

**TOWN OF BERTHOUD**

**ORDINANCE NO. 1254**

**AN ORDINANCE AMENDING CHAPTER 30, SECTIONS 5 OF THE DEVELOPMENT CODE OF THE TOWN OF BERTHOUD, FOR THE PURPOSES OF AMENDING AND REVISING THE DEVELOPMENT CODE.**

WHEREAS, it is deemed to be in the interest of the public health, safety and general welfare to revise the Development Code of the Town to provide for better construction and building standards; and

WHEREAS, Town staff, Planning Commissioners and members of the Development Community have reviewed the existing code, and have made recommendations to improve the current Development Code requirements; and,

WHEREAS, the Board of Trustees, after proper notice, has held a public hearing on this ordinance providing for the adoption of said code pursuant to C.R.S. § 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 BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. That Chapter 30, Sections 5 of the Berthoud Development Code is hereby repealed, and the Municipal Code Sections set forth in Exhibits "A", attached, are hereby adopted in its stead;

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. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

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other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.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 proper 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 lighting plans, development, and construction permitted after such date.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN  
FULL this 13 day of November, 2018.



TOWN OF BERTHOUD, COLORADO

 Deputy Town Clerk  
Christian Samora Town Clerk

**A. Applicability and Purpose**

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

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

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

**B. Drainage, Erosion Control, and Vegetation Management**

The Town shall not approve any proposed Construction Activity unless and until it has approved a Stormwater Management Plan (SWMP). The Owner of the Construction Site is responsible for preparing and submitting such plans. In no event shall silt, mud, debris, or other stormwater related issues be allowed to accumulate on lots, roads, Rights-of-Way (ROW), or other public areas for more than 72 hours.

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

**C. Construction Equipment and Material Storage**

Each Owner or Owner's Representatives and their contractors shall ensure that all construction material is stored in a designated materials storage area. Such storage area shall only be located on lots with approved permits and shall be located to minimize the visual impact from adjacent properties and

roadways. Construction materials shall not be stored in the Right-of-way for more than 72 hours without prior approval from the Town. Any materials stored within Right-of-way shall not impede pedestrian and/or vehicular traffic and shall be marked with high visibility cones or other signage.

#### **D. Debris and Trash Removal**

Owners, Owner's Representatives, and their contractors shall be responsible for assuring that:

- At the end of each day, all trash and debris on the Construction Site is cleaned up and stored in proper containers or organized piles and not permitted to be blown about the Site or adjacent property, and
- At least once a week, all trash and debris are removed from the Construction Site to a proper dumpsite located off the Property.

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

#### **E. Construction Hours & Noise**

Construction Activities shall be limited to the following hours of operation:

Monday through Friday: 7:00 AM ; 7 pm or Sundown, whichever occurs earlier

Saturday: 8:00 AM - 7:00 PM or Sundown, whichever occurs earlier

Sunday: 9:00 AM – 4:30 PM;

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

#### **F. Large Construction Vehicle Routes**

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

#### **G. Prohibited General Practices**

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

- a) Changing oil on any vehicle or equipment on the Construction Site;

- b) Allowing concrete suppliers and contractors to clean their equipment on any Town of Berthoud lot, roadway, right-of-way, ditch, easement, or other property without prior approval;
- c) Removing any rocks, plant material, topsoil, or similar items from any property of others within Town;
- d) Using disposal methods or units other than those approved by the Town;
- e) Careless disposition of cigarettes and other flammable materials;
- f) Disturbing or removal of any native plant materials not identified on the approved construction plans;
- g) Disruptive activity including, but not limited to, public drinking, public nuisances, and disturbing the peace;
- h) Working before or after the scheduled construction hours without prior permission;
- i) Driving haul trucks with uncovered loads in the Town.
- j.) Storing building or landscape materials within ROW, even prior to Town acceptance, for more than 72 hours.

