.
- c. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Town.
- d. Existing mature tree growth and natural landforms on the Site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the Site perimeter may be sufficient to buffer.
- e. No trees larger than four (4) inches in diameter measured at 4½ feet high on the tree from grade may be removed, unless authorized by the Town. To obtain such authorization the Applicant shall show that tree removal is necessary, the Applicant's plan minimizes the number of trees to be removed and that any trees removed are replaced at a ratio of 2 to 1 with tree species to be approved by the Town. The applicant shall provide a maintenance plan to ensure the replacement trees shall be irrigated and maintained to the Town for approval prior to the removal of any tree.

5. *Specific Design Requirements.* Additional design requirements shall be applicable to the types of WCFs as specified below:
 - a. *Base Stations –*
 - i. Base Stations shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;
 - ii. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet;
 - iii. Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
 - iv. Roof mounted WCFs shall be approved only where an Applicant demonstrates a wall mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:
 1. Roof mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
 2. Roof mounted panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
 3. Other roof mounted Related Accessory Equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
 - b. *Alternative Tower Structures (ATS) and Small Cell Facilities not located in the Right-of-Way –*
 - i. ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is Concealed.
 - ii. Height or size of the proposed ATS or Small Cell Facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, as set forth in The Zoning Section, Chapter 30 of the Town's Municipal Code, as amended.
 - iii. ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
 - iv. ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
 - v. ATS and Small Cell Facilities shall be compatible with the surrounding topography, tree coverage, and foliage;
 - vi. ATS and Small Cell Facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and
 - vii. Visual impacts of the proposed ingress and egress shall be minimized.
 - c. *Alternative Tower Structures and Small Cell Facilities located in the Right-of-Way –*
 - i. No ATS pole shall be higher than thirty-five (35) feet including any cannister or antennas located on top of a pole;
 - ii. No pole or structure shall be more than ten (10) feet higher (as measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within five hundred (500) feet of the pole or structure;

- iii. Any new pole for ATS or Small Cell Facilities shall be separated from any other existing WCF facility by a distance of at least six hundred (600) feet, unless the new pole replaces an existing traffic signal, street light or utility pole;
- iv. With respect to pole-mounted components, Small Cell Facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;
- v. ATS must be concealed consistent with other existing natural or manmade features in the Right-of-Way near the location where the ATS will be located;
- vi. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;
- vii. When placed near a residential property, any ATS or Small Cell Facilities must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;
- viii. Small Cell Facilities shall:
 - (1) be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered; and
 - (2) be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure; and
 - (3) be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS; and
 - (4) require that any ground mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than thirty-six (36) inches above grade) or the maximum height permissible through the Town's Engineering specifications and standards for ground mounted utility equipment, or co-located within a traffic cabinet of a design approved by the Town, unless a use by special review is obtained subject to the requirements of the Town Code; and
 - (5) not alter vehicular circulation or parking within the Right-of-Way or impede vehicular, bicycle, or pedestrian access or visibility along the Right-of-Way; and
 - (6) comply with the federal Americans With Disabilities Act and all applicable local, state, and federal law and regulations; and
 - (7) not be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the Right-of-Way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the Right-of-Way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the Right-of-Way that disrupts vehicular or pedestrian traffic, any

interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

d. *Towers* -

- i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;
- ii. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;
- iii. Monopole support structures shall taper from the base to the tip;
- iv. All Towers shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and
- v. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet.
- vi. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;
- vii. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the Tower to these uses;
- viii. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- ix. Visual impacts of the proposed ingress and egress shall be minimized;
- x. No new Towers shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:
 - (1) No existing WCFs are of sufficient height and are located within the geographic area required to meet the Applicant's engineering requirements;
 - (2) Existing WCFs do not have sufficient structural strength to support Applicant's proposed WCF;
 - (3) The Applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the Applicant's proposed WCF; or
 - (4) The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.
- xi. A Tower shall meet the greater of the following minimum setbacks from all property lines:
 - (1) The setback for a principal building within the applicable zoning;
 - (2) Twenty-five (25) percent of the facility height, including WCFs and Transmission Equipment; or

- (3) The Tower height, including antennas, if the Tower is in or adjacent to a residential district or residential zoned property.
 - (4) For Sites within or adjacent to residential zones, Towers over forty (40) feet in height shall not be located within one-quarter mile from any existing Tower that is over forty (40) feet in height, unless the Applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant's needs.
- xii. No Towers shall be permitted in the Right-of-Way.
- e. *Related Accessory Equipment* - Related Accessory Equipment for all WCFs shall meet the following requirements:
 - i. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;
 - ii. For WCFs outside of the Right-of-Way, the total footprint coverage area of the WCF's Related Accessory Equipment shall not exceed three hundred fifty (350) square feet;
 - iii. No Related Accessory Equipment or accessory structure shall exceed twelve (12) feet in height; and
 - iv. Related Accessory Equipment shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Related Accessory Equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site.

6. **Additional Design Standards.** The Town may adopt administrative regulations addressing additional design standards for WCFs.

F. Review Procedures and Requirements. No new WCF shall be constructed and no collocation or modification to any existing WCF may occur except after a written request from an Applicant, reviewed and approved by the Town in accordance with this Section. In addition to following the procedures and regulations regarding land use approval, the applicant is responsible for coordinating any building permit activities with the Town. All WCFs, except Eligible Facilities Requests, shall be reviewed pursuant to the following procedures:

- 1. *Submittal Requirements.* Each Applicant for a WCF shall be required to submit:
 - a. A Signal Interference Letter
 - b. For new Towers and attachments to buildings, an inventory of Existing Sites
 - c. A stamped report by a state of Colorado registered professional engineer, or a verified statement from a qualified radio frequency engineer, demonstrating or assuring that the site will be in full compliance with federal radio-frequency emissions standards for wireless facilities; and
 - d. A stamped plan or report by a state of Colorado registered professional engineer indicating the structure is structurally sound to support the WCF.
 - e. For all sites except Small Cell Facilities located in the Rights-of-Way, a site plan map prepared in accordance with the Site Plan Map standards as detailed in Chapter 30 of the Berthoud Municipal Code. Applications for Small Cell Facilities located in the Rights-of-Way shall provide a map illustrating the location of the facility.

f. A project narrative detailing the criteria found in either the Site Plan or the Special Use Permit standards as detailed in Chapter 30 of the Berthoud Municipal Code, as applicable. The following additional information shall be described/provided:

- i. How the application meets the Design Standards found in this Chapter.
- ii. Concealment and Camouflage provisions.
- iii. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility.
- iii. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
- iv. A statement as to whether the facility can be made available for collocation with other wireless users and if so, under what conditions.
- v. Any other information deemed necessary by the Town to determine compliance with this Section.

2. *Additional Submittal Requirements.* In addition to the information required in Subsection 1 above, find the following requirements below:

- a. In all zoning districts in which Towers are a use by right, applications shall be reviewed and considered for approval by the Town for conformance to this Section, any specific requirements of the zone district in which the proposed Tower is located and the Town's Wireless Communications Design Standards. In zoning districts where applications are permitted by use by special review, the application process shall follow the use by special review process and approved by the Town Board of Trustees. Such Towers shall be reviewed for conformance to this Section using the use by special review procedures set forth in Chapter 30 of the Municipal Code in conjunction with the applicable sections of this Section. Except in zone districts where Towers are a use by right, all applications for Towers shall demonstrate that other alternative design options such as Base Stations or Alternative Tower Structures are not viable options.
- b. In all zoning districts and Planned Unit Developments, each application for a Base Station, Alternative Tower Structure, or Alternative Tower Structure proposed for location within Right-of-Way shall be reviewed and considered for approval by the Town for conformance to this Section and any specific requirements of the zone district in which the proposed Site is located. Except for WCFs in the Right-of-Way that meet all requirements of this Section or Eligible Facilities Requests, the Town may refer the application to Planning Commission for approval if the Town finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Section.

3. *Criteria for approval.* The Community Development Director, or their designee, shall determine if the applicant has demonstrated that the proposed WCF meets the following standards, as applicable:

- a. Application materials are complete.

- b. 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.
- c. The proposed land use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
- d. 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 drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
- e. 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.
- f. 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.
- g. 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.
- h. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.
- i. The application addresses camouflage of the facilities from public view as appropriate.
- j. The Signal Interference Letter is found to be satisfactory to the Town.
- k. The radio frequency report is found to be satisfactory to the Town.
- l. The structures proposed are found to be satisfactory to the Town.
- m. If accessory structures are proposed, the application provides information regarding accessory structures that meet the intent of the Accessory Structures standards of this Section and Chapter 30 of the Municipal Code.
- n. Compliance with mitigation co-location standards and requirements established by this Section and Chapter 30 of the Municipal Code.

3. *Timeframes for Review.*

- a. All WCFs, other than those specified below shall be reviewed according to the following timeframes:
 - i. Review of an application to collocate a facility on an Existing Tower or Base Station: 90 days.
 - ii. Review of an application to deploy a Small Cell Facility on a new structure: 90 days.
 - iii. Review of an application to deploy a WCF other than a Small Cell Facility on a new structure: 150 days.
 - iv. Review of an application for a new Tower, Base Station, or Alternative Tower Structure: 150 days.

- b. Tolling the Timeframe for Review. Except for WCFs specified below in subsections (F)-(G), the relevant review timeframe begins to run when the application is filed with the Town, and may be tolled only by mutual agreement or where the Town determines that an application is incomplete.
 - i. To toll the timeframe for incompleteness, the Town shall provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - ii. Upon providing the notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and
 - ii. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraph b of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- 4. *Specific Review Procedures for Collocating Small Cell Facilities on Existing Towers or Base Stations.* Within ten (10) business days of receipt of an application for a Small Cell Facility, the Town shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application to bring the proposal into full compliance with the requirements of this subsection.
 - a. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within ten (10) business days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - b. The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness.
 - c. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission provided the information identified in the original notice delineating missing information. If the application remains incomplete, the timeframe is tolled pursuant to the procedures identified in subparagraphs (1) and (2) of this paragraph. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.
- 5. *Specific Review Procedures for Eligible Facilities Requests.*
 - a. Application. Eligible Facilities Requests for Collocation on or modification of an Existing Tower or Base Station shall be considered a use by right subject to administrative review and determination by the Town. The Town shall prepare, and from time to time revise and make publicly available, an

application form which shall be limited to the information necessary for the Town to consider whether an application for Collocation or modification is an Eligible Facilities Request. Such information may include, without limitation, whether the project:

- i. results in a Substantial Change to the physical dimensions of the Site; or
- ii. violates a generally applicable law, regulation, or other rule reasonably related to public health and safety.

The application may not require an applicant to demonstrate a need or business case for the proposed modification or Collocation.

b. Time frame for EFR review. Subject to the tolling provisions below, an application for an Eligible Facility Request shall be approved within sixty (60) days of the date of the request unless the Town determines that it does not qualify as an Eligible Facilities Request. Upon receipt of an application for an Eligible Facility Request pursuant to this subsection, the Town shall review such application to determine whether the application so qualifies.

c. Tolling the Timeframe for EFR Review.

i. The sixty (60) calendar day review period begins to run when the application is filed with the Town, and may be tolled only by mutual agreement or where the Town determines that an application is incomplete:

(1) To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;

(2) Upon notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

(3) Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraphs (i) and (ii) of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.

ii. If the Town fails to approve or deny an Eligible Facility Request within the time frame for review (accounting for any tolling), the request shall be deemed granted; provided that this approval shall become

effective only upon the Town's receipt of written notification from the applicant after the review period has expired (accounting for any tolling) indicating that the application has been deemed granted.

- c. Interaction with Telecommunications Act 47 U.S.C. Section 332(c)(7). If the Town determines that the applicant's request is not an Eligible Facilities Request, the applicant shall be advised as to the relevant provisions of the Town Code that govern the process to consider the request, and whether the Town Code requires any additional information to be submitted in order for the request to be considered complete. If the applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the Town Code and submits all required information, the presumptively reasonable timeframe under 47 U.S.C. Section 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the required information under the applicable provision of the Town Code.
- G. **Decision.** Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the Applicant within ten (10) days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.
- H. **Compliance with Applicable Law.** Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Town Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:
 - a. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
 - b. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
 - c. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
 - d. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) days from the time of notification by the Town or after discovery by the owner or operator of the Site.
- I. **Compliance Report.** Upon request by the Town, the Applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and standard regulations.

VII. Standards for Approval. No WCF, including Related Accessory Equipment, shall be approved unless it meets the following approval criteria:

- A. Visual impacts are minimized and view corridors are protected to the greatest extent feasible.
- B. Unless a Tower site, or otherwise waived pursuant to this Section, the WCF utilizes Concealment Design Techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a Tower or Base Station;
- C. The WCF meets the applicable design standards for the type of WCF in accordance with Section V, Design Standards; and
- D. The WCF is and will be operated at all times in accordance with Section IV.

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARING

Repeal and Replacement of the Town of Berthoud Telecommunications Code with the Town of Berthoud Wireless Communications Facilities Code found in Chapter 30, Section 30-3-111 of the Municipal Code

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Berthoud Planning Commission on Thursday, September 28, 2023 at 6:00 p.m. and before the Town Board on Tuesday, November 14, 2023 at 6:30 pm to consider repeal and replacement of Section 30-3-111 of the Municipal Code regarding Wireless Communications Facilities. The public hearings will be held at Town Hall 807 Mountain Avenue Berthoud 80513.

Given and Posted on this 23rd day of August, 2023.

Published: Loveland Reporter Herald August 25, 2023-1998962

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Larimer
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Loveland Reporter Herald*.
2. The *Loveland Reporter Herald* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Larimer County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Loveland Reporter Herald* in Larimer County on the following date(s):

Aug 25, 2023


Signature

Subscribed and sworn to me before me this

25th day of August 2023


Notary Public

(SEAL)

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

Account: 1051549
Ad Number: 1998962
Fee: \$19.43

1. Background

Wireless communications facilities are low-powered antennas and related equipment installed by providers such as cell phone service providers. The installation is completed to deploy and improve personal wireless services to small geographic areas. These facilities will provide voice and data service and may be modified over time as technology changes.

Refer to the definitions found in the Wireless Communications Facilities section of the Town's Development Code as found in Chapter 30 of the Municipal Code.

2. Applicability

This design manual provides minimum standards required for developing wireless communications facilities in the Town of Berthoud to preserve the aesthetic character of the community and ensure placement of poles and equipment does not create a safety hazard. Federal and state law requires citizens to allow facilities in the public right-of-way, including streets and sidewalks. The Town of Berthoud recognizes that installing utility facilities in the public right-of-way is allowed; however, the Town shall not be liable to owners or users of wireless communications facilities for any damage caused by those persons or entities.

All wireless communication facilities and associated accessory equipment shall meet current standards and regulations of the Federal Aviation Administration ("FAA"), Federal Communications Commission ("FCC"), and any other agency of the federal or state government with the authority to regulate wireless services and equipment.

Deviations from these standards shall be reviewed on a site-specific basis by the Town of Berthoud and may be granted if these standards would result in a prohibition or effective prohibition of personal wireless service. The Town may also permit a deviation from these standards which it finds the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.

3. Design Standards

Wireless communications facilities shall be designed and located to minimize the impact on the surrounding neighborhood and shall maintain the character and appearance of the Town. Applicants installing wireless communications facilities are highly encouraged to replace existing street lights with a dual – use pole (combination of small cell and street lighting pole). The location of the new dual-use or freestanding pole shall be completed to minimize impacts to view corridors.

Wireless communication providers shall consider the aesthetics of the existing street lights and neighborhoods adjacent to proposed small cell locations prior to submitting an application to the Town. When a facility is installed in a neighborhood with unique street light characteristics, the design shall closely match the existing street light aesthetics. Unique assemblies may include mast arms, decorative pole bases, architectural luminaires, mounting heights, pole colors, etc., that deviate from these guidelines.

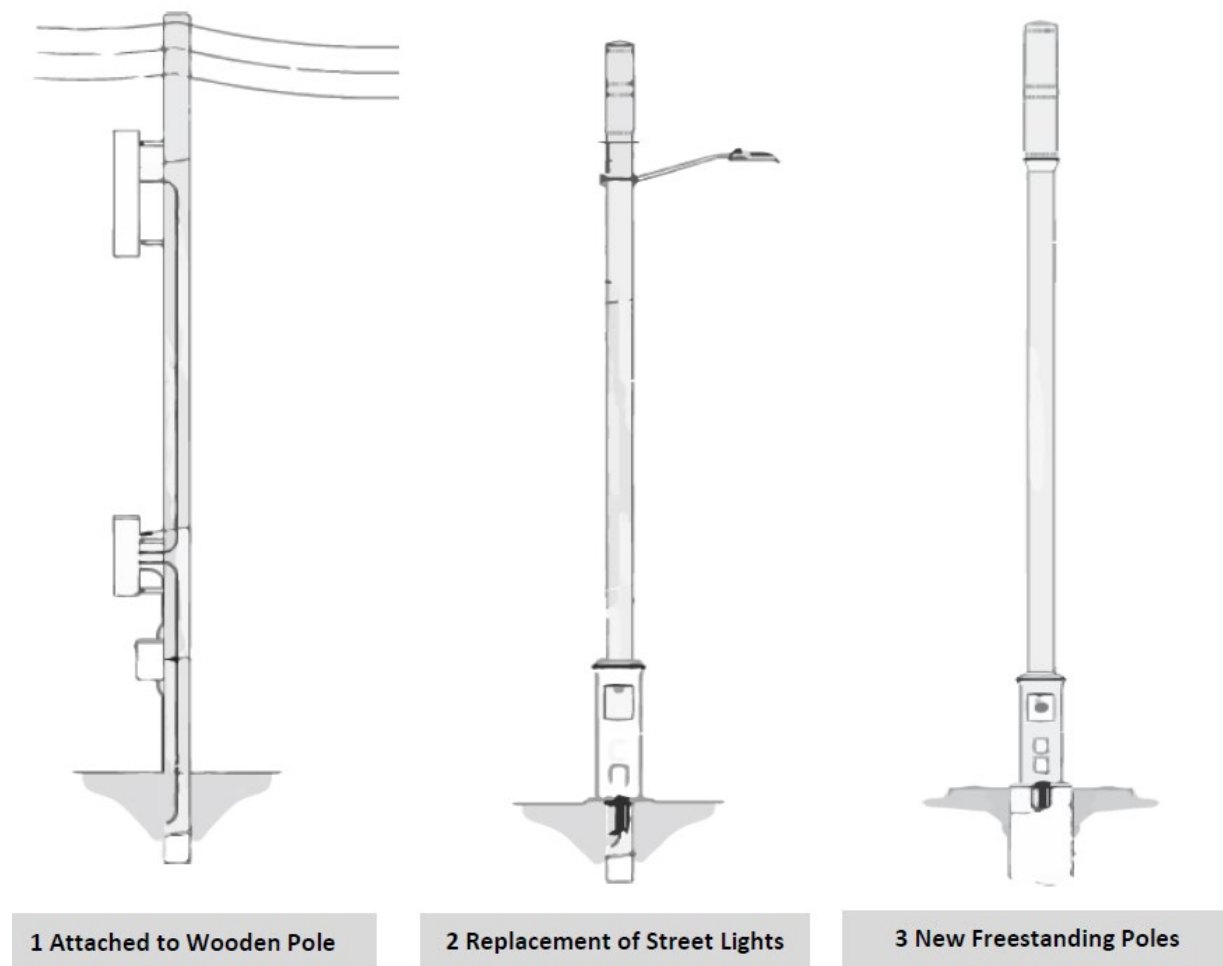
New facilities must use camouflage design techniques that blend the facility with the natural and built environment. The equipment and facility shall match the color of the existing pole. The Town of

Berthoud may not own the pole as both Poudre Valley REA and Xcel Energy are in Town. The developer is required to provide consent from either Poudre Valley REA or Xcel Energy for installation and then match pole color.

A. Types of Wireless Communication Facilities

Berthoud has identified three different types of small cell installations that are permitted in the rights-of-way (Figure 1). These types include attachments to existing wooden power poles, replacement of existing metal street light poles (preferred method), and new freestanding metal pole installations. An overview of each type is shown in Sections 1 through 3 of this design manual.

Figure 1: Facility Types



Facility Type 1: Attached to Existing Pole

Overview

Wireless communication facilities may be deployed in the public right-of-way through the utilization of an existing wooden power or street light pole (Figure 2). They may be replaced with taller wooden poles to facilitate the wireless communication facility equipment as necessary, subject to zoning district height

restrictions. All attachments to wooden power poles shall be approved by the city and the energy provider (Poudre Valley REA or Xcel Energy) prior to installation. All equipment shall meet the energy provider's utility requirements and the Town's Wireless Communications right of way permit requirements. All equipment located within the right of way shall be located such that it meets Town standards, requirements of the Americans with Disabilities Act, and does not obstruct, impede, or hinder usual pedestrian or vehicular travel.

Lighting shall comply with the Town's Dark Sky Ordinance, and shall meet all requirements of the applicable Town of Berthoud street lighting standards found in the Development Code

Design Standards

All wireless communication carrier antennas and antenna equipment shall be mounted behind a shroud. Antennas that technically cannot be covered by a shroud shall have concealment built up to the antenna edge to create a uniform appearance aesthetically, if they stand off more than 6 inches from the pole face or farther than 6 inches combined from the pole edge extended. The equipment shall be co-located and concealed by up to two shrouds, including the radio cabinet area and antenna area. The antenna shroud may alternatively be mounted to strand cable on an existing span, please contact the Community Development Department to review proposed aesthetics. No new overhead cable spans shall be created for the sole purpose of the small cell facility.

Figure 2: Existing Pole Attachment

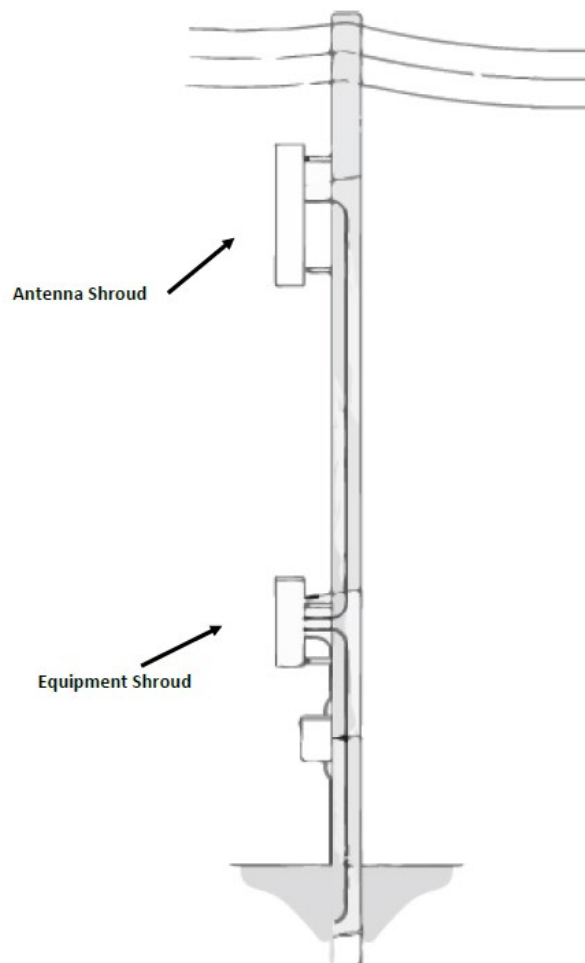


Table 1: Specifications for Existing Pole Installations

Luminaire	Per Berthoud's and energy provider requirements
Luminaire Mast Arm	Per energy provider's lighting standards
Luminaire Mounting Height	Same height as surrounding luminaires
Electrical Service	Per energy provider's requirements
Grounding	Per energy provider's requirements
Separation of Service	All new conduit and cable shall be separated by owner in any pull boxes
Utility Equipment	Per energy provider's requirements
Equipment Shroud	49" H x 1" W x 13" D maximum
Cantenna (if provided)	19" diameter x 80" height (maximum)
Antenna – side mounted (if provided)	16" wide with height and depth not to exceed 9 cubic feet
RF Equipment Disconnect	Per energy provider's requirements
Owner Identification	A 4" x 6" (maximum) plate with the carrier's name, location, identifying information, and emergency telephone number shall be permanently affixed to the equipment
Color	Small cell facility accessory equipment and shrouds shall be colored gray or brown

Facility Type 2: Replacement of Street Lights

General Guidance

This is the preferred method of developing Wireless Telecommunication Facilities in Berthoud. Existing street light poles may be replaced with the installation of a new dual-use or combination pole (Figure 3).

Existing street lights are typically owned by either Poudre Valley REA or Xcel Energy; however, the Town of Berthoud owns street light poles that should be considered first for conversion to company owned dual-use poles. Poudre Valley REA and Xcel Energy owned dual-use poles that replace existing street lights shall meet the respective company's standards and Berthoud's requirements. Dual-use poles shall be reviewed via the Town's Small Cell ROW Permit requirements. For company owned poles, to simplify and reduce construction costs, the luminaire on company owned poles will be powered by the same service as the small cell facility. Maintenance and power will be the responsibility of the pole owner. For company-owned dual-use poles, the luminaire will be flat rated (billed to the Town of Berthoud) and the small cell facility will be metered per the company's requirements. The company will continue to provide maintenance to the luminaire per tariff and franchise requirements.

Any existing luminaire shall be upgraded to LED and meet the Town's lighting requirements and Dark Sky Standards. The designer can contact the Town of Berthoud Community Development department for confirmation of required luminaire.

Types of Poles Allowed

There are two main types of replacement street light poles. The first type (2.1) conceals all small cell carrier antennas and equipment internally to the pole and cantenna, behind a shroud or concealment. No separate ground level equipment shelters, cabinets or electrical panels shall be installed at each location unless all reasonable alternative pole locations and underground locations have been explored and found by the Town to be substantially lacking or technically infeasible. This type of pole is expected in most areas of the city.

The second type (2.2) is a dual-use pole (equipment cabinets) and will be allowed when the proposed area has adequate right-of-way width to safely house and conceal the associated equipment cabinet and power meter cabinet or on high speed roadways requiring breakaway features. To qualify for this installation, the applicant must demonstrate that the equipment cabinet is located at least 20' from curb or 3' behind a sidewalk and next to a fence or sound wall that is at least 2' taller than the proposed cabinet. This dual-use pole (equipment cabinets) is expected to mainly be used on arterials where the roadway is separated from adjacent properties with fences or sound walls. It may be permitted in areas with extensive street furniture or areas where visual concealment is less necessary (drainage gulches, area adjacent to natural open spaces, etc.) in the Town of Berthoud's determination on a case by case basis.

Design Standards

All wireless communications facilities and accessory equipment shall meet the utility provider's utility requirements (as applicable) and the Berthoud aesthetic design requirements. Dual-use small cell and street light applications and aesthetics must be approved by the city prior to installation. All new dual-use poles shall match or be substantially similar to the finishes, designs, colors, and other aesthetic characteristics already present in the existing poles or designated for the area.

All antennas and wiring shall be concealed within the vertical pole, within a cantenna, or behind a shroud mounted to the top of the pole structure. All cantennas and shrouds shall provide as complete concealment as possible to ensure concealed views of antennas, equipment, and other hardware. Antennas that technically cannot be covered by a shroud shall have concealment built up to the antenna edge to create a uniform appearance aesthetically, if they stand off more than 6 inches from the pole face or farther than 6 inches combined from the pole edge extended.

Type 2.1 poles shall have all equipment, meters, and wiring mounted internally. The antennas shall be concealed utilizing a cantenna, shrouding or similar camouflage design acceptable to the city. It is recognized that some installations may use a distributed power cabinet for multiple pole locations, eliminating the need for a meter and service at each pole location.

Type 2.2 poles shall have separate equipment cabinets and meters. The equipment cabinets shall use camouflage design techniques, including the use of materials, colors, screening, undergrounding, or other design options that will blend into the surrounding natural setting. Wherever possible, new small cell equipment cabinets shall utilize existing landforms, vegetation, and structure to aid in screening the facility from view and to blend in with surrounding built and natural environment and maintain a cohesive appearance.

Type 2.1 and 2.2 poles may have one separate 3 cubic foot equipment shroud or similar camouflage design acceptable to the city covering externally mounted equipment in addition to the cantenna. To qualify for this installation, the applicant must demonstrate that the additional technology cannot be integrated into the equipment cabinet and/or the cantenna or there are multiple carriers co-locating on the pole.

Figure 3: Replacement Poles

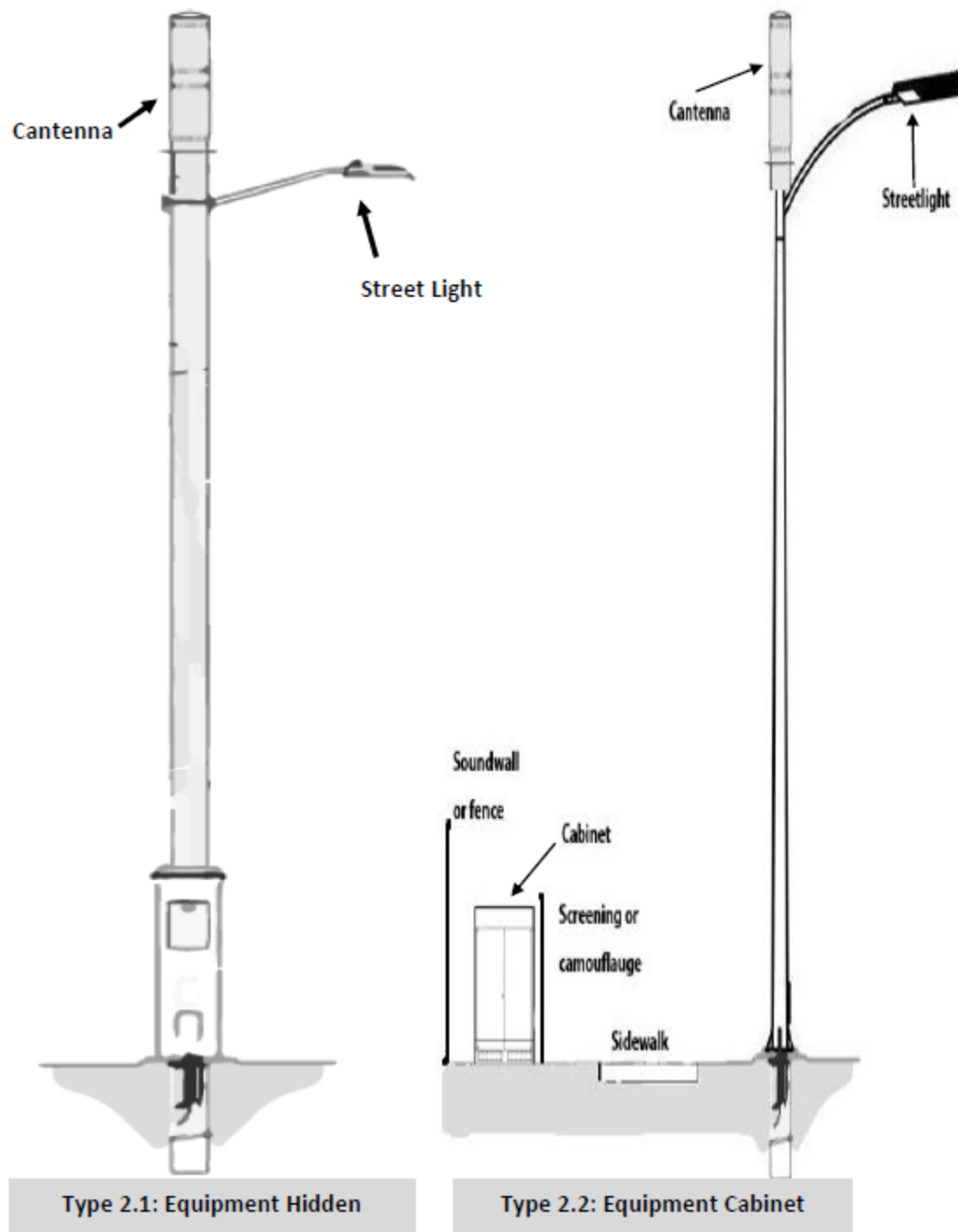


Table 2: Specifications for Dual Use Pole Installations

Pole Type	Round, straight, galvanized steel
Pole Color	If the pole is painted to match existing street light aesthetics, paint shall be powder coated over zinc paint. Pole and equipment cabinet shall still be galvanized.
Pole Design Parameters	TIA-222 rev H including any updates or addendums. Include changes for local condition: 130 mph special wind zone for poles under 45' tall.
Equipment Cabinet Dimensions	20" diameter x 5'8" tall (maximum)
Access Doors	Utility access – per utility provider requirements, meter shall be recessed as much as possible into the equipment cabinet. Luminaire access – hand hole with fused power disconnect. Carrier access – lockable door appropriately sized.
Luminaire	Per Berthoud's and energy provider requirements
Luminaire Mast Arm	Per energy provider's lighting standards and matching adjacent luminaire arms
Luminaire Mounting Height and Pole height	Luminaire at the same height as surrounding luminaires. Structure height may not exceed 40' or 8' taller than any existing utility or traffic signal pole within a radius of 600' within the same zone district and on the same category of street.
Electrical Service	Per energy provider's requirements
Separation of Service	All new conduit and cable shall be separated by owner in any pull boxes
Ventilation	Passive louvers and/or passive ventilation systems are preferred. If required, fans shall not emit noise greater than 50 b(b)s at one meter (3.28').
Cantenna (if provided)	19" diameter x 80" height (maximum)
Side-mounted Shroud (if allowed)	16" wide with height and depth not to exceed 9 cubic feet
Utility Equipment	Per energy provider's requirements
Equipment Shroud	49" H x 1" W x 13" D maximum
Equipment Cabinet Area (if allowed)	350 square feet maximum size. Camouflaging and any associated wall or fence shall be lower than adjacent existing sound wall or fence.
Owner Identification	A 4" x 6" (maximum) plate with the carrier's name, location, identifying information, and emergency telephone number shall be permanently affixed to the equipment
Color	Antennas and small cell facility accessory equipment and shrouds shall be colored gray, black or pole color

Facility Type 3: Freestanding Pole

General Guidance

Freestanding small cell poles are standalone structures located in the right of way (Figure 4). The use of freestanding small cell poles shall be the last option considered for a location.

Types of Poles Allowed

There are two main types with some minor variations for freestanding small cell poles. The first type (3.1) conceals all small cell carrier antennas and equipment internally to the pole and cantenna, behind a shroud or concealment. No separate ground level equipment shelters, cabinets or electrical panels shall be installed at each location unless all reasonable alternative pole locations and underground locations have been explored and found substantially lacking. This type of pole is rarely expected in most areas of the city as most situations will require a type 2.1 dual-use pole. The second type (3.2) is a pole with separate equipment cabinets and will be allowed when the proposed area has adequate right-of-way width to safely house and conceal the associated equipment cabinet and power meter cabinet or on a high speed roadway requiring breakaway features and a type 2.2 pole is technically infeasible. To qualify for this installation, the applicant must demonstrate that the equipment cabinet is located at least 20' from curb or 3' behind a sidewalk and next to a six-foot or taller fence or sound wall and that there is not an existing street light that can be replaced. This dual-use pole (equipment cabinets) is expected to mainly be used on arterials where the roadway is separated from adjacent properties with fences or sound walls without street lights. It may be permitted in areas with extensive street furniture or areas where visual concealment is less necessary (drainage gulches, adjacent to natural open spaces, etc.) by the Town of Berthoud's determination on a case by case basis.

Design Standards

All small cell facilities and accessory equipment shall meet the requirements of the utility provider (as applicable) and Berthoud's design aesthetics. Freestanding small cell applications and aesthetics must be approved by Berthoud prior to installation.

- All new freestanding poles shall match or be substantially similar to the finishes, designs, colors, and other aesthetic characteristics already present in the existing poles or designated for the area.
- All antennas and wiring shall be concealed within the vertical pole, within a cantenna, or behind a shroud mounted to the top of the pole structure.
- All cantennas and shrouds shall provide as complete concealment as possible to ensure concealed views of antennas, equipment, and other hardware.
- Antennas that technically cannot be covered by a shroud shall have concealment built up to the antenna edge to create a uniform appearance aesthetically, if they stand off more than 6 inches from the pole face or farther than 6 inches combined from the pole edge extended.
- All Type 3 freestanding small cell poles shall be separated by at least 600 feet from another freestanding Type 3 Small Cell Pole, and shall meet all applicable requirements of the Placement Section to follow.
- Type 3.1 poles shall have all equipment, meters, and wiring mounted internally. The antennas shall utilize a cantenna, shroud or similar camouflage design acceptable to the Town.
- Type 3.2 poles shall have separate equipment cabinets and meters. The equipment cabinets shall use camouflage design techniques, including the use of materials, colors, screening, undergrounding, or other design options that will blend into the surrounding natural setting. Wherever possible, new small cell equipment cabinets shall utilize existing landforms, vegetation, and structure to aid in screening the facility from view and to blend in with surrounding built and natural environment and maintain a cohesive appearance.
- Type 3.1 and 3.2 poles may have one separate 3 cubic foot equipment shroud or similar camouflage design acceptable to the city covering externally mounted equipment in addition to

the antenna. To qualify for this installation, the applicant must demonstrate that the additional technology cannot be integrated into the equipment cabinet and/or the antenna or there are multiple carriers co-locating on the pole.

Figure 3: New Freestanding Poles

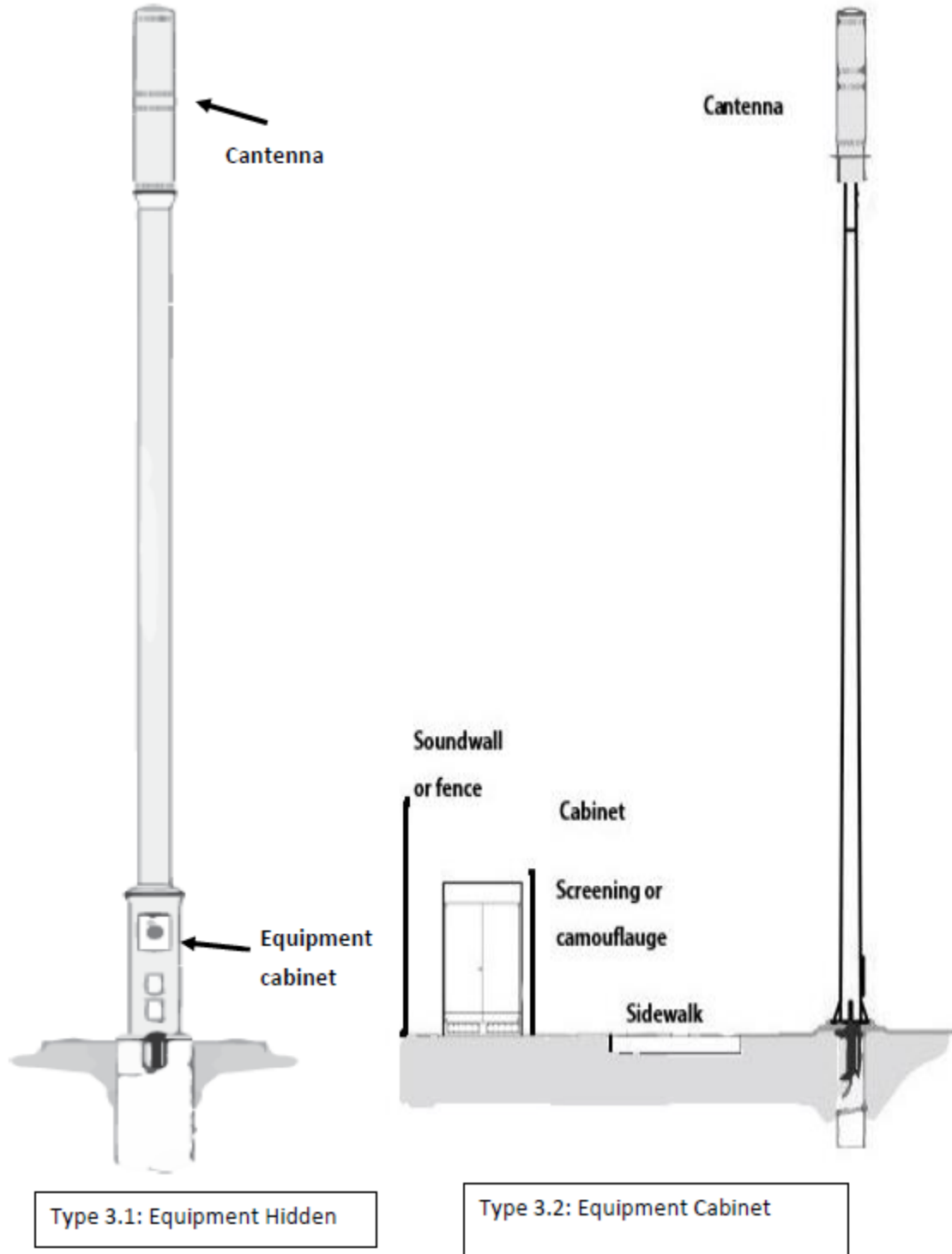


Table 3: Specifications for Freestanding Pole Installations

Pole Type	Round, straight, galvanized steel
Pole Color	If the pole is painted to match existing street light aesthetics, paint shall be powder coated over zinc paint. Pole and equipment cabinet shall still be galvanized.
Pole Design Parameters	TIA-222 rev H including any updates or addendums. Include changes for local condition: 130 mph special wind zone for poles under 45' tall.
Equipment Cabinet Dimensions	20" diameter x 5'8" tall (maximum)
Access Doors	Utility access – per utility provider requirements, meter shall be recessed as much as possible into the equipment cabinet. Luminaire access – hand hole with fused power disconnect. Carrier access – lockable door appropriately sized.
Luminaire	Per Berthoud's and energy provider requirements
Pole Height	Structure height may not exceed 40' or 8' taller than any existing utility or traffic signal pole within a radius of 600' within the same zone district and on the same category of street.
Electrical Service	Per energy provider's requirements
Separation of Service	All new conduit and cable shall be separated by owner in any pull boxes
Pole Separation	All Type 3 freestanding small cell poles shall be separated by at least 600 feet from another freestanding Type 3 pole, and shall meet all applicable requirements of the placement section of these requirements.
Ventilation	Passive louvers and/or passive ventilation systems are preferred. If required, fans shall not emit noise greater than 50 b(b)s at one meter (3.28').
Cantenna (if provided)	19" diameter x 80" height (maximum) colored to match or be substantially similar to pole color
Side-mounted Shroud (if allowed)	16" wide with height and depth not to exceed 9 cubic feet
Equipment Cabinet Area (if allowed)	350 square feet maximum size. Camouflaging and any associated wall or fence shall be lower than adjacent existing sound wall or fence.
Owner Identification	A 4" x 6" (maximum) plate with the carrier's name, location, identifying information, and emergency telephone number shall be permanently affixed to the equipment
Color	Small equipment shall be colored gray, black or the same color as the pole. Antennas equipment shrouds shall be colored to match the pole color.

4. Accessory Equipment and Placement Requirements

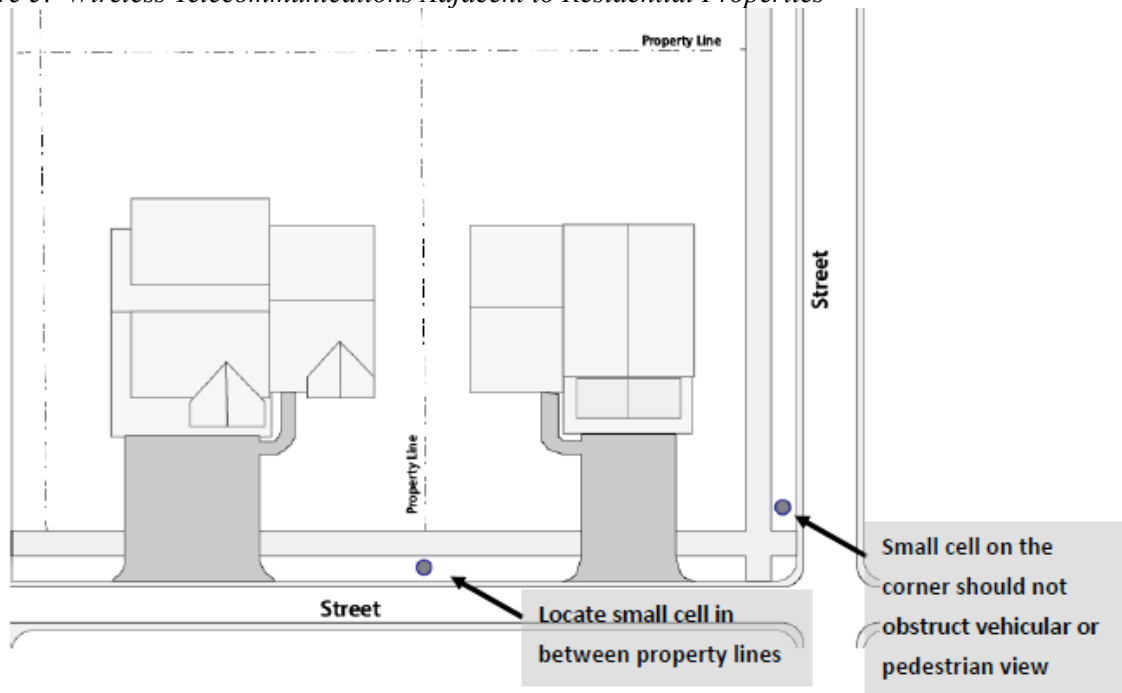
A dual-use small wireless facility and street light pole shall only be located where an existing street light pole can be removed and replaced or at a new location where it has been identified that a street light is necessary. The location of all new small wireless poles or equipment cabinets, regardless of type, shall be subject to the following:

- Does not alter vehicular circulation or parking within the right of way
- Does not impede vehicular, bicycle, or pedestrian access or visibility along the right of way

- Located a minimum of 15 feet from existing street light, traffic signal or utility poles
- In general alignment with existing trees, utility poles, or street lights
- Equal distance between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree
- With appropriate clearance from existing utilities

When placed adjacent to a residential property, the small cell facility shall be placed in proximity to a common property line between adjoining residential properties, such that it minimizes visual impacts equitably among adjacent and nearby properties (Figure 5). When placed adjacent to a residential property located on a corner lot, the small cell facility shall be placed adjacent to a common property line between adjoining residential properties or on the corner formed by two intersecting streets (Figure 5). If these placement requirements are not technically feasible, the applicant may submit a written statement to the Public Works Department requesting the small cell facility be exempt from these requirements and offer alternative locations reasonably meeting the intent of these standards and minimizing impacts among residential properties. Replacement poles and new poles shall comply with the Americans with Disabilities Act, Town construction and sidewalk clearance standards, Town ordinances, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way.

Figure 5: Wireless Telecommunications Adjacent to Residential Properties



Accessory Equipment

If pole-mounted locations are not available, ground-mounted antenna equipment shall use camouflage design techniques, including the use of materials, colors, screening, undergrounding, or other design options that will blend the new equipment into the surrounding setting. Accessory equipment shall be sited in a way that does not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way.



Planning Commission Minutes – September 28, 2023, at 6:00 p.m.

1. Call to Order – The Planning Commission convened a regular meeting on Thursday, September 28, 2023. Chairperson Anderson called the meeting to order at 6:00 p.m.

2. Pledge of Allegiance

3. Roll Call – Members Present: Karen Anderson (Chairperson)
Jon Van Benthem (Secretary)
Abigail Smith (Commissioner)
Brett Wing (Commissioner)
Nick Semedalas (Commissioner)

Members Absent: Melissa Feldbush (Commissioner)

Staff present: Anne Johnson (Community Development Director)
Teri Reger (Planning Technician)

4. Approval of Minutes – Minutes from August 24, 2023, Planning Commission Meeting.

MOTION made by Commissioner John Van Benthem to APPROVE the Minutes for August 24, 2023.

SECONDED by Brett Wing.

With those all in favor, THE MOTION CARRIED.

5. Public Hearing: Wireless Telecommunications Facilities Code

Introduced by Community Development Director Anne Johnson and presented by Ken Fellman from Kissinger & Fellman, P.C. on a consideration of repealing and replacing Section 30-3-111 of the Berthoud Municipal Code to update the Wireless Communications Facilities Code Ordinance 1325 (2023).

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

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

MOTION made by Jon Van Benthem to APPROVE the proposed changes to Chapter 30, Section 30-3-111 of the Berthoud Municipal Code. This recommendation of approval is outlined in the attached Ordinance 1325 (2023) and includes supporting information in the Ordinance attachment.
SECONDED by Nick Semedalas. With all in favor, THE MOTION CARRIED.

6. Public Hearing: Amendment to Chapter 30 of Berthoud Municipal code (Land Development)

Community Development Director Anne Johnson introduced proposed amendments to the following Sections of Chapter 30 of the Berthoud Municipal Code: 30-1-116 regarding the definition of storage containers as storage units and Marijuana Businesses (also Sections 30-3-111, 30-3-112, 30-1-117 and 30-3-104); and clarifying land use application processing requirements throughout Chapter 30 via Ordinance 1326 (2023).

Public Comment was opened at 8:00 p.m.

Lynn Larsen has a role with the alcohol & marijuana board and wanted to point out that the terminology in the Town Code should reflect terminology in the State regulations.

Public Comment was closed at 8:07 p.m.

MOTION was made by John Van Benthem to continue Section 2 of Ordinance 1326 until the October 12, 2023, Planning Commission meeting. SECONDED by Abigail Smith. With all in favor, THE MOTION CARRIED.