#### **H. Roadway Maintenance**

Owners and their contractors and sub-contractors shall keep all Town roads and road rights-of-way free and clear of all materials, rubbish, and debris resulting from Owner's Construction Activity and shall repair and revegetate any damage to roads, road rights-of way, landscaping, and other streetscape improvements within the Town caused by Construction Vehicles used in connection with Owner's or Owner's Representative, Construction Activity. No road cuts, deletions, or additions shall be made without a permit from the Town Public Works Director, or their designee. Contractors must keep the Site driveway and all adjacent roads clean from dust, dirt, mud, and debris at all times. If a contractor fails to keep roads clean and if the Town arranges for cleaning, the cost of cleaning will be billed to the Owner, care of the contractor, at a rate then set by the Town.

#### **I. Sanitary Facilities**

On-Site, enclosed, chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be located to minimize any adverse impacts on adjacent lots. In no instance shall chemical toilets be placed within any road right-of-way or on the road.

#### **J. Signage**

At least one temporary construction sign, a minimum of 12 square feet and a maximum of 32 square feet in size, shall be located within the Site boundary and shall be easily visible and readable from the adjacent roadway or entry to the Site. The sign must the information shown below.

**PROJECT LOGO AND/OR NAME**

Developer/Owner: [Name and Phone #]

Contractor: [Name and Phone #]

Builder: [Name and Phone #]

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TOWN OF BERTHOUD, COLORADO

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Christian Samora Town Clerk



**There is limited audio recording of the hearing due to a malfunction with the recording equipment.**

1. **Call to Order** – The Planning Commission convened a regular meeting on September 27, 2018. Chairman Banzhaf called the meeting to order at 7:00 p.m.
2. **Roll Call** – Members Present: Scott Banzhaf, Chairman, Kelsey Byron, Patrick Dillon, Jan Dowker, Sean Murphy, and Dick Shepard, who arrived at 7:10pm.  
Member absent: Jeff Butler  
Staff Present: Curt Freese and Jill Wilson.
3. **Consent Agenda** – Minutes from meeting of August 23, 2018. Motion to approve by Commissioner Byron. Second by Commissioner Murphy. Commissioner Dowker abstained from the vote. With all other members in favor, THE MOTION CARRIED.
4. **Election of Planning Commission Secretary** - Motion by Commissioner Dowker to nominate Commissioner Byron as Planning Commission Secretary. Second by Commissioner Dillon. With all in favor, THE MOTION CARRIED.
5. **Heritage Ridge FDP and 6<sup>th</sup> Filing Final Plat** -  
Mr. Freese provide background on the request to obtain final plat and FDP approval(s) for Filing #6 of Heritage Ridge Final Plat, which proposed 18 Single Family lots. The property was located south of Spartan and to the East of 5th Street. He explained that applicants had a CLOMAR (flood plain map revision taking the property out of the floodplain) approved by the Army Corps of Engineers last month as the entire property for the 6<sup>th</sup> filing had previously been in the floodplain.

Kristin Turner, TB Group, gave a brief background of Heritage Ridge. She stated that Filing 6 was consistent with the rest of the development and was comprised of 18 lots. She also noted that there were several other cul de sacs within the development.

Commissioner Byron asked about the areas included in the traffic report. She was also concerned with pedestrian traffic along 5<sup>th</sup> Street and Spartan.

Ms. Turner stated that she would have to refer to the traffic study and traffic engineer. She stated that there had been multiple discussions regarding pedestrian traffic during the development of the entire subdivision.

Commissioner Byron wondered about the extension of Spartan over the railroad crossing.

Mr. Freese stated that there was a current plan being worked on.

Commissioner Dowker agreed that there was a lot more traffic on Spartan, which also caused issues for pedestrians. She suggested the applicant bring more clarification from the traffic study to the Town Board hearing.

Jim Righeimer, property owner, stated that they had worked hard to make it a good development, had tried to resolve any issues, and noted that additional trails installed that were not required.