MOTION was made by Abigail Smith to forward a recommendation of approval of Ordinance 1326 as presented to the Board of Trustees with the following exceptions:

- **Section 2 regarding regulations for marijuana facilities to be presented at the October 12, 2023, Planning Commission meeting;**
- **Section 4, Table 3.10 to insert the final terminology for marijuana facilities.**
- **Section 5, Section 30-3-112 to insert the final terminology for marijuana facilities.**
- **Section 5, Section 30-3-112.B.7.a to insert the final terminology for marijuana facilities.**
- **Section 5, Section 30-3-113 to insert the final terminology for marijuana facilities.**
- **Section 6, Table 1.1 to insert the final terminology for marijuana facilities into the land use table.**
- **Section 6, Table 1.1 to insert a line item to the notice table as follows:**

	Hearing	Publication	Mailed Notice	Post Sign
<u>Small Cell Wireless Telecommunications Facilities</u>	<u>NA</u>	<u>NA</u>	<u>Yes, to property owners within 500 feet within 15 days following approval as a courtesy notice</u>	<u>NA</u>

SECONDED by Brett Wing. The motion with all in favor, THE MOTION CARRIED.

7. Reports by Staff

- **Tawn Hillenbrand is at the Colorado APA Conference.**
- **The Town Board approved the Flood Mitigation Code and Wave 1 of the Code Cleanup on September 26, 2023.**
- **The Town Board approved the Ludlow Annexation and Zoning on September 26, 2023.**
- **Winter Holiday Dinner for Planning Commission will be held on December 14, 2023, at 5pm before the Planning Commission meeting that evening at Town Hall.**
- **In October the Planning Commission will see Wave 3 of the Code cleanup then there will be a break from the clean up until February.**
- **Chris Kurtz was appointed to the Town Board of Trustees and will need to fill his spot on the Planning Commission as well as appoint a new Vice Chair.**

8. Adjourn –

The meeting was adjourned at 8:32 p.m.


CHAIRPERSON


SECRETARY

BOARD OF TRUSTEES INFORMATION

COMMUNITY DEVELOPMENT DEPARTMENT



Meeting Date:	November 28, 2023
Agenda Title/Subject:	Public Hearing to consider proposed amendments to the following Sections of Chapter 30 of the Berthoud Municipal Code: 30-1-116 regarding the definition of storage containers as storage units; and clarifying land use application processing requirements throughout Chapter 30 via Ordinance 1326 (2023), 2nd Reading
Type of Item:	Public Hearing
Purpose:	Second Reading of Ordinance 1326 (2023)
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1326
- Exhibit A to Ordinance 1326 (2023)
- Legal Publication
- Planning Commission Minutes

BACKGROUND:

Amending the Land Development Code is necessary to keep pace with Federal and State regulations, to clarify intent and processing standards, and to identify opportunities to strengthen the requirements for land use development proposals to ensure the resulting development will adhere to the Town's 2021 Comprehensive Plan update.

UPDATE/NEXT STEPS:

After the Planning Commission public hearing, the Board of Trustees heard the request at a first reading on November 14, 2023. The second reading was held on November 28, 2023. If approved, future development proposals will be provided with a clear path forward regarding expectations for land use applications in the Town of Berthoud.

At the first reading, Trustees asked staff to review the use of cargo containers, semi-trailers, rail cars, and other shipping containers on residential properties as a storage structure. Staff reviewed regulations from Windsor, Firestone, Mead, Frederick, Dacono, Erie and Loveland. These neighboring jurisdictions do not allow containers to be used as long-term storage structures. The building code would necessitate engineering these containers for use other than for their intended use of shipping containers when modifications to the container are made such as electricity, adding doors and windows. A permanent foundation is required. Should the Trustees wish to pursue options for allowing shipping containers throughout Berthoud as storage structures on residential properties, additional review and research is needed. Staff would advise not proceeding with changing the definition at this time other than prohibiting containers to be located in the public right-of-way or on public land.

FISCAL IMPACT AND FUND SOURCE:

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

COMMUNITY TOUCHSTONES:

Consideration of this request does support the Touchstones of Resilience, Sustainability and Community Identity. Updating the Town's Municipal Code to provide transparent and easy interpretation of development application expectations is resilient and provides a sustainable path forward for the development community.

RECOMMENDED ACTION(S):

Planning Commission heard the proposal at their September 28, 2023 public hearing and recommended approval of the proposed code language to the Town Board of Trustees. See suggested motions below and note that these are suggestions and may be amended by the Town Board of Trustees.

Suggested Motion for Approval:

I move to approve the amendments to the following Sections of Chapter 30 of the Berthoud Municipal Code: 30-1-116 regarding the definition of storage containers as storage units; and clarifying land use application processing requirements throughout Chapter 30 via Ordinance 1326 (2023) for the reasons outlined in the staff report as well as in Ordinance 1326.

Suggested Motion for Denial:

I move to deny the proposed amendments to the following Sections of Chapter 30 of the Berthoud Municipal Code: 30-1-116 regarding the definition of storage containers as storage units; and clarifying land use application processing requirements throughout Chapter 30 via Ordinance 1326 (2023) for the following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

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

INTRODUCED, READ, AND APPROVED on this 14th day of November, 2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

READ, ADOPTED, AND APPROVED on this 28th day of November, 2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

EXHIBIT A: Ordinance 1326

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

Section 1: Clarification on the use of Containers for storage, the definition of outdoor storage, the licensing of temporary businesses, and where temporary uses may be permitted are proposed for amendments. Staff from multiple departments collaborated on the following proposal. Clarification of definitions 404 and 407 are also proposed to reflect the nature of temporary land uses and are not related to the clarification needed for definitions 83 and 295.

30-1-116 ~~=~~ Definitions

83. *Container* (also known as cargo or shipping container) means a truck trailer body or a shipping container that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices. Containers are intended for the temporary and mobile transport of goods, and ~~shall may~~ not be ~~allowed permitted~~ for permanent use as storage, or as a ~~permanent~~ building. No Container shall be located within any public right-of-way or an easement. Containers may be used for temporary storage for a duration not to exceed fourteen (14) days. Container use exceeding fourteen (14) days shall first obtain a Temporary Container Permit with the Town. In no event shall a Container be used for a time period greater than a collective six (6) months within any consecutive twelve (12) months.

295. *Outdoor storage* means the keeping, in an unenclosed area, of any equipment, goods, junk, material, merchandise or vehicles, including boats, RV's and trailers, in the same place for more than 24 hours. Containers ~~shall may~~ not be ~~allowed permitted~~ for use as permanent storage or building purposes ~~without site plan and/or building permit approval.~~

404. *Temporary business* means a business commonly recognized as being conducted for regularly scheduled or occurring portions of a year — not to exceed four consecutive months. Examples of a temporary business include, but are not limited to, Christmas tree sale lots, farmer's markets, circuses, carnivals, new home sales operations, etc. and shall obtain a vendor license, as applicable.

407. *Temporary use* means a prospective use intended for limited duration; ~~is to be located in a zoning district not permitting such use,~~ and shall not include continuing a nonconforming use or building.

30-2-117 Commercial and industrial standards

B. *General provisions for commercial and industrial proposals.*

11. *Containers.* Storage Containers as defined herein shall not be located on any industrial or commercial property ~~in a permanent manner, or for longer than a six month basis~~ exceeding the Standards found in the definition of Container.:-

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

~~30-6-110 Conveyance plat~~

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

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

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

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

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

~~C. — *Submittal Requirements:*~~

- ~~1. — *Conveyance Plat submittal based upon Concept Plan.* A conveyance plat shall be based upon a concept plan submitted concurrently with the conveyance plat application. Please refer to Section 30-6-104.B.2. of this Chapter for Concept Plan application submittal requirements.~~
- ~~2. — *Conveyance Plat drawing requirements:*~~
 - ~~—— Title block~~
 - ~~—— Legend, if abbreviations or symbols are used~~
 - ~~—— Contact information for owner, applicant, surveyor~~
 - ~~—— Location/vicinity map~~
 - ~~—— North arrow and written and graphic scale~~
 - ~~—— Legal description and total acreage~~
 - ~~—— Property boundary with dimensions and bearings~~
 - ~~—— Property tie to original survey and abstract corner~~

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

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

~~3. Standards for Approval:~~

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

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

30-3-115: Application Process. The Town of Berthoud has many different application processes for land development. This Section of the Development Code provides a reference to what the common steps are and a table to guide application processing requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30-3-106 Use by Special Review

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

1. ~~The procedures found in Table 3.10 shall be followed.~~
2. ~~Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.~~

~~Optional pre-application conference. The applicant may attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the conditional use submittal requirements and review process.~~

3. ~~Unless otherwise stated in the Resolution, all Use by Special Review applications shall be commenced within six months of the time such approval; otherwise the Use by Special Review shall be null and void.~~

42. ~~Use by Special Review~~ ~~Conditional Use permit~~ application submittal. The applicant shall submit the complete ~~conditional use~~ application package to the Town and shall request that the application be reviewed by the Planning Commission and Board. ~~Conditional use requests shall include:~~

- a. Land use application form.
- b. Title commitment. The title commitment must be current and dated no more than 30 days from the date of conditional use application submittal.
- c. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
- d. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
- e. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
- f. Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.
- g. Surrounding and interested property ownership report — Provide the Town with a current set of mailing labels (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners and mineral and oil and gas lessees of record for the property, and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

3. ~~Conditional Use application certification of completion.~~ Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.
4. ~~Set Conditional Use public meeting and hearing dates and notify public.~~ The Town shall send notice of the public meeting with the Planning Commission and public hearing with the Town Board to the applicant, all property owners of record within 300 feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property, and to the appropriate referral agencies per this Code. The referral information shall include the time and place of the public meeting and hearing, the nature of the meeting/hearing, the location of the subject property, appropriate background information and the applicant's name. The Town shall publish notice for both the meeting and hearing in a newspaper of general circulation. The Town shall also prepare a notification sign to be posted on the property by the applicant. If the conditional use request is accompanying another application which is scheduled for a public meeting or hearing, such public meeting or hearing may be combined on both applications.
5. ~~Planning Commission review of the Conditional Use application.~~ The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria. The Planning Commission will then recommend to the Board approval, approval with conditions or denial.
6. ~~Board public hearing and action on the Conditional Use.~~ The Board shall hold a public hearing on the conditional use application. Following the public hearing, the Board may approve, conditionally approve or deny the conditional use application based on the conditional use review criteria. A conditional use permit may be revocable, may be granted for a limited time period, and may be granted subject to such other conditions as the Board may prescribe. Conditions may include, but shall not be limited to: requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, any standards for maintenance of buildings and grounds, and any development schedules.

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

Note to the reader: No other changes are proposed.

30-3-108 Board of Adjustment

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

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

30-3-109 Waivers

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

B. *Waiver application.*

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

30-3-110 Amendments

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

C. *Zoning amendment application process.*

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

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

- ~~5. Planning Commission public meeting and recommendation on the zoning amendment. The Planning Commission shall hold a public meeting to review the zoning amendment. The Commission shall then make a recommendation to the Board to approve, conditionally approve, or deny the application.~~
- ~~6. Board public hearing and action on the zoning amendment. The Board shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board shall consider the comments and evidence presented at the hearing and evaluate the application in accordance with the criteria listed below and approve, approve with conditions, or deny the application, in whole or in part.~~
7. *Post approval actions.*
 - a. The procedures found in Table 3.10 shall be followed in addition to the post-approval actions included in this Section.
 - b. Upon approval of an amendment to the official zoning map by the Board, the Town shall cause an appropriate revision of the official zoning map to be prepared. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.
 - ~~cb.~~ Upon approval of an ordinance amending, changing or repealing part of the text of this Section, the Town shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Section.
 - ~~de.~~ The applicant initiating the official zoning map amendment shall have one month after approval of the amendment by the Board to submit to the Town ~~either~~ two original mylar plats or an electronic copy of the approved and fully-executed zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment.

The zoning amendment map shall be prepared by a licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall ~~submit one 11-inch by 17-inch reduction of the zoning amendment map and provide the final document in a format acceptable to the Town. -AutoCAD™ drawing file (release 12 or higher).~~
 - ~~ed.~~ Within 30 days of receipt of an applicant-initiated zoning amendment map, the Town shall review the document(s) for compliance with the Board approval, obtain the Town Officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the Larimer or Weld County Clerk and Recorder's Office for recordation.

30-6-103 Subdivision types and process outlines

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

1. *Minor Subdivisions.*

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

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

2. *Major Subdivisions.*

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

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

~~3. *Conveyance Plats.*~~

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

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

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

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

1. *Preliminary Plat.*

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

2. *Final Plat.*

- a. *Definition:* A complete and Final Plat with final engineering studies and construction documents, which is in conformance with the appropriate County requirements to record.
- b. *Purpose/intent:* A depiction of a subdivision that complies with all applicable codes, regulations, and policies, to be recorded.

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

30-6-105 Application Requirements and Standards

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

Table 6.1

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

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

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

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

30-6-106 Neighborhood Master Plan

- A. *Neighborhood Master Plan purpose.* The Neighborhood Master Plan is a conceptual design of the development submitted with a rezoning or major subdivision application, that depicts what the applicant envisions for the overall development, including zoning, transportation, pedestrian network, parks, open space, subdivision identity standards and other amenities.
- B. *Previously approved concept plans.* Concept plans approved before the amendment of this section of the ordinance shall not be entitled to any vested development right.
- C. *Process.* The procedures found in Table 3.10 shall be followed.
- D. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
- E. *Required Application Materials.* A Neighborhood Master Plan is required for all residential and/or mixed-use re-zonings or subdivisions over ten acres in size. Any new zoning amendments shall require a new Neighborhood Master Plan approval. Major proposed changes to any approved preliminary plat, will require a new Neighborhood Master Plan approval. The Neighborhood Master will consist of the following required elements:
 - 30. Depiction of compliance with subdivision identity standards found in this Chapter~~Section 30-2-131.~~
 - 33. *Open space plan:* The applicant shall provide a preliminary open space plan that addresses the following elements:
 - i. Proposed open space distribution and location, including percentage of open space.
 - ii. Compliance with the required park development requirements found in the Parks, trails and open space Section of this Chapter.
 - iii. Required buffer areas as found in the Parks, trails and open space Section of this Chapter.
 - iv. Information regarding the intended source of water for a proposed non-potable water irrigation system.
 - v. Information regarding the intended source of potable water and the raw water dedication.
- ~~E. *Application certification of completion.* Within 30 days, staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package and re-submit the application to the Town.~~
- ~~F. *Neighborhood Master Plan Process:*~~
 - ~~1. *Planning Commission and Town Board Public Hearing.* The Planning Commission shall hold a public hearing and make recommendations to the Town Board. The Town Board shall hold a public hearing and may choose to approve, approve with conditions or deny the Neighborhood Master Plan.~~
 - ~~2. *Notice to neighboring property owners.* The Town shall send notice of the Planning Commission and Neighborhood meeting, and the Town Board meeting by regular mail to neighboring property owners within 1,000 feet of the property per this Code.~~

30-6-107 Preliminary plat

- B. *Preliminary Plat application process.* The procedures found in Table 3.10 shall be followed.
- C. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
- ~~1. *Pre application conference.* A pre application conference with a representative from the Town is required before the applicant may submit a preliminary plat application. Topics to be discussed will include:~~
 - ~~a. The provisions of this Code and the applicable requirements;~~
 - ~~b. The application and review process;~~
 - ~~c. Submittal requirements; and~~
 - ~~d. Changes or modifications based on direction from the Town at concept plan.~~

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

- i. Preliminary water and sewer plan and study. This plan shall be prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision. Identify the source of raw water for dedication purposes.
- k. Preliminary landscape and open space plan. The landscape plan must address the treatment of all exterior spaces. Landscape plans are to be designed to meet the requirements of this Code and show approximate locations of trees, shrubs, groundcovers, turf, buffering, fences, walls and other site amenities that will be included in the plan. Applicants are to consult with the Town arborist regarding tree planting schemes and the Berthoud Tree Board will be given an opportunity to review and comment upon the tree plan for the property. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the preliminary location of all proposed meters and backflow devices.
- ~~6.—Refer application to parties of interest. The Town shall send summary information about the application by regular mail to the mailing list provided by the applicant that includes neighboring property owners, utility and service providers and other parties of interest. The referral information shall include the time and place of the Planning Commission meeting and Town Board public hearing, the nature of the meeting or hearing, the location of the property, the applicant's name, and background information about the proposal.~~
- ~~7.—Staff review and report to Planning Commission. Staff will complete a final review of the application and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the preliminary plat review criteria.~~
- ~~8.—Planning Commission public meeting and recommendation. The Planning Commission shall hold a public meeting to review the application based on the preliminary plat review criteria. The Planning Commission shall then make a recommendation to the Town Board to approve, conditionally approve, or deny the application.~~
- ~~9.—Town Board public hearing and action. The Town Board shall review and act on the Preliminary Plat as part of a public hearing. The Town Board may choose to approve, approve with conditions, or deny the Preliminary Plat.~~
- ~~10.—Applicant addresses any conditions placed on the proposal. The applicant shall revise the preliminary plat based only on conditions of approval (if any) placed on the proposal by the Town Board.~~

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

30-6-108 Final plat

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

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

D. Final Plat application process.

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

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

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

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

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

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

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

30-6-109 Minor subdivision plat

A. *Minor Subdivision Plat purpose.*

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

B. *Minor Subdivision Plat application process.*

1. The procedures found in Table 3.10 shall be followed. ~~Pre application conference. A pre-application conference with a representative from the Town is required before the applicant may submit a Minor Subdivision Plat application. Topics to be discussed will include:~~
 - a. ~~Town regulations and standards.~~
 - b. ~~The application and review process.~~
 - c. ~~Submittal requirements.~~
 - d. ~~Proposed schedule.~~
2. Notice shall be given in accordance with the the public hearing and general notice provisions found in this Chapter.
3. Minor Subdivision plat application submittal. The applicant shall submit the complete Minor Subdivision plat application package to the Town and request that the application be reviewed by the Planning Commission. The application materials shall be formatted and packaged per the application submittal checklist provided by the Town and include:
 - f. Additional materials. At Town discretion and depending on the size of the Minor Subdivision and its potential impact to the community, the Town may request the following additional materials:
 - i. ~~—Traffic study~~
 - ii. ~~—Geotechnical report~~
 - iii. ~~—Drainage map and study~~
 - iv. ~~—Utility map and study~~
 - v. Final landscape, open space, and buffer plan. Provide a plan illustrating existing and proposed landscape materials, materials to be removed and those to be retained, a plan for open space and appropriate buffering for commercial and industrial properties. The buffer plan shall be made in accordance with the Commercial and Industrial Standards

- Section and the Commercial and Industrial buffering and screening techniques Standards of the Municipal Code and shall also contain an open space plan consistent with this Section. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Provide the location of all proposed meters and backflow devices.
- vi. Final irrigation plan. Provide a plan illustrating how the proposed landscape material will be irrigated.
- vii. Hydrazone analysis. Provide an analysis of the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable uses.
- viii. Exterior elevations of proposed structures/graphic visual aids. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s). In addition, Staff may require building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
- ix. Development sign plan. Provide a plan illustrating a unified signage plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscape materials.
- x. Architectural standards for the development. Standards in addition to the architectural standards found in Chapter 30 shall have the result of creating a unique subdivision and/or development consistent with the sense of place being created for the greater subdivision and/or development.
- g. Surrounding property ownership report. A list and set of mailing labels not more than 30 days old of the names and addresses of the surrounding property owners within 300 feet of the property; mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
3. Application certification of completion. Within five working days, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town.
4. Public Comment Requirements. Within five days of a complete application, the Town shall send notice of public comment to the neighboring property owners within 500 feet of the subject property, as part of the review process. This notice shall include a summary of the project, along with a copy of the Minor Subdivision Plat. The Public shall have three weeks to submit comments back to the Town. All Public comments received, will be sent to the developer, and be part of the record for the Planning Commission meeting. The Developer shall address all public comments in a report to be included with the record, before the Minor Subdivision Plat shall be scheduled for a hearing.
5. Refer application to parties of interest. Within an appropriate timeframe, staff shall send information about the application by regular mail to: surrounding property owners within 300 feet, mineral interest owners of record, mineral and oil and gas lessees for the property, and other parties of interest.
6. Schedule Planning Commission public hearing and complete public notification process. The Town shall schedule a public hearing for the purpose of taking action on the Minor Subdivision. The Town shall publish notice and post the property with a sign legible from an adjacent public right of way within a reasonable time prior to the hearing. All notices and posting shall be consistent with this Code.
7. Planning Commission public hearing and action. The Planning Commission shall hold a public hearing to review the application based on the Minor Subdivision review criteria. The Planning Commission shall then move to approve, conditionally approve, or deny the application by resolution. An applicant may appeal denial by the Planning Commission to the Town Board.
8. Applicant addresses Planning Commission conditions. The applicant shall revise the Minor Subdivision plat based on any Planning Commission conditions of approval and submit it to the Town.
4. An applicant may appeal denial by the Planning Commission to the Town Board.

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

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

30-6-111 Administrative adjustment to recorded plats

- A. *Administrative Adjustment purpose.* The purpose of the administrative adjustment is to allow adjustments to recorded final plats where there is anticipated to be no significant impact to the Town. The Town Administrator may determine that the Planning Commission should make the decision as to the adjustment of internal or external boundary lines if the adjustment would have a significant impact on the Town or the neighborhood.
- D. ~~The procedures found in Table 3.10 shall be followed.~~
~~E. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.~~
- F. ~~Application materials~~*administrative Adjustment process.* In order to process any request for an administrative adjustment, the following ~~materials shall be provided~~~~steps shall be completed:~~
- ~~1) *Application Form, Fee and Memorandum of Understanding.*~~
 - ~~2) *Narrative.* The applicant shall provide a narrative describing the amendment proposed.~~
 - ~~3) *Graphic.* The applicant shall provide a graphic depicting the current condition and a graphic depicting the proposed condition.~~
 - ~~4) *Proof of ownership.* All owners of the property shall provide evidence satisfactory to the Town Administrator that they are the holders of equitable title to the property. Evidence of ownership required by the Town may include, but not be limited to: the recorded deed, or the title policy to the property and a copy of the billing by Larimer or Weld Counties for real property taxes. It shall not be necessary to have the holders of the legal title to the property included as petitioners with those persons holding equitable title to the property.~~
 - ~~5) *Petition for administrative adjustment.* All owners of legal and equitable title shall execute before a Notary Public a petition stating they are the owners of equitable title to the property and that they wish to merge two or more adjoining lots into one lot. The petition shall also contain such additional information that the Town may deem appropriate.~~
 - ~~3) *Procedure for administrative adjustment.*~~
 - ~~a. *Upon compliance with the above requirements, the Town Administrator or his duly designated representative is authorized to execute the document merging any number of lots into one lot. The petition for an administrative adjustment shall specify the subdivision, lot and block numbers (where applicable) and the number of the lot created as a result of the proposed action.*~~

30-6-112 Site plan

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

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

B. *Site Plan process.*

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

30-6-113 Amendments and exceptions

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

B. The procedures found in Table 3.10 shall be followed.

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

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

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

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

30-1-117 Public hearing and general notice provisions

- B. *Public notice requirements.* The Town shall give notice of any public hearing required as provided below. The applicant shall be responsible for all costs of such notice.
1. Where required by statute or ordinance to give notice to surrounding property owners, notice shall be given by mailing a written notice not later than ~~fifteen~~five days before the hearing to those persons who have listed for taxation any real property located within ~~500'~~300 feet of the lot, parcel or property area that is the subject of the application or appeal.
 2. Where required by statute or ordinance to give notice to other interested property owners such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies notice shall be given by mailing a written notice not later than 15 days before the hearing.
 3. Where required by statute or ordinance to give notice to other parties of interest or referral agencies, notice shall be given by mailing a written notice not later than 15 days before the hearing.
 4. Where required by statute or ordinance to give notice of annexation hearings to special districts, school districts and Larimer or Weld County Commissioners and the Larimer or Weld County Attorney, notice shall be given by a certified mailing of a written notice not later than 25 days before the hearing.
 5. When required by the notice of public hearing table (Table 1.1) in this section, the applicant must post a sign along each street frontage of the property. The Town will provide signs when a complete application is made. The applicant is responsible for erecting and maintaining the sign(s) for the time period specified and removing them after the last public hearing. Signs must be placed as near the property line as possible and in a manner that is readily visible from the street or road. Posting the property is a courtesy to the public and the failure of anyone to observe a sign does not invalidate any public hearing.
 6. The applicant shall provide (prior to the hearing) an affidavit showing the property was posted within the specified time.
 7. The Town shall give notice of any public hearing required as follows:
 - a. Notice shall be given to potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than 15 days prior to the hearing.
 - b. This notice shall state the date, time and place of the hearing, reasonably identify the lot, parcel or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.
 - c. The applicant shall provide the required number of mailing labels and a list in a format acceptable to the Town with application materials. The applicant shall certify the source for the mailing list and labels.

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

Table 1.1 Hearing and notification requirements

	Hearing	Publication	Mailed notice	Post sign
Annexation	Before Commission as regular agenda item. Before Town Board per C.R.S.	4 successive weeks starting at least 30 days prior to Statutory Hearing.	Yes, to property owners within 500 feet no less than 25 days and no more than 30 days prior to Statutory Hearing.	Yes, no less than 30 days prior to Statutory Hearing.
Zoning	Before Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission meeting.	Yes, to property owners w/in 500 feet sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Rezoning	Before Commission as regular agenda item and Board as hearing.	No less than 15 days prior to hearing.	Yes, to properties within 500 foot area sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Text Amendment to Development Code (Chapters 10-11)	Before Board as hearing.	No less than 15 days prior to hearing.	No.	No.
Neighborhood Master Plan	Before both Commission and Board as regular agenda items.	No less than 15 days prior to Commission/Board meeting.	Yes, to properties within 500' 1,000 feet no less than 15 days prior to meeting.	Yes, to properties no less than 15 days prior to Commission meeting.
Preliminary Plat	Before Planning Commission as regular agenda item and Board as hearing.	No less than 15 days prior to meeting.	Yes, to property owners within 500 feet no less than 15 days prior to meeting.	Yes, no less than 15 days prior to Commission meeting.
Final Plat or a Replat	Before Planning Commission as Hearing. No Board meeting or hearing.	No less than 15 days prior to Commission meeting.	Yes, to property owners within 500 feet no less than 15 days prior to Commission hearing.	Yes, no less than 5 days prior to Commission hearing.
Conveyance Plat	Before Commission as regular agenda item and Board as hearing.	No less than 5 days prior to Commission meeting.	Yes, to property owners within 500 feet, and referral agencies no less than 5 days prior to Commission meeting.	Yes, no less than 5 days prior to Commission meeting.
PUD or amendment to PUD	Before Commission as regular agenda	No less than 15 days prior to hearing.	Yes, to property owners within 300 feet, and referral	Yes, no less than 15 days prior to

	item and Board as hearing.		agencies no less than 15 days prior to Commission meeting.	Commission meeting.
<u>Amended PUD: Changes to a previously-approved PUD shall follow both the Change of Zone and Neighborhood Master Plan process as found in Chapter 30 and in this Table</u>				
Comprehensive Plan Amendment	Before Planning Commission as hearing and Board as regular agenda item.	No less than 15 days prior to Commission hearing.	No	No
Text Amendment to Development Code (Chapters 1-9)	Before Planning Commission as regular item and Town Board as hearing.	No less than 15 days prior to hearing.	No.	No.
Variances and Appeals	Board of Adjustment (BOA) as hearing	No less than 15 days prior to hearing.	Yes, to property owners within 53 300 feet no less than 15 days prior to BOA hearing.	Yes, no less than 15 days prior to BOA hearing.
<u>Conditional Use by Special Review</u>	Before Planning Commission as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 53 300 feet, and referral agencies no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
<u>Use By Special Review</u> /Conditional Use: <u>including Medical Marijuana/Oil and Gas</u>	Before Town Board as a hearing	No less than 15 days prior to hearing.	Yes, to property owners within 53 300 feet, and referral agencies no less than 15 days prior to Board meeting.	Yes, no less than 15 days prior to Town Board meeting.
Minor Subdivision	Before Planning Commission as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 53 300 feet no less than 15 days prior to Commission hearing.	Yes, no less than 15 days prior to Commission hearing.
Site Plan Review and Action	Administrative approval unless referred to Planning Commission by Administrator	No notice required.	No notice required. <u>Upon application acceptance to property owners within 500'</u>	No notice required. <u>Upon application acceptance</u>
<u>Wireless Communications Facilities as Uses by Special Review</u>	<u>Before Town Board as a hearing</u>	<u>No less than 15 days prior to hearing.</u>	<u>Yes, to property owners within 500 feet, and referral agencies no less than 15 days prior to Board meeting.</u>	<u>Yes, no less than 15 days prior to Town Board meeting.</u>

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

30-2-116 - Residential design standards

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

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

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

~~b(6).~~ The following list ~~provides of~~ housing diversity types ~~available shall be used~~ to satisfy this Lot Diversity requirement.

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

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

2. *Housing model diversity detached:*

~~a.i.~~ Any development of 100 or more single-family detached dwelling units shall have at least four different housing models. Any development containing fewer than 100 single-family or two-family dwelling units shall have at least three different types of housing models.

~~b.ii.~~ In addition to having unique model types, each model shall have a minimum of two unique architectural elevations. Each elevation shall be distinguishable from one another and shall have at least four of the listed building elements which clearly and obviously distinguish it from other elevations of the same model:

- ~~i.a.~~ Unique porches and front entries that include different architectural styles, building materials, sizing, or placement;

-
- ~~ii.b.~~ Exterior materials (e.g. stucco, natural wood, cement fiberboard, rock, brick, etc.);
- ~~iii.e.~~ Garage orientation and point of access. Unique garage styles will also be considered (e.g. carriage doors, raised panel, contemporary, etc.);
- ~~iv.d.~~ Roof types (e.g. gable, hip, lean-to, dormer, etc.);
- ~~v.e.~~ Creative design alternatives not stated above
- ~~vif.~~ Any two elevations that are distinctly different architectural styles (e.g. colonial, cottage, craftsman, farmhouse, French country, modern, ranch, traditional, Tudor, Victorian, etc.) shall be exempt from these requirements.
- ~~viig.~~ One ~~(applicant may be allowed credit for two, if a and d above, are satisfied)~~ of the following creative design elements found below ~~may be used. :-Creative design alternatives not stated above~~. If i. and iv., listed above are satisfied, an applicant will receive two building element credits by using one of the following creative design elements:-
1. Architecture/material type (select as many as desired, ~~only one~~; will qualify for one element):
 - Masonry (brick or stone) exteriors are provided on all four sides of 50 percent or more of buildings.
 - 100 percent of models/lots have garage planes that take up less than 50 percent of the total length of the ~~structure's front facade~~wall face on the front facade front façade.
 - All homes on corner lots shall have wraparound porches with a porch depth a minimum six ~~feet~~foot depth.
 - All homes on corner lots shall have two stories with different elevations.
 - 50 percent of models on rear and side yards have partially improved exterior details or materials, such as brick, stone, or other architectural features
 2. ~~Energy &~~sustainability standards (Select as many as desired, ~~only one~~; will qualify for 1 element):

Energy sustainability:

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

3. Accessibility:

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

~~Water Conservation:~~

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

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

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

30-2-102 Design standards based on Comprehensive Plan

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

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

30-2-112 Landscape design

C. Landscaping design standards.

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

Zoning

30-3-101 General provisions

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

- ~~{A.}~~ *Uniformity of regulations.* The regulations established by this Section within each zone shall apply uniformly to each class or type of structure or land. Unless exceptions are specified in this Section, the following interpretations shall apply:
 - ~~{B.}~~ *Conflict with other provisions of law.* Whenever the requirements of this Section are inconsistent with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive standards shall govern.
 - ~~{C.}~~ *Conflict with private covenants or deeds.* In case of a conflict between this Code and any private restrictions, the provisions of this Code shall control for purposes of enforcement by
-

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

~~D.16.~~ *Zoning of annexed territory.*

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

30-3-103 Zoning districts and boundaries

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

1. URC – Urban Residential/Commercial District
2. SRC – Suburban Residential/Commercial District
3. CD – Conservation District
4. AG – Agricultural District
- ~~52.~~ TN – Traditional Neighborhood District
- ~~63.~~ R1 – Single Family District
- ~~74.~~ R2 – Limited Multi-Family District
- ~~85.~~ R3 – Multi-Family District
- ~~96.~~ R4 – Mixed Use District
- ~~107.~~ R5 – Manufactured/Mobile Home District
- ~~118.~~ C1 – Neighborhood Commercial District
- ~~129.~~ C2 – General Commercial District
- ~~130.~~ M1 – Light Industrial District
- ~~144.~~ M2 – Industrial District
- ~~152.~~ T – Transitional District
- ~~163.~~ PUD – Planned Unit Development Overlay District

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

D. UR Urban Residential and Commercial District.

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

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

E. SR Suburban Residential and Commercial District.

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

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

F. CD Conservation District.

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

1. *Principal or Conditional uses.* Principal or conditional uses for the CD District are found on [Table 3.5.](#)
2. *Area and Bulk Requirements.* See [Tables 3.4 and 3.6.](#)

~~D.G.~~ **E. AG Agricultural District.**

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

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

IF. TN Traditional Neighborhood District.

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

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

JG. R1 Single Family District.

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

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

KH. R2 Limited Multi-Family District.

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

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

LA. R3 Multi-family District.

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

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

MJ. *R4 Mixed Use District.*

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

1. *Principal or Conditional uses.* Principal or conditional uses for the R4 District are found on Table 3.34.
2. *Area and bulk regulations.* See [Table 3.1-Figure 3-6](#).
3. *Maximum density or lot coverage.*
 - a. Accessory dwelling units in the R4 District count as .33 units towards the overall project density.

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

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

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

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

PM. *C1 Neighborhood Commercial District.*

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

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

QN. *C2 General Commercial District.*

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

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

RΘ. *M-1 Light Industrial District.*

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

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

SP. *M2 Industrial District.*

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

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

TQ. *Transitional District.*

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

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

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

- a. The owner of the property, prior to the Town Board meeting at which the zoning is to be heard, shall submit a site plan showing in reasonable detail the proposed expansion of current use or installation of permanent structure on the property.
 - b. The Town Board shall grant such variance upon a finding that the strict application of the zoning ordinance would result in exceptional or undue hardship upon the owner of the property and that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this code.
2. *Change of zoning.* The owner of any property in the T District may at any time petition the Town to remove the property from this zoning district and place it in another zoning district, in accordance with the procedures and requirements of this code.

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

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

30-3-105 Setbacks and encroachments — all districts

A. *Setback requirements (all districts).*

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

3. Permanent features not allowed within an easement include:

- i. Window wells below grade of the structure;**
-

-
- ii. Building egress located below the grade of the structure;
 - iii. Structures, concrete pathways, sidewalks, fences and other features prohibiting the flow of stormwater through a drainage easement.
4. Drainage easements shall be kept clear of any obstruction.

VESTING OF PROPERTY RIGHTS

30-4-102 General provisions

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

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

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

Subdivision Standards

30-6-101 General provisions

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

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

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

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

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

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARING
Amendments to the Berthoud Development Code

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Berthoud Planning Commission on Thursday, September 28, 2023 at 6:00 p.m. and before the Town Board on Tuesday, November 14, 2023 at 6:30 pm to consider amendments to Chapter 30 of the Berthoud Municipal Code, specifically amending the definition section regarding containers as storage units and marijuana businesses (also Section 30-3-113, 30-3-112, 30-1-117 and 30-3-104), and clarifying land use application processing requirements throughout Chapter 30 of the Berthoud Municipal Code. The public hearings will be held at Town Hall 807 Mountain Avenue Berthoud 80513.

Given and Posted on this 23rd day of August, 2023.

Published: Loveland Reporter Herald August 25, 2023-1998959

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Larimer
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Loveland Reporter Herald*.
2. The *Loveland Reporter Herald* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Larimer County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Loveland Reporter Herald* in Larimer County on the following date(s):

Aug 25, 2023

Melissa Najera
Signature

Subscribed and sworn to me before me this

25th day of August 2023

Shayla Najera
Notary Public

(SEAL)

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

Account: 1051549
Ad Number: 1998959
Fee: \$19.43



Planning Commission Minutes – September 28, 2023, at 6:00 p.m.

1. Call to Order – The Planning Commission convened a regular meeting on Thursday, September 28, 2023. Chairperson Anderson called the meeting to order at 6:00 p.m.

2. Pledge of Allegiance

3. Roll Call – Members Present: Karen Anderson (Chairperson)
Jon Van Benthem (Secretary)
Abigail Smith (Commissioner)
Brett Wing (Commissioner)
Nick Semedalas (Commissioner)

Members Absent: Melissa Feldbush (Commissioner)

Staff present: Anne Johnson (Community Development Director)
Teri Reger (Planning Technician)

4. Approval of Minutes – Minutes from August 24, 2023, Planning Commission Meeting.

MOTION made by Commissioner John Van Benthem to APPROVE the Minutes for August 24, 2023.

SECONDED by Brett Wing.

With those all in favor, THE MOTION CARRIED.

5. Public Hearing: Wireless Telecommunications Facilities Code

Introduced by Community Development Director Anne Johnson and presented by Ken Fellman from Kissinger & Fellman, P.C. on a consideration of repealing and replacing Section 30-3-111 of the Berthoud Municipal Code to update the Wireless Communications Facilities Code Ordinance 1325 (2023).

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

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

MOTION made by Jon Van Benthem to APPROVE the proposed changes to Chapter 30, Section 30-3-111 of the Berthoud Municipal Code. This recommendation of approval is outlined in the attached Ordinance 1325 (2023) and includes supporting information in the Ordinance attachment.
SECONDED by Nick Semedalas. With all in favor, THE MOTION CARRIED.

6. Public Hearing: Amendment to Chapter 30 of Berthoud Municipal code (Land Development)

Community Development Director Anne Johnson introduced proposed amendments to the following Sections of Chapter 30 of the Berthoud Municipal Code: 30-1-116 regarding the definition of storage containers as storage units and Marijuana Businesses (also Sections 30-3-111, 30-3-112, 30-1-117 and 30-3-104); and clarifying land use application processing requirements throughout Chapter 30 via Ordinance 1326 (2023).

Public Comment was opened at 8:00 p.m.

Lynn Larsen has a role with the alcohol & marijuana board and wanted to point out that the terminology in the Town Code should reflect terminology in the State regulations.

Public Comment was closed at 8:07 p.m.

MOTION was made by John Van Benthem to continue Section 2 of Ordinance 1326 until the October 12, 2023, Planning Commission meeting. SECONDED by Abigail Smith. With all in favor, THE MOTION CARRIED.

MOTION was made by Abigail Smith to forward a recommendation of approval of Ordinance 1326 as presented to the Board of Trustees with the following exceptions:

- **Section 2 regarding regulations for marijuana facilities to be presented at the October 12, 2023, Planning Commission meeting;**
- **Section 4, Table 3.10 to insert the final terminology for marijuana facilities.**
- **Section 5, Section 30-3-112 to insert the final terminology for marijuana facilities.**
- **Section 5, Section 30-3-112.B.7.a to insert the final terminology for marijuana facilities.**
- **Section 5, Section 30-3-113 to insert the final terminology for marijuana facilities.**
- **Section 6, Table 1.1 to insert the final terminology for marijuana facilities into the land use table.**
- **Section 6, Table 1.1 to insert a line item to the notice table as follows:**

	Hearing	Publication	Mailed Notice	Post Sign
<u>Small Cell Wireless Telecommunications Facilities</u>	<u>NA</u>	<u>NA</u>	<u>Yes, to property owners within 500 feet within 15 days following approval as a courtesy notice</u>	<u>NA</u>

SECONDED by Brett Wing. The motion with all in favor, THE MOTION CARRIED.

7. Reports by Staff

- **Tawn Hillenbrand is at the Colorado APA Conference.**
- **The Town Board approved the Flood Mitigation Code and Wave 1 of the Code Cleanup on September 26, 2023.**
- **The Town Board approved the Ludlow Annexation and Zoning on September 26, 2023.**
- **Winter Holiday Dinner for Planning Commission will be held on December 14, 2023, at 5pm before the Planning Commission meeting that evening at Town Hall.**
- **In October the Planning Commission will see Wave 3 of the Code cleanup then there will be a break from the clean up until February.**
- **Chris Kurtz was appointed to the Town Board of Trustees and will need to fill his spot on the Planning Commission as well as appoint a new Vice Chair.**

8. Adjourn –

The meeting was adjourned at 8:32 p.m.


CHAIRPERSON


SECRETARY

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	3rd Street and Massachusetts Design Update
Type of Item:	Regular Item
Purpose:	Update the Board on the Design Progress
Presented by:	Chris Kirk

ATTACHMENTS:

- Presentation regarding 3rd Street and Massachusetts Design

BACKGROUND:

As the Board may recall, the Mountain Avenue Overlay Plan was adopted in 2019. The plan was developed with public input and was intended to articulate a clear vision for the future of the Mountain Avenue (Highway 56) corridor from I-25 to Highway 287. In addition to establishing land use and design guidelines for the corridor, the plan also suggested improvements to some important public spaces in the downtown area, including portions of 3rd Street and Massachusetts.

In 2022, Town staff began working with BHA Design and Wilson & Co. to design the improvements on 3rd Street, north of Mountain Ave, and on Massachusetts Ave between 3rd and 4th Street, that were articulated in the original Overlay Plan. BHA was also the prime consultant on the Mountain Avenue Plan and had developed a solid understanding of the Town through that process.

Staff and the consulting team met with property and business owners in November 2022 to get feedback about the early design concepts. The Board also reviewed the initial plans in December 2022 and all the feedback received was used to move the design forward. In September 2023, staff and the consulting team met with property and business owners again to review the revised plans and received additional feedback.

At the November 28 meeting, staff is hoping to receive design feedback from the Town Board in order to finalize the construction drawings and to prepare an updated estimate of cost. BHA and Wilson will be in attendance to present the design to the Board.

FISCAL IMPACT AND FUND SOURCE:

The Town intends to use funds received from the Federal Government via the American Rescue Plan Act (ARPA) to construct the project. In addition to the ARPA funds, the Town will fill the gaps in funding with General Funds which have been previously budgeted.

COMMUNITY TOUCHSTONES:

The project has the potential to impact Berthoud's *Community Identity* by improving important areas of downtown. Improvements to Downtown will help to keep the area an attractive place to visit, shop, and dine.

RECOMMENDED ACTION(S):

Provide feedback to Town Staff and the design team.

LOVEJOY DISTRICT

3rd Street and
Massachusetts Ave
Early Concept



LOVEJOY DISTRICT

Project Status:

- Property Owner Meeting – September 27, 2023
- Property Owner Meeting – November 1, 2022
- Community Meeting and Town Board Meeting – December 6, 2022
- Town contracted with Wilson & CO & BHA to prepare Phase 1 Construction Documents
 - 3rd Street (500 Block) – top priority
 - Massachusetts Ave (300 Block) – as much as possible
- Discussions with BNSF Railroad
- Walked the site with the Town Forester to review existing trees

PROPERTY & BUSINESS OWNER INPUT

Meeting on November 1, 2022:

- Concerns were raised about reduced parking quantities
- Trucks with trailers are commonly parked on 3rd Street
- Concerns about splash pad shown in plaza by the Lovejoy Elevator
- Make sure delivery trucks can make turns comfortably
- Design should reflect historic character
- Would be nice to restore the Historic Depot building
- Lions Club sign needs to be considered in the design

DIRECTION FROM TOWN BOARD

Meeting on December 6, 2022:

- Directed team to convert the 500 Block of 3rd Street to one-way northbound
- Directed team to include diagonal parking on east side of 3rd to increase parking quantities
- Directed the team to protect views of Lovejoy Elevator from Mountain Ave – do not block with trees
- Town Board liked the new sidewalk, fence, and gardens on the east side of 3rd Street, and widened walk on west
- Town Board agreed that the design should reflect historic character
- Greenery is needed (trees, pots, hanging flower baskets, plantings)
- Would be nice to restore the Historic Depot building in future

PROPERTY & BUSINESS OWNER INPUT

Meeting on September 27, 2023:

- Why wider sidewalks? Catering more to pedestrians than vehicles
- Concerns with parking, truck deliveries, access, reverse diagonal
- Suggested “baby-steps” (phases)
- Suggestions for parking management plan
- Snow removal / storage concerns
- Old Mainstreet program Themes, trying to tie in ‘historic elements’
- Truck turning radius
- Traffic being added to 4th / Mountain intersection

TOWN STAFF INPUT

Site Walk with Town Forester (Paul Furnas) August 30, 2023:

- Assessment of existing trees on Massachusetts and in parklet
- Feasibility of retaining as many existing trees as possible
- Strategies to maintain health of trees after construction
- Tree wells (for street trees) should be pervious and large

PHASING CONCEPT



3RD STREET

■ 3rd Street (500 Block)

- More space for people – narrower street, wider walks
- Reverse diagonal parking on west side
- ~~Parallel parking on east side~~ Reverse diagonal parking on east side
- Vertical curb on west side
- Flush **Vertical** curb on east side
- Two-way **Converting to one way northbound**

■ 3rd Street (600 Block)

- Converting to one way northbound
- Parallel parking on east side
- Proposed public parking east of buildings (gravel)

■ Intersection Improvements

- Bump outs
- Enhanced Cross-walks
- Special Paving at Corners

■ Plaza ~~and Splash Pad~~ by Lovejoy Elevator/Depot

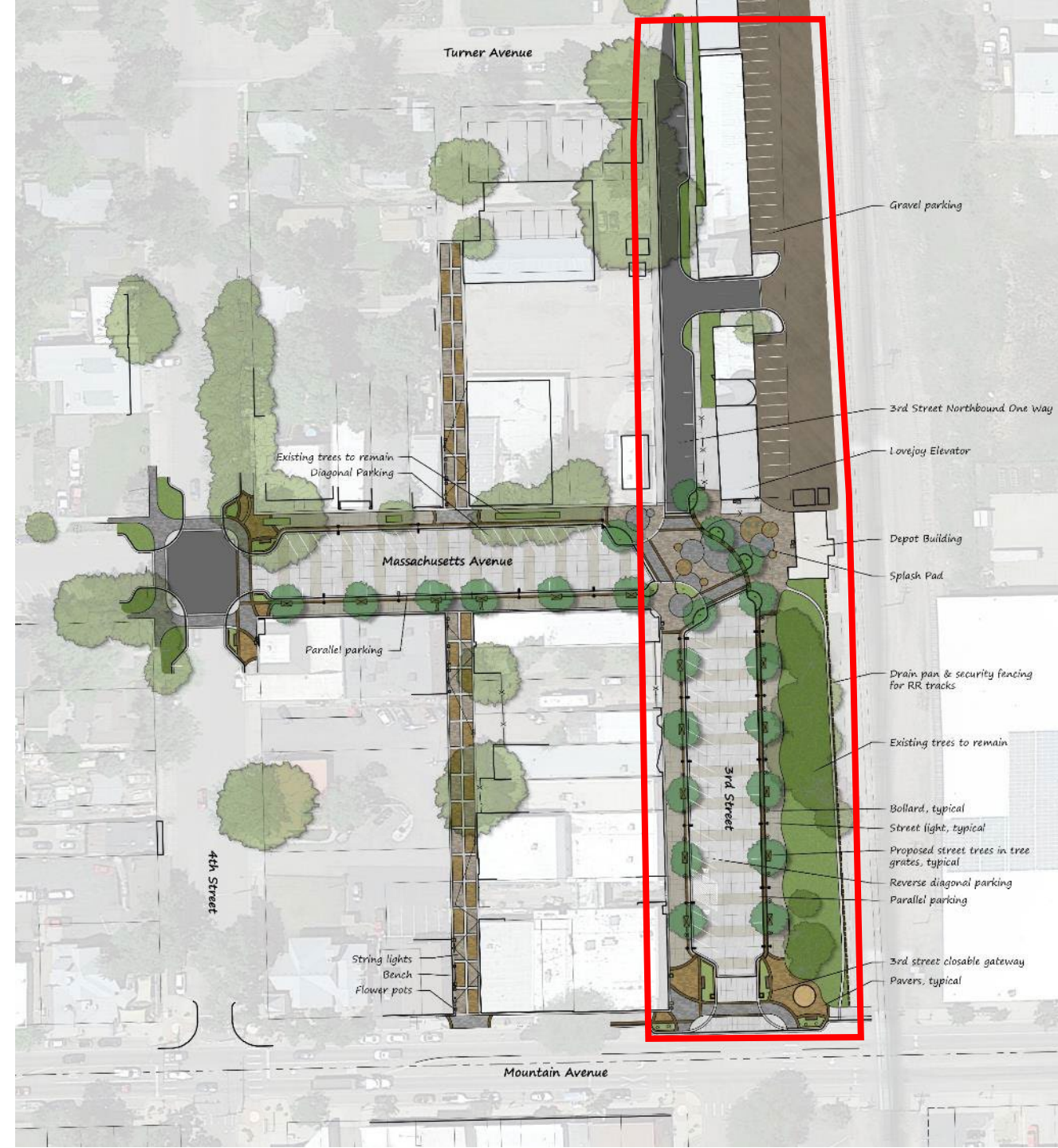
■ Gateway to Lovejoy District at Mountain