John Guthrie, 2142 Jones Place, wanted to make sure the lighting conformed with the Town requirements.

Mr. Freese explained that the dark sky requirements went into effect in February and were completed at during the building permit phase.

**Motion by Commissioner Shepard to recommend to the Town Board *approval* of the Heritage Ridge FDP and the Final Plat for Filing 6, finding that:**

- 1. The plan and plat conform to the requirements of the Development Code, to the Town's Comprehensive Plan and land use plan.**
- 2. The proposed development will negatively impact traffic in the area, Town utilities, or otherwise have detrimental impact on property that is in sufficient proximity to the development to be affected by it.**
- 3. The proposed development will be complementary to and in harmony with existing development and future plans for the areas in which the proposed development is to take place.**

**Second by Commissioner Dowker.**

**THE MOTION CARRIED with a 5-1 vote. Commissioner Byron voted against the MOTION.**

**5. Development Code, Chapter 5: Construction Rules and Regulations –**

Mr. Freese provided background on the request to add construction rules and regulations to the Development Code.

Commissioner Dowker and Shepard agreed with the proposal and felt that it was time for the Town to add these requirements to the Code.

Commissioner Banzhaf asked about the construction hours as he felt requiring an ending time of 6pm was restrictive.

Commissioner Dowker agreed.

Discussion ensued regarding changing the ending time to a set time or at sundown. There was also discussion whether to specify to certain months or to apply the times to all year round.

The Commission concluded that weekday construction hours would be from 7am to sundown year-round.

The Commission suggested adding a piece to the Town newsletter regarding the expectations that construction was part of building a community.

Commissioner Banzhaf asked about the proposed regulation for large construction vehicle routes.

Mr. Freese stated that there should be a designated construction entrances, which would be the responsibility of the develop to address.

Discussion ensued regarding the proposed temporary construction sign.

Mr. Freese proposed to amend the size of the sign to require it to be a minimum of 8 sq.ft.

John Guthrie, 2142 Jones Place, stated that he did not want to see construction late at night. There should be consideration, and the ability for people to enjoy their property and surroundings.

Commissioner Byron agreed that there needed to be construction rules.

Commissioner Dowker asked that Section E - Construction hours and noise be examined and available for reconsideration in the future after Staff was able to obtain feedback from the community once the regulations went into effect.

**Motion by Commissioner Shepard to recommend to the Town Board *approval* of Chapter 5- Construction Rules and Regulations**

**Second by Commissioner Byron.**

**Amended Motion by Commissioner Shepard to recommend to the Town Board *approval* of Chapter 5- Construction Rules and Regulations with the changes discussed regarding hours of operation and size of the temporary construction sign.**

**Commissioner Murphy seconded.**

**With all in favor, THE MOTION CARRIED.**

## **6. Reports**

John Guthrie, 2142 Jones Place, spoke regarding the Main Street Program and stated that he was funding a directorship for the project. He stated that the next meeting for the program would be held on October 16, 2018 at 7 pm at the library. He explained that Main Street must define a district, which would be discussed at the meeting. He asked the Commission to consider writing a letter of support, which would show that the community was behind the main street program.

Commissioner Shepard had concerns providing a letter from the planning commission regarding the main street program.

Commissioner Dowker and other commissioners agreed.

Commissioner Banzhaf asked that an update on Spartan Ave. be on the agenda in the future.

Mr. Freese stated that the amendments to the Development Code were approved by the Town Board on September 25, 2018.

Commissioner Dillon expressed concerns regarding the temporary road on Berthoud Parkway & Highway 287. He felt that there needed to be additional signage directing people out of the detour.

Commissioner Dowker welcomed the new members and thanked everyone for their service.

Meeting adjourned at 8:49 p.m.

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Kelsey Byron, Secretary

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Jill Wilson, Planning and Building Technician