■ Street Trees

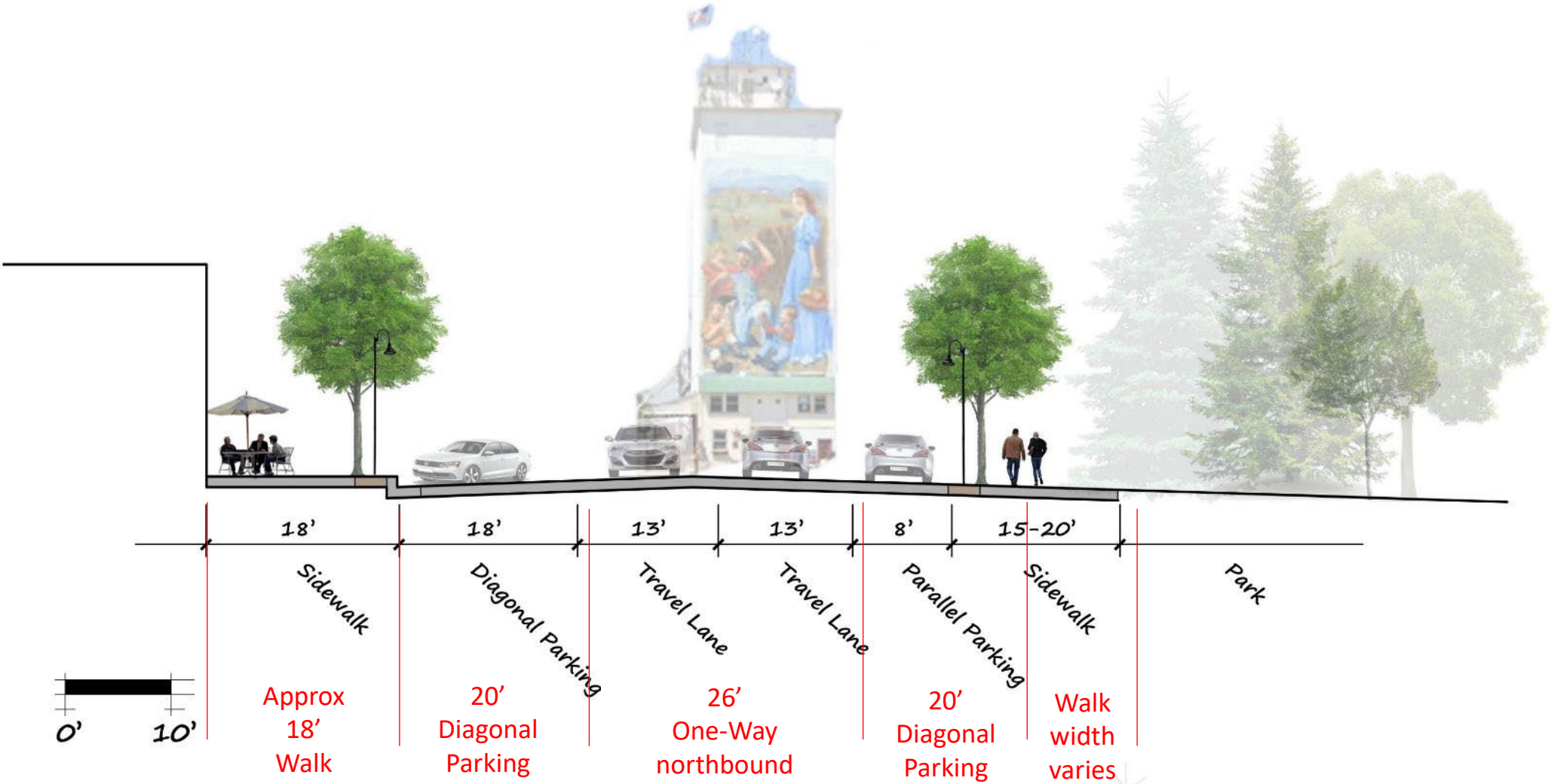
■ Lighting, Benches, Bike Racks, Planter Pots, Seat Walls, Bollards

■ Enhanced Park Space, Preserve Existing Healthy Trees

■ 4' Fence along east edge of park – art opportunity

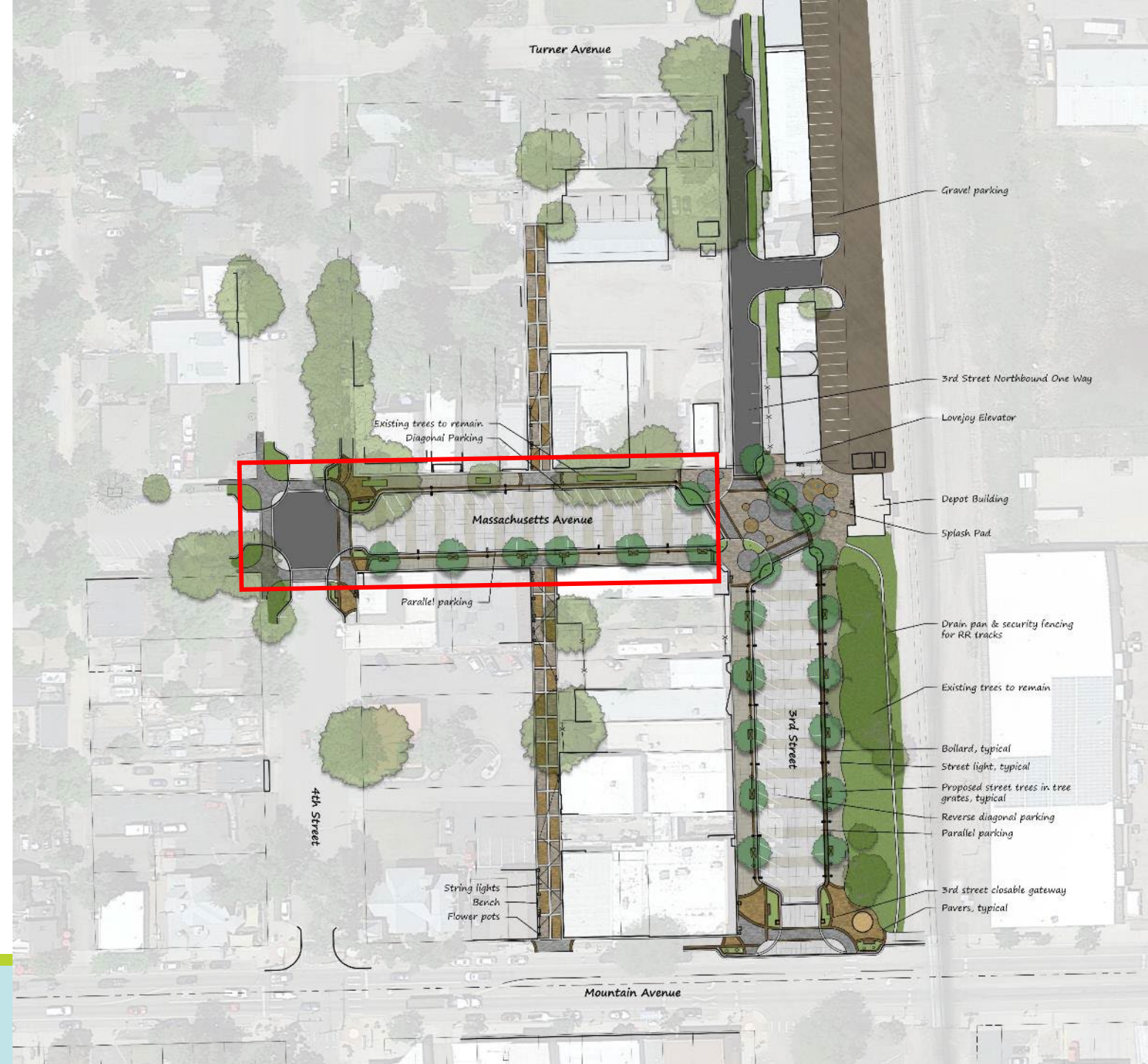


3RD STREET (500 BLOCK) – looking north

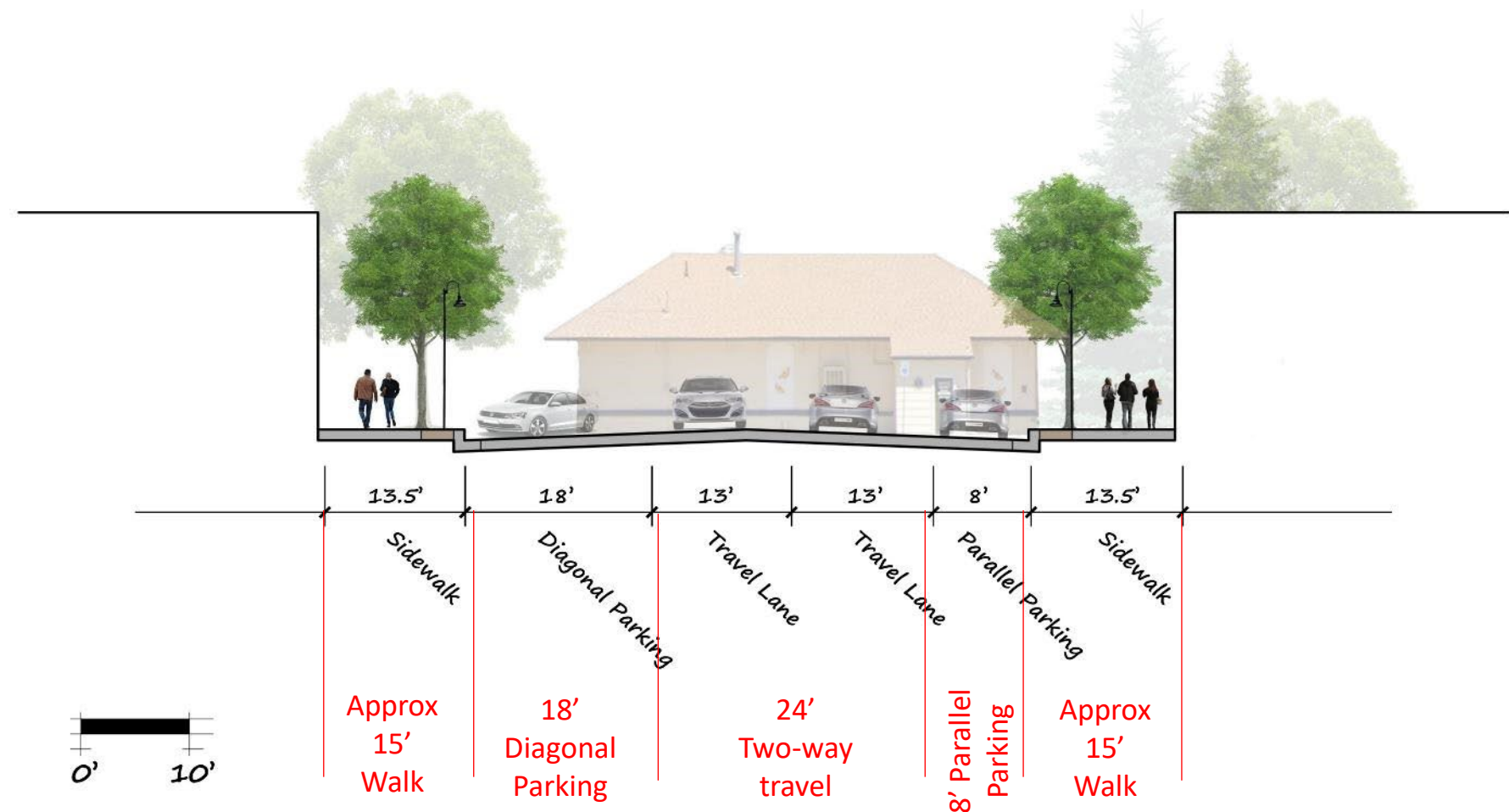


MASSACHUSETTS AVE

- **Massachusetts Avenue (300 Block)**
 - Widened sidewalks – **approx. 15'**
 - Diagonal parking on north side
 - Parallel parking on south side
 - Vertical curbs on both sides
- **Massachusetts/4th Street Intersection**
 - Bump outs
 - Enhanced Cross-walks
 - Special Paving at Corners
- **Street Trees**
- **Ornamental Lighting**
- **Planter Pots and Hanging Flower Baskets**
- **Benches**



MASSACHUSETTS AVE (300 BLOCK) – looking east





Mountain Avenue













4th Street





MASTER PLAN PARKING SUMMARY

- **Total Parking Quantities**

- Existing - 89 spaces
- Proposed - ~~100 spaces~~ **107 to 109**
- **Plus potential diagonal parking on 4th**

- **3rd Street (500 Block)**

- Existing – 57 spaces
- Proposed – ~~32~~ **41** spaces

- **3rd Street (600 Block)**

- Existing – 0 spaces
- Proposed - 7 spaces

- **Massachusetts Ave (300 Block)**

- Existing - 32 spaces
- Proposed – **26 to** 28 spaces

- **Proposed Public Parking Area (Gravel)**

- Existing – 0 (not currently designated for public parking)
- Proposed – approx. 33 spaces

- **Another Opportunity**

- Convert to diagonal on west side of 4th (500 Block)

PHASE ONE PARKING SUMMARY

■ 3rd Street (500 Block)

- Existing – 56 spaces
 - West side – 25 spaces
 - East side – 31 spaces
- Proposed – 41 spaces
 - West side – 21 spaces
 - East side – 20 spaces
- Reduction of 15 spaces on 3rd Street

■ Massachusetts Ave (300 Block)

- Existing - 32 spaces
 - North side - 17 spaces
 - South side - 15 spaces
- Proposed – 26 to 28 spaces
 - North side – 18 spaces
 - South side – 8 to 10 spaces
- Reduction of 4 to 6 spaces on Massachusetts

LOVEJOY DISTRICT

Next Steps:

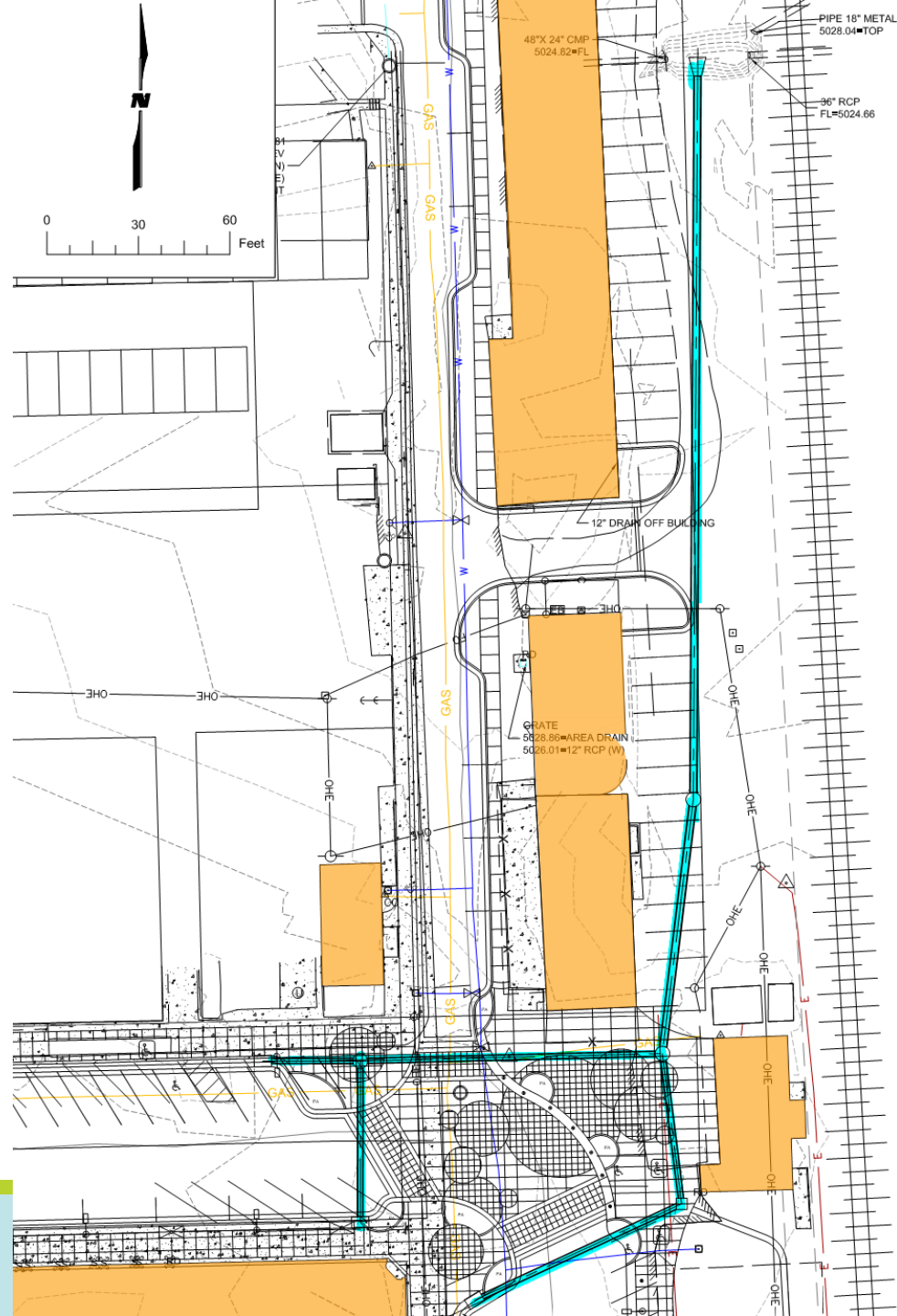
- Prepare 90% Plans and Updated Opinion of Cost
- Undergo review by BNSF
- Finalize Limits of Phase One Improvements
- Phase One Construction Documents and Permitting
- Construction Schedule TBD – targeting bid early 2024, construct 2024

Comments or Questions?





DRAINAGE



PHASING



BOARD OF TRUSTEES INFORMATION



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Public Hearing to present the Three-Mile Plan for the Town of Berthoud
Type of Item:	Public Hearing
Purpose:	Recommendation to the Town Board of Trustees regarding adoption of the Three Mile Plan for the Town of Berthoud, 1st Reading
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1328 (Series 2023)
- Appendix A, Three Mile Plan
- Public Notice

BACKGROUND:

Colorado statutes relating to municipal annexations restrict annexations from extending any more than three miles outside of municipal boundaries each year. Colorado statutes require municipalities to create and adopt a Three-Mile Plan prior to annexing property into the Town. A Three-Mile Plan provides a general description for potential future growth and must be updated annually.

Colorado Revised Statute C.R.S. 31-12-105(1)(e) defines the Three-Mile Plan as a document that generally describes proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area.

The attached Three-Mile Plan is the Future Land Use Map as created in the 2021 update to the Town of Berthoud Comprehensive Plan. Planning Commission reviewed the proposal at their public hearing on October 26, 2023 and recommended approval to the Town Board of Trustees for consideration at their November 28, 2023 public hearing.

FISCAL IMPACT AND FUND SOURCE:

There is no negative fiscal impact to the Town in establishing the Three-Mile Plan.

COMMUNITY TOUCHSTONES:

Establishing a Three-Mile Plan enables the Town to implement the 2021 update to the Comprehensive Plan, to communicate transparently with neighboring communities and Larimer County and Weld County and establishes the Town's Urban Growth Boundary for future expansion.

RECOMMENDED ACTION(S):

Planning Commission recommends approval of the Three-Mile Plan as presented from the 2021 update to the Berthoud Comprehensive Plan to the Town Board of Trustees.

Suggested Motions:

Approval: I move approve the Town of Berthoud Three-Mile Plan. The rationale for approval is that the proposed Plan is the same Future Land Use/Urban Growth Boundary Map prepared as part of the 2021 Comprehensive Plan Update.

Denial: I move to deny the Town of Berthoud Three-Mile Plan for the following reasons:

_____.

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1328
(SERIES 2023)**

AN ORDINANCE ADOPTING THE TOWN OF BERTHOUD THREE-MILE PLAN

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 implement the vision and values expressed in the 2021 update to the Comprehensive Plan, including the Town's Urban Growth Boundary and Future Land Use Map to establish the future growth boundary of the Town; and

WHEREAS, the Colorado Revised Statutes require municipalities to annually adopt a Three-Mile Plan and record this in the records of the County Clerk and Recorder; and

WHEREAS, Colorado Revised Statute C.R.S. 31-12-105(1)(e) defines the plan as a document that generally describes proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area; and

WHEREAS, the Planning Commission, after proper notice, has held a public hearing on October 26, 2023 on this ordinance providing for a recommendation of approval from the Town Board of Trustees; and

WHEREAS, the Three-Mile Plan has 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. The attached Town of Berthoud Three-Mile Plan has been approved for the remainder of 2023 and the year 2024.

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

Section 3. Effective Date: The provisions of this Ordinance shall take effect thirty (30) days following the date of public hearing to adopt the Three-Mile Plan.

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INTRODUCED, READ, ADOPTED, AND APPROVED on this 28th day of November,
2023.

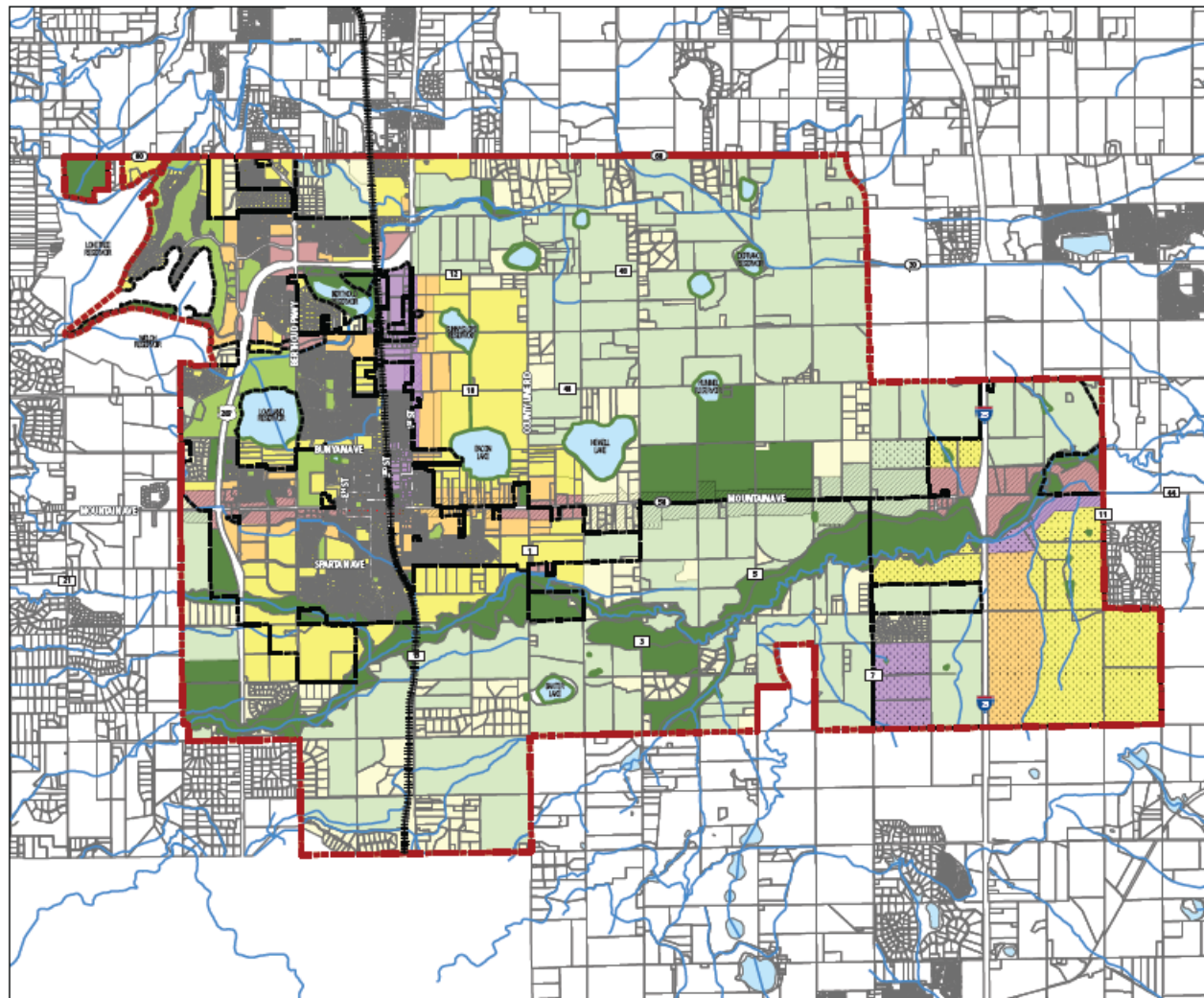
TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

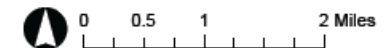
Ordinance 1328 (Series 2023) Colorado Revised Statute requires/encourages municipalities to annually adopt a Three-Mile Plan and record this in the records of the County Clerk and Recorder. The Town of Berthoud is proposing to adopt the Future Land Use Map prepared with the 2021 Comprehensive Plan update as its Three Mile Plan for the remainder of 2023 and for 2024.



FUTURE LAND USE PLAN MAP BERTHOUD COMPREHENSIVE PLAN

Last Revised: September 9, 2021

- Growth Management Area
- Place Type: Natural Areas**
 - Environmentally Sensitive Area
 - Open Space
 - Parks, Recreation & Trails
 - Ditch/Canal - Potential Trail Connections
- Place Type: Rural Areas**
 - Agricultural
 - Rural Residential
- Place Type: Suburban Areas**
 - Suburban Residential
 - Suburban Business
- Place Type: General Urban Areas**
 - Urban Residential
 - Innovation District
- Place Type: Urban Center**
 - Old Town Residential
 - Downtown
- Place Type: Special Districts**
 - New Berthoud
 - 1st Street Corridor
 - Mountain Avenue Corridor



INTRODUCTION

Colorado statutes relating to municipal annexations restrict annexations from extending any more than three miles outside of municipal boundaries in any given year and require municipalities to create and adopt a Three-Mile Plan prior to annexing any property. A Three-Mile Plan gives a general description for potential future growth and must be updated yearly.

Colorado Revised Statute C.R.S. 31-12-105(1)(e) defines the plan as a document that generally describes proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area.

TOWN OF BERTHOUD TOUCHSTONES

1. Maintain and strengthen the Town's community identity.
2. Review development plans for sustainable land use.
3. Ensure land use applications are resilient.

OPEN SPACE / PARKS / TRAILS

The Town takes pride in its park, trails, and open spaces. Future annexations will provide an opportunity to extend the trail system and include construction of additional outdoor amenities for use by all Town and community residents.

ROADS

Consideration of any proposed annexation will require scrutiny to determine the fiscal impact of road maintenance and the effect on traffic. Future annexations will require connectivity and improvement to the existing Town of Berthoud road network.

WATER, SEWER AND STORMWATER

The Town of Berthoud will protect its resources and make annexation decisions with respect to its ability to handle the water, wastewater, and stormwater quality needs of its existing residents and businesses. The Town will expect those seeking annexation to invest in the Town's infrastructure based on their level of impact.

COLLABORATIVE CONSIDERATION

As unincorporated surrounding areas continue to grow, the Town of Berthoud desires to have an open line of communication with Larimer and Weld Counties as well as its neighboring communities. In the event a proposed development is within the area of the Town's Three-Mile Plan, the Town would like consideration as to how a development fits with this Urban Growth Area as well as the Town's updated Comprehensive Plan, and requests that recommendations be made to the developer that will honor the desires of the Town. If unincorporated development is imminent, the Town may consider annexation to reap any positive impact of such development.

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARING
Amendments to the Berthoud Development Code

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Berthoud Planning Commission on Thursday, October 26, 2023 at 6:00 p.m. and before the Town Board on Tuesday, November 28, 2023 at 6:30 p.m. to consider adoption of a Landscaping Ordinance; adoption of an annual Three-Mile Plan; and to make amendments to Chapter 30 of the Municipal Code, specifically amending Section 2 regarding Landscape Design, Section 9 regarding Historic Resources, Section 3 regarding Planned Unit Developments, and Section 2 regarding Outdoor lighting and dark sky standards. The public hearings will be held at Town Hall, 807 Mountain Avenue Berthoud 80513.

Given and Posted on this 5th day of October, 2023.

Published: Loveland Reporter Herald October 5, 2023-2008191

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Larimer
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Loveland Reporter Herald*.
2. The *Loveland Reporter Herald* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Larimer County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Loveland Reporter Herald* in Larimer County on the following date(s):

Oct 5, 2023

Shayla Najera
Signature

Subscribed and sworn to me before me this

5th day of October 2023

Melissa L. Najera
Notary Public

(SEAL)

MELISSA L. NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20064049936
MY COMMISSION EXPIRES DEC. 11, 2026

Account: 1051549
Ad Number: 2008191
Fee: \$19.43

BOARD OF TRUSTEES INFORMATION



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	November 28, 2023
Agenda Title/Subject:	Public Hearing to present proposed amendments to Chapter 30 of the Town of Berthoud Municipal Code, 1st Reading
Type of Item:	Public Hearing
Purpose:	Recommendation to the Town Board of Trustees regarding amendments to Chapter 30 and in particular, Section 2 regarding Landscape Design, Section 9 regarding Historic Resources, Section 3 regarding Planning Unit Developments and Section 2 regarding outdoor lighting and dark sky standards, 1st Reading
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1329 (Series 2023)
- Appendix A, Code Amendments in redline format
- Public Notice

BACKGROUND:

It is necessary to update the Municipal Code to keep pace with the Comprehensive Plan update, to clarify intent of previous Code amendments, to stay current with standards of the International Dark Sky Association, and to clarify processing of applications for modifications to historic resources.

UPDATE/NEXT STEPS:

The Historic Preservation Committee was provided with the draft language for Section 9 and the Tree Committee was provided with the draft Berthoud Landscape Design Guidelines. No comments have been received for incorporation into Chapter 30. Planning Commission reviewed the request on October 26, 2023 at a public hearing. No comments were suggested by Planning Commission for presentation to the Town Board of Trustees at their hearing on November 28, 2023 for first reading. A second reading will be held with the Town Board of Trustees on December 12, 2023.

FISCAL IMPACT AND FUND SOURCE:

There is no negative fiscal impact to the Town in clarifying the Town Development Code, Chapter 30 of the Municipal Code.

COMMUNITY TOUCHSTONES:

Consideration of the amendment requests does not negatively impact community touchstones. Consideration of approval of the request does provide support for enhancing

community identity, provides for support to strengthen the Town's sustainability and resiliency goals and affords the development community with a transparent set of standards to know what the expectations are for developing in the Town of Berthoud.

RECOMMENDED ACTION(S):

Planning Commission heard the requests at their October 26, 2023 public hearing and recommended to send their vote of approve for the amendments contained in the attached Ordinance 1329 (series 2023) and Attachment A to the Town Board of Trustees.

Suggested Motions:

Approval: I move to approve the amendments contained in Ordinance 1329 (Series 2023) and Attachment A on first reading and set the second reading for December 12, 2023. The rationale for approval is that the proposed guidelines provide transparent expectations for future development in the Town of Berthoud, supports the Town's community identity outlined in the 2021 update to the Comprehensive Plan, and consideration was offered to the Historic Preservation Committee and the Tree Committee for input.

Denial: I move to deny the amendments contained in Ordinance 1329 (Series 2023) and Attachment A on first reading for the following reasons: _____.

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1329
(SERIES 2023)**

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE BERTHOUD MUNICIPAL
CODE CHAPTER 30, SPECIFICALLY SECTION 2 REGARDING LANDSCAPE DESIGN,
SECTION 9 REGARDING HISTORIC RESOURCES, SECTION 3 REGARDING PLANNED
UNIT DEVELOPMENTS, AND SECTION 2 REGARDING OUTDOOR LIGHTING AND DARK
SKY STANDARDS**

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 implement the vision and values expressed in the 2021 update to the Comprehensive Plan, including strengthening the Town's sense of place, enhancing community identity, supporting community resilience and sustainability touchstones; and

WHEREAS, the Planning Commission, after proper notice, has held a public hearing on October 26, 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 November 28, 2023 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. The attached Ordinance 1329 (Series 2023) shall be amended as presented in Attachment A and adopted into Chapter 30 of the Berthoud Municipal Code.

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

Section 3. Effective Date: The provisions of this Ordinance shall take effect thirty (30) days following the date of public hearing.

[INTENTIONALLY LEFT BLANK]

INTRODUCED, READ, ADOPTED, AND APPROVED on this 28th day of November,
2023.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

EXHIBIT A: Ordinance 1329

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

Section 1: Ordinance 1325 just adopted the Landscaping Guidelines. Minor Code amendments are needed to reference this document as well as refine the Code so there are no conflicts between the Code and the newly-adopted guidelines. This section proposes to repeal all of the existing Section 30-2-112 and replace with the following. The entire section of 30-2-112 is provided so the reader can see the entire proposed amendments as they relate to the section.

30-2-112 Landscape design

- A. *Intent.* To preserve Town's special character and integrate new development by promoting quality landscape design. The standards found in the Town of Berthoud Landscape Design Guidelines shall be incorporated into landscape plans, and also reflect the following that:
1. Reinforces the identity of the community and each neighborhood.
 2. Provides tree-lined streets with canopy tree species in urban areas.
 3. Anchors new buildings within the landscape.
 4. Provides tree canopies within paved areas ~~and~~
 5. Preserve existing trees, utilize water conservation techniques, and support the planting of native species (when appropriate), to enhance the natural habitat.
 6. Enhances natural features, and drainage ways.
 7. Enhance functional open space through the creation of natural areas appropriate to the location and purpose of the open space within the development.
 8. Maximizes connections within development sites to natural areas and to landscaped areas in adjacent developments.
 9. Reinforces neighborhood identity, creates consistency between proposed developments and the surrounding areas.
 10. Incorporate the elements of gateway, path and destination into the design of landscapes. Gateways are entries that provide transitions from one space to another. Pathways are routes that lead to a destination. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.
- B. *General provisions.* All land development applications except for building permits for individual attached or detached single-family residences shall be accompanied by an appropriate landscape plan. New landscaping within the community shall comply with these regulations.
1. *Site landscape design regulations.* Landscape improvements shall be an integral part of the overall site design for all residential common areas, multi-family developments, and any non-residential development/property. Landscape improvements shall be designed to complement and enhance the character of the existing neighborhood and shall follow these guidelines.
 - a. *Environmental considerations.* Landscapes shall use the following water conserving xeriscape design principles ~~to facilitate water conservation:~~
 - i. Well-planned planting schemes;
 - ii. Appropriate turf selection to minimize the use of bluegrass;
 1. Bluegrass and other high-water consuming turf grasses should be reserved for spaces intended for recreational activities, or should be used as borders to larger areas of non-turf landscaping;

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- iii. Use of mulch to maintain soil moisture and reduce evaporation;
 - iv. Placement of plant materials according to their microclimatic needs and water requirements;
 - v. Improve the soil with organic matter if needed;
 - vi. Efficient irrigation systems that reduce spray over; ~~and~~
 - vii. Proper maintenance and irrigation schedules; ~~and-~~
 - viii. Group plantings of similar water requirements together.
- b. All landscapes shall strive to maximize the use of native species as specified in the Town's Landscape Design Guidelines. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.
 - c. Landscapes shall consist of a variety of species to enhance biodiversity.
 - d. Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. No healthy tree shall be removed without good cause. If a healthy tree is removed with cause, it must be replaced with comparable trees per a tree mitigation plan. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.
 - e. Where possible, trees shall be located to provide summer shade and limit winter shade on walks and streets.
 - f. A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.
 - g. Weed control will be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction.
 - h. Native grasses shall not be planted immediately adjacent to fences, buildings, sidewalks, or concrete trails. A minimum landscaped buffer of 10 feet shall exist between areas of native grass areas and fences, buildings, sidewalks, or concrete trails.
2. *Plant material standards.*
- a. The minimum planting sizes on all required landscaping shall be two-inch caliper deciduous trees, one and one-half inch caliper ornamental trees, six foot tall evergreen trees and five gallon shrubs.
 - b. Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. A variety of plant species should be installed to prevent the spread of disease.
 - c. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the American Standard for Nursery Stock, American Association of Nurserymen, Inc., (AAN-ASNS) and the Colorado Nursery Act of 1965 (CNA).
 - d. Plants shall be no more than 24 inches in height at plant maturity when located in a sight distance triangle.
3. *Irrigation.* This Code mandates landscaping and installation of permanent automatic underground sprinkler systems containing moisture sensors in all parks and open spaces within new developments,
-

except for (i) Natural Areas undisturbed by development, (ii) Open Water, and (iii) all impervious surfaces, and (iv) as allowed in Section 7-c below. All irrigated landscaping shall be established and maintained in a live and weed-free condition. Irrigation shall be appropriate to the type and scope of the improvements.

- a. Water Dedication Requirements. Water dedication for irrigation purposes shall be in accordance with the Imposition of Development Fees Section 30-10-105 of this Development Code.
 - b. Criteria and process for determining Natural Areas and Open Water. Town staff in its discretion, with final approval of the Town Administrator, may determine that areas qualify as Natural Areas or Open Water in accordance with the definitions found in the Definitions and in the Imposition of Development Impact Fees Sections of this Chapter. in Chapters 30-1-116 and 30-10-105.
 - c. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available. Gravity flow irrigation using irrigation ditches for areas planted with native seed~~Native Seed~~ Areas may be permitted as an alternative to installing permanent automatic underground sprinklers where deemed acceptable and appropriate by the Town staff in its discretion, with final approval by the Town Administrator. Areas planted with native seed are to be irrigated until the area is well established.
 - d. Sleeving for the future installation of irrigation lines shall be provided under walkways and paved areas where irrigation may be installed in order to prevent or minimize damage and replacement to paved areas.
 - e. Irrigation systems shall be drip irrigation where possible in planting beds and for shrubs, trees, etc. All irrigation systems shall be designed to prevent overspray and runoff onto paved or other non-landscaped areas.
 - f. All automatic irrigation systems must be installed with moisture sensors.
4. *Guarantee of installation.* Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy for all structures. If weather conditions prevent installation, the developer, builder or applicant shall post a financial guarantee for the improvements. This guarantee shall be released by the Town upon completion of the installation of the landscaping and expiration of any warranty period.
 5. *Maintenance, removal, and replacement.* All property owners/occupants, Homeowner's Associations and Metro Districts shall be responsible for maintenance, removal and replacement of trees and landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property as defined in the approved land use application in perpetuity. All property owners/occupants of mixed use, commercial or industrial property with an approved Final Development Plan or Site Plan are responsible for the maintenance and replacement of landscaping as shown on that approved plan.
 - a. Seventy-five percent of all landscape areas shall be covered with living ground cover. The recommended ground cover should be attained within three years of the date of planting. The use of non-living ground cover, such as rocks, gravel and bark, should be used sparingly; non-living ground cover is generally most suitable as accent treatment.
 - b. Notwithstanding any other provision in this code, any street tree that is diseased, is dying or has died shall be removed from the public rights-of-way in consultation with the Town Forester and the Street Tree Work Permit provisions of this Code. The Tree shall be replaced by the adjacent homeowner in consultation with the Town Forester within the same growing season of removal, as practical due to weather.

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6. *Weed control.* Weed control shall be a continual responsibility of the owner, developer, Homeowners Association or Metro District from site construction and grading to occupation of the business or residence, during all phases of land clearing and construction, and operation.

a. Every effort shall be made to prevent the spread of noxious weeds.

C. *Landscaping design standards.*

1. *Landscaping in common open space areas.* Common open space areas are lands meant to be enjoyed by the general population, includes lands reserved for pocket parks and along trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation ~~(where necessary)~~ and paving. Native grass is appropriate for trail corridors while Kentucky bluegrass is appropriate for more active park areas and some open spaces.

a. A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping is required. This may take the form of an approved maintenance plan by the developer, a Homeowners' Association or Metro District—such as a homeowners' association and covenants is required.

2. *Tree-lined streets.* The Town of Berthoud has a long, rich heritage of tree-lined streets. Today street trees and their conditions are a concern to those involved in urban forestry and the Town has the authority and obligation to assure that vegetation planted on public rights-of-way meets certain standards and is maintained, as approved in perpetuity. Tree plantings should be made with the same methodical planning that is used when making substantial financial investments. To comply with the Streets and Alleys Section of the Design Guidelines Section ~~30-2-105~~ of this Code there are three options to achieve this requirement:

a. *Tree lawns with detached sidewalks:*

- i. Tree lawns are recommended in all developments.
- ii. Tree lawns along Local streets shall be a minimum of six feet in width to ensure adequate room for root growth. Tree lawns along Collector or Arterial streets shall be a minimum of ten feet in width.
- iii. Trees shall be aligned in straight rows, located in the middle of the tree lawn, and spaced between thirty feet and forty feet (as appropriate given the species) on center in order to allow for mature spread. If two or more consecutive residential lots along a street each measure between 40 and 60 feet in street frontage width, one tree per lot may be substituted for the 30-foot to 40-foot spacing requirement. Such street trees shall be placed at least five feet away from the edges of driveways and alleys, and 40 feet away from any streetlight and to the extent reasonably feasible, be positioned at evenly spaced intervals.

b. *No tree lawns, attached sidewalks:*

- i. In limited cases attached sidewalks will be allowed.
 - ii. Trees installed along streets without a tree lawn shall include a mix of species, be generally aligned along the street frontage and may be placed outside of the public right-of-way.
 - iii. Trees shall be irrigated from the adjacent private property owner.
 - iv. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction.
 - v. Street trees along rural streets where there is no sidewalk may be planted to create irregular clusters to reinforce the design and character of the project and frame views.
-

Downtown streets — The properties generally located within the boundary of Massachusetts Avenue, Welch Ave, 1st Street, and LCR 17 are encouraged to provide decorative hardscaping, window boxes, planters, tree boxes, benches and street art, in order to attract pedestrian activity. Trees planted within paved environments shall have a minimum four-foot wide square tree well with grate.

c. *General regulations for trees to be planted on public right-of-way:*

- i. All newly-planted street trees shall be planted midway between the sidewalk and the curb. Trees shall be spaced to allow for safe, healthy, attractive growth.
- ii. No trees will be planted closer than five feet to a driveway or alley, nor shall it be planted in such a manner that eventual growth cannot be reasonably maintained to avert interference with, or obstruction of, any improvements installed for the public benefit such as traffic and street signs and lights, fire hydrants, overhead utility wires, street lights, utility poles, etc.
- iii. At edges of streets where a space of less than five feet in width exists between the curb and the abutting private property line, no trees or woody plants shall be planted on the public area so involved.
- iv. Where an attached sidewalk has been installed, no tree plantings are to be made closer than five feet from the edge of any concrete installation.
- v. Trees are not to be planted within ten feet of either side of water, sewer, or storm drain main lines or within five feet of either side of water or sewer service lines.
- vi. No more than six of the same plant genus may be used consecutively in a row-type planting.

3. *Minimum species diversity.* To prevent uniform insect or disease susceptibility and eventual uniform senescence on a development site or in the adjacent area or the district, species diversity is required and extensive monocultures are prohibited. The following minimum requirements shall apply to any development plan.

Number of trees on site	Maximum percentage of any one species
10—19	50%
20—39	33%
40—59	20% species; 30% genus; 40% family
60 or more	15% species; 20% genus; 30% family

4. *Tree species and minimum sizes.* The Applicant shall provide a ~~proposed~~ ~~recommended~~ list of trees from the Landscape Design Guidelines, to be reviewed by the Town Forester and Community Development ~~Director~~ ~~Department~~ which shall be acceptable to satisfy the requirements for landscape plans, including approved canopy shade trees that may be used as street trees. The following minimum sizes shall be required except as provided in the section below regarding trees permitted within rights-of-way below. ~~(except as provided in subparagraph (5) below):~~

Type	Minimum Size
Canopy Shade Tree	2.0" caliper balled and burlapped or equivalent
Evergreen Tree	6.0' height balled and burlapped or equivalent
Ornamental Tree	1.5" caliper balled and burlapped or equivalent
Shrubs	5 gallon or adequate size consistent with design intent
Canopy Shade Tree as a street tree on a Residential Local Street Only	1.5" caliper container or equivalent

- i. Any tree plantings that are in addition to those that are made as part of the approved landscape plan are exempt from the foregoing size requirements.
 - ii. Ornamental trees shall be planted in substitution for the canopy shade trees required in ~~subsection (7) above~~ where overhead lines and fixtures prevent normal growth and maturity. Ornamental trees shall be placed at least 15 feet away from any streetlight.
 - iii. A permit issued by the Town Forester, will be required prior to the planting of any Street Tree (or tree on public land). Any violations will follow the provisions found in the Enforcement Section of this ChapterArticle V, Section 30-5-101 of this code, and may result in the Town withholding permits and Certificates of Occupancy.
 - iv. The caliper shall be measured six inches above the tree-line.
5. *Trees permitted within rights-of-ways.*

- a. ~~Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of The following list identifies tree species allowed on public lands or within the public right-of-way (seven feet in width or larger) in the Town of Berthoud as of the adoption of this Code. Additional tree species may be permitted if approved by the Forestry Division as appropriate. Trees marked with an asterisk are drought tolerant.~~

- Oak (Quercus) Genus: Bur*, Chinkapin*, Chesnut*, English*, Shumard*, Texas Red*, Heritage*, Bur gambel Hybrid*, Fastigate English*, Crimson Spire*.
- Elm (Ulmus) Genus: Choice City*, Prospector*, Accolade, Triumph, Discovery, Brandon, Regal. Make sure cultivar is resistant to Dutch Elm Disease and Elm Leaf Beetle.
- Legume (Fabaceae) Family: Shademaster Honeylocust*, Skyline Honeylocust, Imperial Honeylocust, Kentucky Coffeetree*, Kentucky Coffeetree Espresso*.
- Linden (Tilia) Genus: Redmond, Greenspire, American, Glenleven.
- Planetree (Platanus) Genus: Bloodgood, Exclamation, Northern Advance. Make sure cultivar is resistant to anthracnose.
- Chokecherry (Prunus Virginiana) Genus: Canada Red*, Sucker Punch*. (Height usually 20 to 25 feet)
- Maple (Acer) Genus: Bigtooth (single stem)*, State Street*, Caddo Sugar*, Columnare, Fairview.
- Buckeye (Aesculus) Genus: Ohio Buckeye*, Yellow Buckeye, Texas Buckeye*, Prairie Torch Hybrid Buckeye, Common Horsechestnut*.

~~Other trees allowed along right-of-way (by common name): Hackberry, Western Catalpa, Ginkgo, or any other tree species allowed approved by the Town Forester.~~

- b. *Trees in public lands:* ~~Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of The following tree species are permitted to be planted within parks, common areas, open spaces, and other public lands.~~

~~i. — Deciduous Trees.~~

Plant Name	Height/Spread		Plant Name	Height/Spread	
Toba Hawthorn	15'	15'	Goldenrain Tree*	20'	30'

Amur Chokecherry	25'	20'	Russian Hawthorn*	20'	15'
Washington Hawthorn	20'	15'	Cockspur Hawthorn*	20'	15'
Thornless Hawthorn*	25'	20'	Downy Hawthorn*	25'	25'
Japanese Tree Lilac*	20'	20'	Coralburst Crabapple	15'	15'
Coralburst Crabapple	15'	15'	Dolgo Crabapple	30'	30'
Spring Snow Crabapple	25'	25'	Thunderchild Crabapple	15'	20'
Indian Magic Crabapple	15'	20'	Radiant Crabapple	20'	25'
Red Jewel Crabapple	10'	15'	Tina Sargent Crabapple	8'	10'
Gambel Oak*	8'	6'	Newport Plum	25'	15'
Autumn Blaze Pear	30'	25'	Cleveland Select Pear	30'	25'
Royal Star Magnolia	10'	15'	Hotwings Maple	15'	20'
Autumn Brilliance			Wavyleaf Oak*	20'	20'
Serviceberry	25'	15'	Callery Pear	35'	25'
Red Buckeye	20'	15'	Box Elder Sensation		

▲ Any Tree not on the list as approved by the Town Forester

ii. ~~Evergreen trees~~

Plant Name	Height/Spread	Plant Name	Height/Spread		
Colorado Blue Spruce	60'	30'	Pinyon Pine*	20'	15'
Bristlecone Pine*	20'	20'	Concolor Fir, White Fir	50'	30'
Eastern Red Cedar*	40'	15'	Austrian Pine*	50'	40'
Rocky Mountain Juniper*	30'	15'	Spartan Juniper	15'	6'
One Seed Juniper*	15'	13'	Cologreen Juniper*	15'	6'
Gray Gleam	15'	6'	Skyrocket Juniper	15'	3'
Wichita Blue Juniper*	15'	6'	Fastigate Norway Spruce	15'	6'
Black Hills Spruce	25'	20'	Vanderwolf's Pyramid Pine	30'	20'

Bosnian Pine	20'	12'	Ponderosa Pine*	60'	30'
Scots Pine**	60'	30'	Siberian Larch	50'	25'
European Larch	60'	25'			

- c. Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of The following trees are prohibited tree species for any new planting within the Town of Berthoud right of way or on public lands.

1. ~~Any of the ash species (Fraxinus spp.) including Green, White, Purple, Blue, or any other ash due to emerald ash borer.~~
2. ~~Any of the poplar species (Populus spp.), including but not limited to Cottonwood, Aspen, Silver Poplar, Lombardy Poplar~~
3. ~~Any of the Willow species (Salix spp.)~~
4. ~~Siberian (Chinese) Elm (Ulmus pumila)~~
5. ~~Any weeping or pendulous type tree (i.e. Weeping Birch).~~
6. ~~Any shrub or hedge which by its habit of growth would obstruct, restrict, or conflict with necessary and safe use of the public rights of way.~~
7. ~~Conifers or evergreens which would eventually grow over the sidewalks or streets~~
8. ~~Any Honeylocust (Gleditsia triacanthos) that bears either seed pods or thorns.~~
9. ~~Purple Locust, Black Locust, Mulberry, Bradford Pear, Black Walnut, Russian Olive, Tree of Heaven, Tamarisk,, Silver Maple, Birch.~~

- D. Business/commercial and industrial development landscaping standards shall meet the following standards in addition to those within the Town of Berthoud Landscape Guidelines.

1. *New buildings and paved areas.* Provide trees, shrubs and groundcover plantings along front and sides of new buildings. The size and intensity of plantings shall be appropriate to the building or structure.
2. Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.
3. Use landscaping to provide a transition from developed, managed landscape to more natural areas and vegetation.
4. Provide a tree canopy by installing shade trees within and adjacent to paved areas.

- E. Residential R-3, R-4 and Commercial and Industrial zone districts shall include landscaping standards to meet the Town of Berthoud Landscape Guidelines. Landscape improvements ~~within the R-3, R4, C1, C2, M1 and M2 districts~~ shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. ~~A minimum of 15 percent of the site (gross) shall be landscaped area.~~

1. The developer or assigns shall provide:
 - i. A minimum of 15 percent of the site (gross) shall be landscaped area.
 - ii. Site trees — plant a minimum of one tree per 1,000 square feet of landscaped area, distributed on the site, exclusive of right-of-way landscaping.

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- iii. *Shrubs* — plant a minimum of one shrub per 150 square feet of landscaped area, exclusive of right-of-way landscaping. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half of the required shrubs at the rate of one tree for six shrubs.
 - iv. *Groundcover* — establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. There shall be a minimum of 75 percent live materials between the building and the street unless otherwise approved by the Town.
 - iv. *Landscape setback to parking lots* — 15 feet from streets to provide a buffer between the street and parking areas.
 - vi. *Screen loading areas* — Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property must be screened from view with an opaque screen that is an integral part of the building architecture, or by landscaping. Chain link fencing with or without slats, tires, or used building materials is not acceptable as screening material.
 - vii. Utility Boxes, loading docks, outside trash receptacles and dumpsters, storage areas, and any other outdoor storage areas shall be screened in the following manner:
 - 1. ~~vii.~~ Whenever plants are used as a screen the plants should be coniferous. They should provide an opaque screen within three years of the time they are planted.
 - 2. ~~viii.~~ Utility boxes, including, but not limited to, electric transformers, switch gear boxes, and telephone pedestals, and boxes should be screened on all sides not used for service access.
 - 3. ~~ix.~~ The materials and colors of the screen should blend with the site and the surroundings.
 - 4. ~~x.~~ Trash enclosures should be placed around dumpsters and any other proposed receptacles of trash. The dumpster should be screened entirely from view. The enclosure shall prevent trash from being scattered by wind or animals. The dumpster should be placed on a concrete pad, enclosed by an opaque wall at least six feet in height, with opaque gates. The enclosure should be sturdy and built quality wood and or/masonry materials. The trash enclosures should be sited so the garbage truck has convenient access to the enclosure and has room to maneuver without backing onto a public right-of-way.
 - 2. The property owner or occupant shall be responsible for ~~the area~~ landscaping located within adjacent road right-of-way and tree lawns in accordance with Town regulations, which includes the maintenance, removal, and replacement of trees, shrubs, and groundcover.
 - 3. Parking lot landscaping standards shall meet the following standards in addition to those within the Town of Berthoud Landscape Guidelines.
 - i. The developer or assigns shall provide:
 - 1. At least five percent of the area of all parking lot are shall be landscaped (this requirement is in addition to the overall 15 percent landscaping requirement for the site. Parking lot landscaping is intended break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development and enhance the overall appearance of each project. All parking lots with ten spaces or more shall be subject to these requirements. ~~The developer or assigns shall provide:~~
 - 2. *Site trees* — a minimum of one tree per five parking spaces. Group trees together in islands which are a minimum of nine feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.
-

~~3.ii.~~ *Shrubs* — a minimum of one shrub per 100 square feet of landscaped area. Group plantings in landscape islands.

~~4.iii.~~ *Groundcover* — limit areas of irrigated turf. Grass is discouraged in areas less than ten feet wide. Install a grass buffer (native grass where possible) around the perimeter to filter runoff and improve water quality.

~~5.iv.~~ *Landscape setback to parking lots* — 15 feet from all arterials, collectors, and other streets. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street.

~~6.v.~~ *Provide a mechanism for long-term maintenance of landscaping* — all landscaping within and adjacent to parking lots shall be owned and maintained by the landowner.

~~7.vi.~~ *Screening*: whenever there are more than three parking spaces on the property, the parking lot should be screened for at least two-thirds of the length of the parking lot, and shall satisfy the following standards:

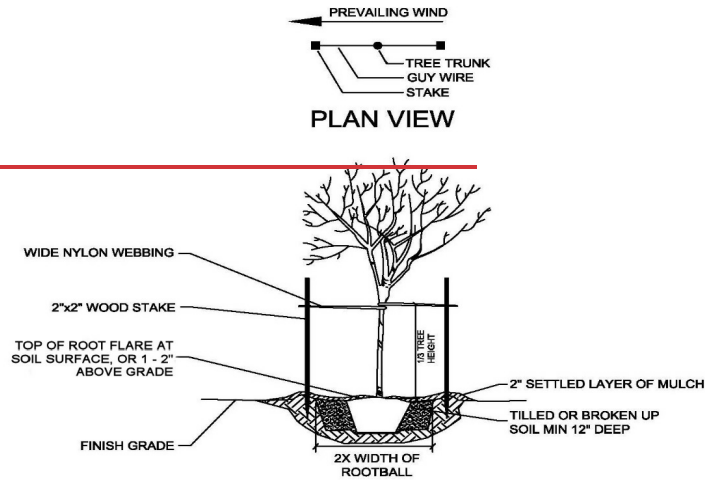
- a. Berms, walls, fences, plants, planters or similar means should be used to create the parking lot screen. Whenever structures such as walls or fences are used to create a screen, plants should be located on the sides of the structure which can be seen from surrounding streets, walks, parks, trails and other properties which are used by the public.
- b. The screen around the parking area should be at least three feet higher than the surface area of the parking lot. Whenever plants are used to create a screen, the plants should create a three-foot screen within three years from the time planted.

~~8.vii.~~ *Landscape islands*: Two feet at the end of each landscape island should remain unplanted, as the end points of islands are often run over by cars. The use of cobbles, patterned concrete, or brick pavers should be considered.

~~9.viii.~~ *Landscape areas in parking lots* shall be no smaller than 80 square feet each, and shall contain at least one tree and five shrubs for each island. Islands larger than 80 square feet shall contain one additional shrub for each additional 20 square feet of area, and one additional tree for each additional 200 square feet of area.

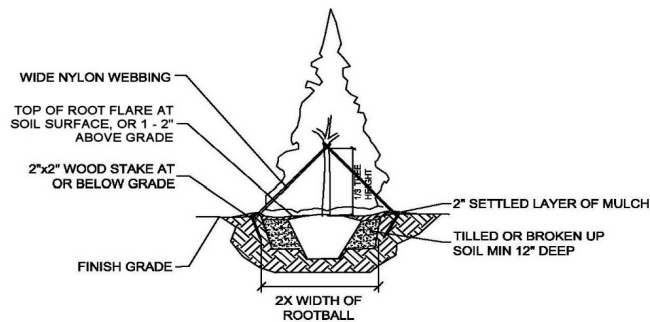
~~10.ix.~~ *Pedestrian and/or vehicular access ways* should be extended to the property line in order to interconnect with other adjacent commercial/industrial parking lots, sidewalks, and/or trails, with landscaping to enhance such connections.

Figure 2.15: Small tree planting



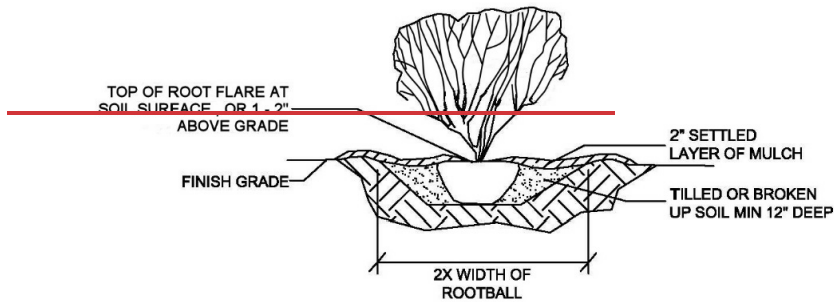
○ SMALL TREE PLANTING (2" CAL.)
NOT TO SCALE

Figure 2.16: Evergreen planting



○ EVERGREEN TREE PLANTING
NOT TO SCALE

Figure 2.17: Shrub planting



TYP. SHRUB PLANTING: INDIVIDUAL PLANTING HOLE



NOT TO SCALE

4. Storm drainage facilities as public open space or park lands and shall follow the Town of Berthoud Landscape Design Guidelines. For drainage facilities proposed and accepted as open space or park lands the following requirements apply.
 - a. If a proposal is made to dedicate a Detention basin or Retention basin to the Town, the Town shall determine if it serves the public interest. Public interest shall be based on ease of maintenance, potential use of the area for open space or recreation uses by the public, whether the area would complement the Town's park or greenway system, and/or whether the applicant shall provide for ongoing maintenance of the facility.
 - b. If the Town accepts dedication of a Detention basin or Retention basin, or if the Detention basin or Retention basin is intended to be part of a pocket park or common open space area, regardless of ownership or maintenance, the following standards shall apply:
 - i. The bottom of the pond shall be planted with turf grass or similar, in order to provide an active playing field, and irrigated at 3 AF/Ac.
 - ii. Slopes shall comply with Town standards but in no case shall exceed a slope of 6:1. Slopes shall be planted with either native seed or turf and irrigated according to the Town's Engineering Specifications and Standards and provisions found in the Berthoud Development Code Chapter 10.
 - iii. Trees shall be planted at the top of the retention pond at a distance of one tree every 40 linear feet, and irrigated at 1.33 AF/ac. Ground cover may include native seed and shrubs.
 - iv. Adequate access in the form of sidewalks and/or trails shall be provided to the detention basin or Retention basin for pedestrians, the physically disabled and for maintenance equipment.
 - v. Drainage structures shall be designed and located to facilitate maximum use of the detention area for recreational use.
 - c. Amenities such as benches, play equipment, game courts and playing fields appropriate to the size and location of the detention pond shall be required and based upon proposed/existing adjacent uses unless the detention pond location or design does not reasonably accommodate

the amenities. On one acre or less, fewer amenities are required. The applicant shall be responsible for installing all amenities per Town standards.

F. Submittal standards for landscape plans. Land development applications listed below will be accompanied by the appropriate landscape plan:

d. Submittal standards for landscape plans. Land development applications listed below will be accompanied by the appropriate landscape plan:

Table 2.5: Submittals necessary for Landscape Plans

Type of Application	Preliminary Landscape Plan	Final Landscape Plan
Preliminary Plat/PDP	Yes	
Final Plat/FDP		Yes
Minor Subdivision		At Town discretion Yes
Conditional Use Review <u>Special Use Permit</u>		Yes
Site Plan		Yes

A1. Preliminary landscape plan- (submit with preliminary plat application). Intent: to illustrate the master landscape plan for the development.

- 1a. Describe the design intention and how the proposal is consistent with the purpose and intent of these regulations.
2. Preliminary water supply. Identify the source of raw water for dedication purposes.
3. Preliminary landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing.
4. The preliminary location of all proposed meters and backflow devices shall be included.
- 5b. Information required on the plan is listed in Table 2.6 below.

B2. Final landscape plan- (submit with the after final plat application). Intent: to ensure each phase of the final landscape plan is consistent with the master landscape plan for the development and to illustrate the specific landscaping details for each phase.

- 1a. Describe the design intention and how the proposal is consistent with the preliminary landscape plan.
2. Provide the source of water and provide the quantity of water being allocated toward irrigation purposes. Confirm the source of raw water for dedication purposes. Confirm the intended source of water for potable and non-potable uses.
3. Final landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing.
4. The final location of all proposed meters and backflow devices shall be included.
5. Hydrozone Analysis. Provide an analysis of the proposed consumption of potable and non-potable water for both interior and exterior uses.

- 6b. The final landscape plan must be on a separate page from the final plat map and should be included with the final open space plan. The scale shall not greater than one inch equals 50 feet.

6c. Landscape plans submitted shall include:

- a. Accurate and clear identification of all applicable hydrozones using the following categories. Provide a table indicating areas, acreages and the associated Hydrozone.
 - i. High Hydrozone (bluegrass): Three acre feet.
 - ii. Moderate Hydrozone (trees and shrubs): One and thirty-three hundredths acre feet.
 - iii. Low Hydrozone (natural grasses): Eight tenths acre feet.
- b. Information required on the plan is listed in Table 2.6 below.

Table 2.6: Information required on Landscape Plans

Information Required	Preliminary	Final
Scale, north arrow, site boundary.	Y	Y
Existing and proposed streets.	Y	Y
Existing and proposed utilities and easements.		Y
Existing and proposed contours (2' intervals).		Y
General grading concepts for improvements, typical cross-sections of streets and special treatment areas.	Y	
Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site. Indicate which plants will be preserved, the method of preservation and which will be removed.	Y	Y
General location of proposed trees, shrubs, groundcover, walks, and fences.	Y	
Indicate areas to be irrigated, the irrigation method, and zones of water usage (in Acre-feet).		Y
Typical detail drawings at 1"=20' to illustrate perimeter treatment, buffering, typical front yard, and any special treatment areas on the site.		Y
Define areas to be considered open space and if public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management during and after construction.	Y	Y
Detailed planting plan indicating location, species, size, quantity, and ratio (percentage of total) of all proposed trees, shrubs, and groundcover.		Y
Improvements shall be shown in their final location and mature size. Include a plant list in chart form and description of the type and location of groundcover, walks, fences, and mulches. Include a cost estimate (separate sheet) for improvements.		<u>Y</u>

F. *Street Tree Work Permit.*

-
1. *Intent.* The Town of Berthoud Street Tree Work Permit is intended to promote a more overall healthy and sustainable urban forest by allowing Forestry Staff to develop a greater understanding of management needs and maintenance being performed on trees that are located within Tree Lawn's as that term is defined in Definitions Section of this Code ~~Section 30-1-116(A)~~. This program is intended only for trees located within Tree Lawns for which property owners/occupants are responsible for maintaining, removing, and replacing pursuant to the Development review deposit and reimbursement of Town costs Section as well as this Street Tree Work Permit Section after developments are out of warranty-Code Section 30-2-112(B)(5); not trees located on private property.
 2. *Definitions.* As used in this Section and in the Development review deposit and reimbursement of Town costs Section, ~~section 30-2-112(F)~~ the following words will have the meanings indicated:
 - a. *Applicant* means an individual who is a natural person who owns a Property, and by virtue of said ownership is required to maintain, remove, and replace trees located within the Tree Lawn adjacent to Applicant's Property.
 - b. *Property* means a parcel of real estate within the Town of Berthoud, Colorado, which is adjacent to a Tree Lawn.
 - c. *Tree Lawn* shall have the same meaning as defined in Berthoud Code section 30-1-116(A).
 - d. *Right-of-Way*, as defined in the Definition Section of the Berthoud Development Code ~~30-1-116(A)(352)~~, is a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, irrigation ditch or for another special use.
 - e. *Street Tree Work Permit* means a permit for performing maintenance on a tree that is located within a Tree Lawn.
 - f. *Maintenance* includes pruning, chemical treatments of pesticides, fungicides, or fertilizers, replacement, removal or any other actions that may affect the health of a tree.
 3. *Procedure.* The following procedure shall apply when an Applicant desires to apply for a Street Tree Work Permit:
 - a. Any Applicant may apply by filling out a Street Tree Work Permit Application ("Street Tree Work Permit Application") and submitting the Street Tree Work Permit Application to the Forestry Department. The Street Tree Work Permit Application shall be created and approved by the Town's Forestry Department, and may be amended from time to time in the sole discretion of the Forestry Department. There shall be no cost for obtaining a Work Permit Application.
 - b. Town Staff is authorized to review and either approve or disapprove Applicant's Street Tree Work Permit Application, and may contact Applicant if any additional information is required. Town Staff will review each Street Tree Work Permit Application for conformance with standards set by the Town Forestry Department, and which standards may be amended from time to time.
 - c. If Applicant's Street Tree Work Permit Application is approved, the Applicant will be contacted for further instructions. Street Tree Work Permit Applications are valid for 60 days after approval date. A follow-up site evaluation may be conducted and recorded after tree maintenance has been performed.
 4. *Requirements.* The following requirements, in addition to any other requirements imposed by Town staff in their discretion, must be met prior to Applicant being granted a Street Tree Work Permit:
 - a. Tree maintenance, removal, and replacement must be performed by a Town of Berthoud Licensed Tree Service, or Applicant.
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- b. Applicant shall be responsible for all costs associated with maintenance, removal, and replacement of the tree(s) within Tree Lawns.
 - c. Tree pruning shall consist of crown raising, crown reduction, crown thinning (no more than 25 percent of live crown), crown cleaning, and root reduction.
 - d. Chemical treatments shall identify tree species and size, targeted insect/disease/deficiency, and product applied/application rate/application method.
 - e. Trees must be removed with good cause. Good cause, as used in this section, shall mean the subject tree is dead, dying, hazardous, in poor health, incorrectly planted, is of a prohibited species, or per part of a management plan.
 - f. After removal, stumps must be properly removed six to eight inches below ground level and all wood material must be removed from the work site within 48 hours.
 - g. New trees to be planted within Tree Lawns shall comply with the Town's Tree Planting Standards. The Town's Tree Planting Standards are attached to this Ordinance, and may be amended from time to time in the sole discretion of the Town.
 - h. New trees to be planted within Tree Lawns shall meet species, size, diversity, and spacing requirements per [the Development review deposit and reimbursement of Town costs Section of the Berthoud DevelopmentTown Code Section 30-2-112.](#)
- 5. A Street Tree Work Permit must be acquired prior to performing any maintenance, removal, or planting of any tree located in a Tree Lawn.
 - 6. Town Staff is hereby authorized and directed to develop an appropriate Street Tree Work Permit Application form to be submitted by an Applicant when such Applicant wishes to obtain a Street Tree Work Permit.
 - 7. Town Staff is hereby authorized to inspect, conduct surveys, and perform maintenance as needed on any tree within Tree Lawns.
 - 8. Any violation of any provision contained in this section shall be punishable by a fine up to \$2,500.00.
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Section 2: Clarification on the difference between minor and major alterations to clarify Staff's ability to be efficient with applications for minor alterations. This section proposes to repeal all of the existing Section 30-9 and replace with the following. The entire section of 30-9 is provided so the reader can see the entire proposed amendments as they relate to the section.

SECTION 9 HISTORIC RESOURCES¹

30-9-101 Intent

The Town of Berthoud recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and are irreplaceable, and as such, merit preservation. Ordinance #920 established a Historic Preservation Commission; a program for the identification, evaluation, and designation of Local Historic Landmarks and Districts; providing information on public incentives for the preservation of Local Historic Landmarks; and land use regulations regarding the alteration, moving or demolition of Local Historic Landmarks and properties on the State or National Register of Historic Places. In 2011, the title of the Historic Preservation Commission was changed to the Berthoud Historic Preservation Advisory Committee by Resolution 4-11. Resolution 4-11 also identified procedures and operations for the Historic Preservation Advisory Committee.

30-9-102 Definitions

The following definitions apply to terms used in this Section. Terms not defined have their commonly construed meaning.

Alteration — An addition, removal, change, or reconfiguration which alters the exterior character of a Local Historic Landmark including new construction in Historic Districts.

- i. *Minor alterations* shall include painting, repair or replacement of roof using the same or similar materials as the existing roof, or foundation repair.
- ii. *Major alterations* shall include window or door replacement, additions, and removal of architectural elements, [for example](#).

Building — Construction for purposes of shelter or habitation, e.g. house, barn, store, theater, train station, garage, school and other similar structures.

Contributing Property — a building or object adding to the historic significance of a District.

Demolition — The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Local Historic Landmark — A property officially recognized by the Town of Berthoud, Colorado, as important to its history.

State or National Register of Historic Places — Buildings, structures, objects, sites, and districts which are listed on the State Register of Historic Properties or National Register of Historic Places.

District — A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

¹Editor's note(s)—Adopted March 8, 2016

Historic Context — An organizing structure for interpreting history that groups information about historic properties which share a common theme; common geographical location, and common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration, and treatment of historic properties based upon comparative significance.

Historic Integrity — The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's prehistoric or historic period and the composite of its location, design, setting, materials, workmanship, feeling and association.

Historic Significance — The importance of a property to the history, architecture, archaeology, engineering, or culture of a community, achieved by meeting one or more standards of 30-9-105.4.

Listing of Historic Resources — The record of information in the form of surveys about resources potentially significant to the history of the Town of Berthoud, Colorado, but have not been designated as a local landmark.

Local Historic Landmarks (LHL's) — are locally significant historic places designated by the Town of Berthoud because they possess exceptional value or quality in illustrating or interpreting the heritage of Berthoud, Colorado.

Object — Construction which is primarily artistic or commemorative in nature and not normally movable, or part of a building or structure, e.g. statue, fountain, milepost, monument, sign.

Preservation — focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time (see minor alterations).

Relocation — The removal of a resource from its historic context or site to another location.

Rehabilitation — The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Resource — any building, structure, site, or object that is part of or constitutes a historic property.

Site — location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure which may include underground features, e.g. battlefield, campsite; or natural features, food-gathering areas, etc.

Structure — Construction made for functions other than shelter or habitation, e.g. bridge, windmill, dam, highway, silo, kiln.

Survey — The process of identifying, documenting and evaluating or re-evaluating properties to determine their potential for eligibility and designation as a Local Historic Landmark.

30-9-103 Authority and Duties

1. The Historic Preservation Advisory Committee shall conduct all activities necessary and appropriate to maintain Berthoud's Certified Local Government status with the State of Colorado and History Colorado.
2. The Historic Preservation Advisory Committee shall also make recommendations to Town staff and the Town Board of Trustees concerning:
 - (a) Criteria for review of historic resources and for review of proposals to demolish designated resources.
 - (b) Resources to be nominated for designation as either a historic structure or historic district and designation of those resources qualifying for such designation.
 - (c) Application for alterations to the exterior of designated historic structures or elements of historic districts.
 - (d) Application for moving or demolishing a Designated Local Historic Landmark.

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- (e) Matters related to preserving the historic character of the Town.
 - (f) Support or financial assistance for preservation-related programs.
 - (g) Removal of properties from the register for reasons including, but not limited to, acts of God, undue hardship and public health/safety concerns.
 - (h) Application fees for applications made by citizens applying for historic designation or who are applying to alter or demolish a historically designated property.
- 3. Advise and assist owners of historic properties on physical and financial aspects of reservation, renovation, rehabilitation, and reuse, including nominations to the Local, State or National Registers of Historic Places within the Town limits.
 - 4. Initiate Public education programs including, but not limited to, walking tours, brochures, marker programs for historic properties, lectures and conferences within both the Town and the greater Berthoud area.
 - 5. Survey historic properties for the purpose of defining those of historic significance, and to prioritize the importance of identified historic properties and areas.

30-9-104 Listing Standards

- A. *Listing.*
 - 1. The Committee shall determine and periodically revise priorities for the identification and evaluation of historic resources.
 - 2. Unless the Committee finds extraordinary historic importance, only properties over 50 years of age shall be considered for inclusion in the Register of Local Historic Landmarks.
 - 3. The Committee shall apply criteria based on historic integrity and significance, for evaluating historic resources. The criteria shall be used to identify historic resources as eligible, potentially eligible, or ineligible for listing on the Designated Local Historic Landmarks Register. Owners of surveyed properties will be notified of these findings.
 - 4. Documentation of properties in the Listing of Historic Resources shall be in a format compatible with forms developed by History Colorado, and upon completion, copies of the forms shall be supplied to History Colorado.
 - 5. Records concerning the locations of any archaeological sites shall be filed with History Colorado to insure the safety and security of an archaeological site.

30-9-105 Designated Local Historic Landmark register

- 1. Properties listed on the State Register of Historic Properties and National Register of Historic Places, including all properties within State or National Register Historic District boundaries, are eligible for automatic listing on the Designated Local Historic Landmark Register.
 - 2. No property shall be designated without the written consent of the owner. In the case of the formation of a Historic District where there are multiple ownerships, a majority of the owners within the area of the proposed District may form the District but the regulations of that District shall only apply to properties that are identified as contributing within the District at the time of formation, or later as approved by the Town Board of Trustees on a case by case basis.
 - 3. Upon acceptance of a completed application, the Town Staff shall schedule two public hearings; one before the Committee for a recommendation, and one before the Town Board of Trustees pursuant to applicable state laws.
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In order to be included or maintained on the Local Historic Landmark Register, the Committee may recommend and the Town Board of Trustees must find that:

The quality of significance in Berthoud history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
 - B. That are associated with the lives of significant persons in Berthoud's past; or
 - C. That embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; or possess high artistic values; or represent a significant and distinguishable entity whose components may lack individual distinction; or
 - D. That yielded or may be likely to yield, information important in history or prehistory.
5. The Committee in making a recommendation and the Town Board of Trustees in making a decision shall develop findings based upon the criteria set forth in this Code, to support its recommendation and decision. These findings shall indicate those elements of a property, including any landscape, and archaeological features that are included in the designation and subject to regulation under the provisions of this ordinance.

30-9-106 Designation of Local Historic Landmarks

- A. Recommendations for designation of Local Historic Landmarks. Pursuant to the procedures set forth in this Section, the Committee shall make written recommendation to the Board of Trustees that a site, building, structure, object, or district be designated as a Local Historic Landmark for preservation, meeting the criteria set forth in this Section. Each such recommendation shall include a description of the characteristics of the site, building, structure, object, or district's historic significance and integrity, which justify its designation and shall include a legal description of the property. The recommendation shall indicate alterations that would have a significant impact on, or be potentially detrimental to, the historic features of the site, building, structure, object, or district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Section.
- B. Procedures for designating Local Historic Landmarks.
 - 1. *Applications.* Applications for designation of Local Historic Landmarks must be made to the Town Staff on forms provided by the Town. Applications shall be made only by the owners of 100 percent of the property for which the application is submitted, except as provided in Section 30-9-105.2.
 - 2. *Staff review.* The Town Staff shall review applications for designation of Local Historic Landmarks for content and for completeness. The Staff shall, within a reasonable time of receipt, forward complete applications and Staff recommendations to the Committee.
 - 3. *Committee review.* The Committee shall consider and make recommendations upon applications at regularly scheduled or special meetings within a reasonable time of receipt of staff recommendations. The Committee shall recommend approval, approval with conditions, or disapproval of applications, and shall immediately forward written notice of their recommendations to the Town Board of Trustees. In the event of failure of the Committee to act in a timely manner, the Town Board may proceed without a Committee recommendation.
 - 4. *Town Board of Trustees action.* After a recommendation by the Committee, and with public notice given as provided in [the Notice and Publication](#) Section [of the Land Development Code 30-1-117](#), the Town Board of Trustees shall by resolution approve, approve with conditions, or shall deny the proposed Local Historic Landmark designation.

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5. *Withdrawal of applications.* Prior to action on an application by the Town Board of Trustees, an Applicant may withdraw the application by submitting a written request to the Town Clerk.
 6. *Recording.* The resolution designating a site, building, structure, object, or district as a Local Historic Landmark shall be recorded in the records of the Larimer or Weld County Clerk as appropriate.

30-9-107 Limitation on Resubmission and Reconsideration

Whenever the Town Board of Trustees denies an application for Local Historic Landmark designation, or whenever an owner withdraws an application, no application for the same site property may be submitted within one year of the disapproval or withdrawal.

30-9-108 Amendment of Designation

The designation of a Local Historic Landmark may be amended to add additional features to the property according to the application process described in Section 30-9-106 for new designations.

30-9-109 Alteration of a Designated Local Historic Landmark

All modifications to designated Local Historic Landmarks shall be done in conformance with the Secretary of the Interior's Standards for Rehabilitation as published by the U.S. Department of the Interior, National Park Service.

30-9-110 Notification of intent to alter a Designated Local Historic Landmark

The owner of a Local Historic Landmark agrees to notify the Town Staff of the owner's intention to alter (any defined minor or major alteration), demolish, move or remove the Landmark and provide plans for the work at least 30 days prior to beginning such work. This notification requirement shall run with the land and shall bind successors and assigns. The Town Staff shall, upon receipt, forward the notification and plans to the Committee for review and recommendation. The Committee shall review the plans and may advise the owner on the potential effect of the plans on the Local Landmark designation. The Committee may forward a recommendation to the Town Board that, based on the plans, the historic designation be modified or revoked.

30-9-111 Alterations, relocations or demolitions

1. No exterior, landscape, or archaeological element of a designation Local Historic Landmark which is specified as significant in its designation shall be altered, removed, or demolished without authorization issued by the Town Staff pursuant to this Section and a building permit issued, if required under the currently adopted building code.
 2. No ~~minor~~ major exterior alteration, relocation, or demolition of a designated Local Historic Landmark or a Contributing Structure in an approved Historic District shall be allowed without authorization issued by the Town Staff pursuant to this Section.
 3. No ~~authorization for~~ major exterior alterations, relocation, or demolition of a designated Local Historic Landmark or a Contributing Structure in an approved Historic District shall be allowed without authorization issued given by the Town Board of Trustees with a recommendation by the Committee.
 4. Prior to submitting an application for a permit pursuant to this section, the Applicant(s) is encouraged to request a pre-application conference with Town Staff and/or the Committee to review concepts and proposals. The Committee may form ad-hoc sub-committees for this purpose. Committee members participating in pre-application conferences shall disclose their ex-parte contact at the time of any public hearing on the proposal.
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5. In cases requiring a public hearing for the relocation or demolition of a Designated Local Historic Landmark, or a Contributing Structure in an approved Historic District, the Committee shall review and recommend to the Town Board of Trustees and the Board shall take action upon such applications. The burden of proof, as per the factors found in Section 30-9-111 6, lies with the Applicant. Applications may be approved, approved with conditions, or denied by the Town Board of Trustees. The Town Staff shall include any conditions imposed by the Town Board of Trustees in permits issued pursuant to this section.
6. Minor ~~or Major Alterations~~: Authorization from the Town Staff is required for work identified as minor alterations ~~as defined in this Section. To the exterior including repainting, roof replacement, and foundation repair~~ as defined in this Section. ~~Authorization from the Town Board of Trustees with a recommendation from the Committee is required for work identified as major alterations to the exterior as defined in this Section.~~ In order to approve an application for ~~an the minor~~ an alteration of a Local Historic Landmark, or a Contributing Structure in an approved Historic District, ~~the approving authority the Committee~~ shall find that the proposal meets the following standards:
- A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
 - The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
 - A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall be discouraged.
 - Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
 - Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
 - Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used unless otherwise approved by the Town Staff.
 - Archaeological resources should be protected and preserved in place. If such resources must be disturbed, mitigation measures should be encouraged.
 - New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and its environment.
 - New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
7. In order to approve an application for the relocation or demolition of a Local Historic Landmark, or a Contributing Structure in an Historic District, the Committee and the Town Board of Trustees must find that:
- No prudent and feasible alternative exists, or
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- b. The designated property is deteriorated beyond repair, or
 - c. The value to the community of the proposed use of the property outweighs the value of retaining the Local Historic Landmark.
8. At the public hearing of an application to relocate or demolish a Local Historic Landmark, or a Contributing Structure in an Historic District the Town Board of Trustees, upon recommendation by the Committee, may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 90 days from the date of the hearing. If, ten days prior to the expiration of the delay period the Committee finds that there are still reasonable alternatives to explore, it may recommend to the Board of Trustees a delay for an additional period of up to 90 days.
9. In approving an application for the demolition of a Local Historic Landmark, or a Contributing Structure in an Historic District the Committee may recommend to the Town Board of Trustees and the Board may impose the following conditions:
- a. Photographic, video, or drawn recordation of the property to be demolished, and/or
 - b. Salvage and curation of significant elements, and/or
 - c. Other reasonable mitigation measures.
10. No provision of this Section shall be construed to prevent the ordinary repair or maintenance of a Local Historic Landmark, or a Contributing Structure in an Historic District, when such action does not involve a change in design, materials or appearance.
11. No provision in this Section shall be construed to prevent the alteration, demolition or relocation of a Designated Local Historic Landmark, or a Contributing Structure in an approved Historic District when the Building Official certifies that such action is required for the public safety.

30-9-112 Revocation of Local Historic Landmark designation

The Town Board of Trustees may, by resolution, revoke or modify the designation of a Local Historic Landmark, after ten days' notice to the owner and after public hearing, and with a recommendation by the Committee if any of the following conditions exist:

- [A]. If any owner of a Local Historic Landmark fails to provide notification as required in this Section, or if alterations to the Landmark will significantly alter the historic character and/or integrity of the Landmark;
- [B]. If an owner of a Local Historic Landmark submits a written request to the Town for revocation of a designation;
- [C]. If the Committee makes a recommendation to the Town Board of Trustees for modification or revocation based on an owner's written intent to alter a Local Historic Landmark; or
- [D]. If modifications are made to a Local Historic Landmark that are found by the Committee and the Town Board of Trustees to not be in accordance with the standards specified in this Section.

Section 3: The Planned Unit Development (PUD) is a land planning tool that is often mis-used and is difficult to regulate over time. It was the intent of the Town to eliminate this tool and portions of the Code were previously amended to reflect removal of the PUD option including removing the process for approval however, additional sections of the Code need to be amended to remove the PUD option entirely to avoid confusion. The Town has recently adopted new zoning classifications of Urban Residential/Commercial, Suburban Residential/Commercial and Conservation District. These three zoning districts allow for flexibility and a combination of land uses including residential and commercial uses.

30-3-103 - Zoning districts and boundaries

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

A-T No change

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

Intent. The ~~is~~ Planned Unit Development (PUD) Overlay District ~~was is intended to be~~ used as an overlay zone to ~~hat~~ supplement ~~s~~ one or more underlying standard zone districts as found in this Code. The PUD Overlay District ~~is no longer available as an option to zoning. Previously-approved PUDs are recognized. Any unimproved property with an approved PUD is encouraged to rezone their property to a zone district recognized in the Town's Zoning Chapter of the Development Code. is intended to permit greater flexibility in the application of specific zoning standards and greater freedom in the allowable range of land use types. Amendments to an existing PUD Overlay District will require the applicant to rezone the property and provide a Neighborhood Master Plan. Further subdivision processes may be required.~~

- ~~1. *Permitted uses.* Uses permitted in the PUD Overlay District shall be those uses permitted in the underlying standard zone district(s) for the property. An applicant for a PUD Overlay District may request modifications to the permitted uses of the underlying zone district to remove those uses that may be deemed incompatible or inappropriate for the overall PUD development or add additional uses compatible with the overall intent of the project. Conditional uses may be permitted in the PUD Overlay District if it can be demonstrated that such uses meet the conditional use review criteria for the underlying zone district(s).~~
- ~~2. *PUD Overlay District general requirements.* Properties utilizing the PUD Overlay District shall be subject to the following:~~
 - ~~a. All PUD applications shall include a gross land area of not less than five acres.~~
 - ~~b. The area of land for the PUD may be controlled by one or more landowners and must be developed under unified control or a unified plan of development. No PUD may be approved by the Town without the written consent of the landowner(s) whose property is included within the PUD.~~
 - ~~c. All requirements set forth in this Code and the underlying zone districts otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the PUD Overlay District as approved modifies permitted or conditional land uses, and change specific standards including lot size, building bulk, type of use, gross density, lot coverage or floor area ratio.~~
- ~~3. *PUD approval procedure.* All PUD Overlay District applications shall be submitted and processed simultaneously with the processing of annexation, base zone district or subdivision applications for the property. An application for a PUD Overlay District amendment to the Zoning Map shall be processed and subject to public hearings in the same manner as for other amendments to the Zoning Map, as outlined in this Code.~~

Approval of a PUD Overlay District shall require the Town to adopt an ordinance establishing the PUD Overlay District for the property.

4. ~~PUD amendment procedure.~~ All PUD Overlay District's may be amended upon application by the property owner. An application for a PUD Overlay District amendment shall be processed as a text amendment to the Zoning section of this Code.

5. ~~Relationship of PUD zoning to approved Overall Development Plans (ODP), Preliminary Development Plans (PDP), and Final Development Plans (FDP).~~ The use of PUD zoning as an overlay zone district, when combined with the subdivision procedures of concept plan, preliminary plat and final plat, removes the need for ODP, PDP, and FDP submittals under this Code. Traditional ODP, PDP and FDP submittal materials are included within the concept, preliminary and final plat processes and requirements found in Chapter 30, Section 6 of this Code.

ODP, PDP and FDP applications approved prior to the adoption of this Code will remain in full force and effect per the regulations or agreements in place at the time of the Town action to approve such ODP, PDP or FDP.

Section 4: The Town has made a commitment to adhere to the International Dark Sky Standards. As with all standards, they are amended from time to time. Staff has collaborated with the International Dark Sky Association and present the proposed amendments to this Section of the Code to be reflective of the most current standards. This section proposes to repeal all of the existing Section 30-2-118 and replace with the following. The entire section of 30-2-118 is provided so the reader can see the entire proposed amendments as they relate to the section.

30-2-118 Outdoor lighting and dark sky standards

A. *Intent.* The purpose of this ordinance is to provide regulations for outdoor lighting that will:

1. Permit the use of outdoor lighting that does not exceed the levels specified in International Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment and commerce.
2. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.
3. Curtail light pollution, reduce skyglow and improve the nighttime environment for astronomy, intended to support the continued use, enjoyment and success of Berthoud's Little Thompson Observatory and Bunyan Observatory at the Pioneer Museum and their operations.
4. Help protect the natural environment from the adverse effects of night lighting from gas and oil extraction activities or electric services.
5. Conserve energy and resources to the greatest extent possible.
6. These standards should result in exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings or setting.

B. *Definitions.* For the purposes of this Section, the following definitions shall apply:

Absolute Photometry: Photometric measurements (usually of a solid-state luminarie) that directly measures the footprint of the luminarie. Reference Standard IES LM-79.

Architectural Lighting: Lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.

Authority: The Town of Berthoud.

Astronomic Time Switch: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Backlight: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

BUG: The acronym, "BUG" (Backlight, Uplight, and Glare) was developed by the Illuminating Engineering Society (IES) and the International Dark Sky Association in order to calculate the light escaping in unwanted directions from an outdoor light fixture. —Forward light (Glare), Backlight, and Uplight.

Canopy: A covered, unconditional structure with at least one side open for pedestrian and/or vehicular access. An unconditioned structure is one that may be open to the elements and has no heat or air conditioning.

Common Outdoor Areas: One or more of the following: a parking lot, a parking structure or covered vehicular entrance; a common entrance or public space shared by all occupants of the domiciles.

Curfew: A time defined by the authority when outdoor lighting is reduced or extinguished.

Emergency conditions: Generally, lighting that is only energized during an emergency; lighting fed from a backup power source; or lighting for illuminating the path of egress solely during a fire or other emergency situation; or, lighting for security purposes used solely during an alarm.

Footcandle: The unit of measure expressing the quantity of light received on a surface. One foot-candle is the illuminance produced by a candle on a surface one square foot from a distance of one foot.

Forward light: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the direction of the intended orientation of the luminaire.

Fully shielded luminaire: A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.

Glare: Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

Hardscape: Permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways and non-vegetated landscaping that is ten (10) feet or less in width. Materials may include concrete, asphalt, stone, gravel, or other material approved by the Town through the site-specific land development process or through another approval process.

Hardscape Area: The area measured in square feet of all hard-scape. It is used to calculate the Total Site Lumen Limit in both the Prescriptive Method and Performance Methods. Refer to Hardscape definition.

Hardscape Perimeter: The perimeter measured in linear feet is used to calculate the Total Site Lumen Limit in the Performance Method. Refer to Hardscape definition.

IDA: International Dark Sky Association.

IESNA: Illuminating Engineering Society of North America.

Impervious Material: Sealed to severely restrict water entry and movement.

Industry Standard Lighting Software: Lighting software that calculates point-by-point illuminance that includes reflected light using either ray-tracing or radiosity materials.

Lamp: A generic term for a source of optical radiation (i.e. light) often called a "bulb" or "tube". Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low pressure sodium (LPS) lamps, as well as light-emitting diodes (LED) modules and arrays.

Landscape lighting: Lighting of trees, shrubs, or other plant material, as well as ponds and other landscape features.

LED: Light Emitting Diode.

Light Pollution: Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light trespass: Light that falls beyond the property it is intended to illuminate.

Lighting: "Electric" or "man-made" or "artificial" lighting. See the definition of Lighting Equipment.

Lighting Equipment: Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and related structures, electrical wiring, and other necessary or auxiliary components.

Lighting Zone: An overlay zoning system establishing legal limits for lighting for particular parcels, areas, or districts in a community.

Low voltage landscape lighting: Landscape lighting powered at less than 15 ~~24~~volts and limited to luminaires having an initial lumen output of 525 lumens or less.

Lumen: the unit of measurement used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from a "watt" a measure of power consumption).

Luminaire: The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s), together with the parts designed to distribute the light (reflector, lens, diffuser) to position and connect the lamps to the power supply.

Luminaire Lumens: For luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70%. For luminaires with absolute photometry per IES LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

Lux: The SI unit of illuminance. One (1) Lux is one (1) lumen per square meter. One (1) Lux is a unit of incident illuminance approximately equal to 1/10 footcandle.

Mounting height: The height of the photometric center of a luminaire above grade level. The horizontal spacing of poles is often measured in units of Mounting height. For example, "The luminaires can be spaced up to four (4) mounting heights apart."

New Lighting: Lighting for areas not previously illuminated; newly installed lighting of any type except for replacement lighting or lighting repairs.

Object: A permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuilding, etc.

Object height: The highest point of an entity but shall not include antennas or similar structures.

Ornamental lighting: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

Ornamental street lighting: A luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- a. Designed to mount on a pole using an arm, pendant, or vertical tenon;
- b. Opaque or translucent top and/or sides;
- c. An optical aperture that is either open or enclosed with a flat, sag or drop lens;
- d. Mounted in a fixed position; and
- e. With its photometric output measured using Type C photometry per IESNA LM-79-01.

Outdoor lighting: Lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

Partially shielded luminaire: A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.

Pedestrian hardscape: Stone, brick, concrete, asphalt or other similar finished surfaces intended primarily for walking, such as sidewalks and pathways.

Photoelectric switch: A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.

Property line: The edges of the legally defined extent of privately-owned property.

Relative photometry: Photometric measurements made of the lamp plus luminaire and adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63.

Repairs: The reconstruction or renewal of any part of an existing luminaire for the purpose of its on-going operation, other than relamping or replacement of components including capacitor, ballast or photocell. Note that retrofitting a luminaire with new lamp and/or ballast technology is not considered a repair and for the purposes of this Section the luminaire shall be treated as if new. The term, Repair does not include normal relamping or replacement of components including capacitor, ballast or photocell.

Replacement lighting: Lighting installed specifically to replace existing lighting that is sufficiently broken to be beyond repair.

Sales area: Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors and other farm equipment, building supplies, and gardening and nursery products.

Seasonal lighting: Temporary lighting installed and operated in connection with holidays or traditions.

Shielded Directional Luminaire: A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

Sign: See term defined in the definition Section of Chapter 30.

Sky glow: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

Temporary lighting: Lighting installed and operated for periods not to exceed sixty (60) days, completely removed and not operated again for at least thirty (30) days.

Third party: A party contracted to provide lighting, such as a utility company.

Time switch: An automatic lighting control device that switches lights according to time of day.

Translucent: Allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).

Unshielded Luminaire: A luminaire capable of emitting light in any direction including downwards.

Uplight: For an exterior luminaire, flux radiated in the hemisphere above the horizontal plane.

Vertical illuminance: Illuminance measure or calculated in a plane perpendicular to the site boundary or property line.

C. General Provisions.

1. Evaluation of exterior lighting. Exterior lighting shall be evaluated in the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood. The degree to which exterior night lighting affects a property owner or neighborhood will be examined by considering the light source, level of illumination, hours of illumination, and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood.
2. Light style. The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.
3. Concealed light source. Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare or unnecessary diffusion on adjacent property. All lights shall be directed downward and the light source shall be equipped with "cut-off" devices so that they do not negatively impact any adjacent property and to ensure that ambient skyward light is eliminated.
4. Excessive illumination. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily

illuminates another lot if it clearly exceeds the standards set forth in this Section, if the light shines directly into or toward a residence, or if the standards set forth in this Section could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

D. *Applicability.*

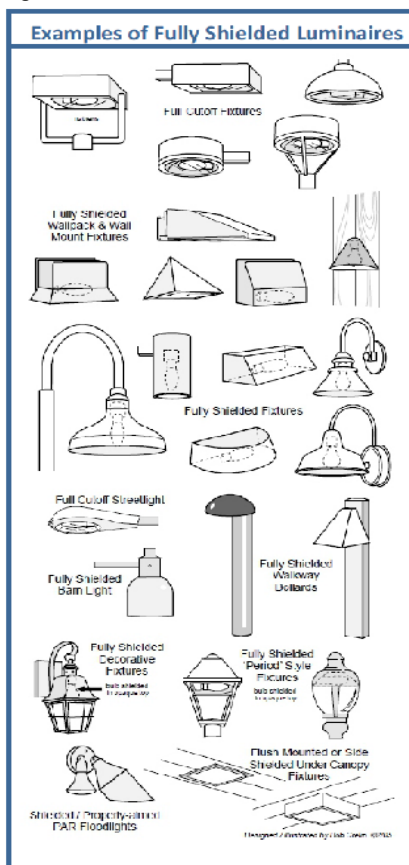
1. The lighting standards of this Chapter shall be applicable to all exterior lighting within the Town. All exterior lighting installed after the effective date of this ordinance codified herein shall conform to the standards established by this Chapter.
2. Exemptions:
 - i. Exemption for outdoor recreational uses. Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses (both public and private, unless otherwise restricted by the Town) shall be exempt from the general provisions of this section. However, exterior lighting for such uses shall be extinguished no later than an hour after activity concludes.
 - ii. Full cutoff street lighting as part of a federal, state, or municipal installation.
 - iii. Holiday lighting before and after the holiday.
 - iv. Specialized lighting necessary for safety, such as temporary lighting associated with emergency operations, road hazard warnings, etc.
 - v. Traffic control signals and devices.
 - vi. Sensor activated luminaries, provided that:
 - a. It is located in such a manner as to prevent glare and lighting onto properties of others or into the public right-of-way.
 - b. The luminaire is set to only go on when activated by motion, and to go off within five minutes after activation has ceased.
 - c. The luminaire shall not be triggered by activity off the property.
 - vii. Floodlights with external shielding can be deflected up to 25 degrees from a vertical plane as measured through the central axis of the light beam from the luminaire, only if the luminaire does not cause glare or light to shine on adjacent property or public rights-of-way.
 - viii. Federally funded and state funded roadway construction projects are exempted from the requirements of this division only to the extent it is necessary to comply with federal and state requirements.
 - ix. Exterior Residential fixtures which consist of lamp types with an output of 800 lumens or less (approximate to a 60-watt incandescent bulb or nine-watt LED) are exempt from these regulations, provided the fixture types are compliant with those allowed in this Chapter.
 - x. Landscape Lighting: up-lighting for flags, address markers, trees, architectural features and low-voltage landscape lighting, provided that the luminaire is located, aimed and shielded so that direct illumination is focused exclusively on the object and away from adjoining properties and the public street right-of-way. Architectural features may be illuminated by up-lighting provided that the light is effectively contained by the structure. In all cases, up-lighting must not cause glare or light trespass. The landscape lighting must be low voltage (24 volts or less), and it must be controlled by a photocell and timer set to extinguish no later than 12:00 a.m.
 - xi. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels are exempt from these standards.

E. *Standards.*

1. *Area and Roadway Lights.*

- i. All area lights, including street lights and parking area lighting, shall have a maximum BUG rating of B2-U0-G1 according to the guidelines set forth by the Illuminating Engineering Society (IES) TM15-11. Examples of these luminaires can be found in Diagram 30-1.

Diagram 30-1



2. *Illumination Levels.* Illumination levels and uniformity shall be in accordance with currently recommended practices of the Illuminating Engineering Society (IES), which requires Kelvin temperatures that do not exceed 3,000 Kelvin, and those recommended standards shall not be exceeded.
3. *Temporary Lighting.* Temporary lighting that conforms to the requirements of this Chapter shall be allowed. Nonconforming temporary exterior lighting will be permitted by the Town staff only after

considering 1) the public and/or private benefits which will result from the temporary lighting; 2) any annoyance or safety problems that may result from the use of the temporary lighting; and, 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Town for review and authorization.

4. *Light Spillover.*

- a. *Residential:* All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than one-quarter of a foot-candle of light from the premises lighting system.
- b. *Commercial:* All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than one foot-candle in commercially zoned areas, and one quarter of a foot-candle for properties adjoining residential districts.

5. *Towers.* All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light will be used, and for nighttime, only red lights shall be used.

F. *Submittals.*

1. All applications for building permits or land use planning review which include installation of outdoor lighting fixtures shall include lighting plans conforming to the provisions of this Section. Town staff has the authority to request additional information in order to achieve the purposes and intent of this Section.
- a. The submittal shall contain the following information and be submitted as part of the site plan to the Planning and Building departments for approval.
 1. Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;
 2. A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
 3. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground. Area and roadway lighting requires compliance with the BUG rating with this data; and
 4. Additional information as may be required by the Town in order to determine compliance with this Chapter.

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARING
Amendments to the Berthoud Development Code

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Berthoud Planning Commission on Thursday, October 26, 2023 at 6:00 p.m. and before the Town Board on Tuesday, November 28, 2023 at 6:30 p.m. to consider adoption of a Landscaping Ordinance; adoption of an annual Three-Mile Plan; and to make amendments to Chapter 30 of the Municipal Code, specifically amending Section 2 regarding Landscape Design, Section 9 regarding Historic Resources, Section 3 regarding Planned Unit Developments, and Section 2 regarding Outdoor lighting and dark sky standards. The public hearings will be held at Town Hall, 807 Mountain Avenue Berthoud 80513.

Given and Posted on this 5th day of October, 2023.

Published: Loveland Reporter Herald October 5, 2023-2008191

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Larimer
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Loveland Reporter Herald*.
2. The *Loveland Reporter Herald* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Larimer County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Loveland Reporter Herald* in Larimer County on the following date(s):

Oct 5, 2023

Shayla Najera
Signature

Subscribed and sworn to me before me this

5th day of October 2023

Melissa L. Najera
Notary Public

(SEAL)

MELISSA L. NAJERA
NOTARY PUBLIC
STATE OF COLORADO
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