

PEOPLE'S ORDINANCE NO. 1

SERIES 1987

AN ORDINANCE ESTABLISHING A BOARD OF APPEALS TO THE UNIFORM BUILDING CODE, UNIFORM MECHANICAL CODE, UNIFORM PLUMBING CODE, NATIONAL ELECTRICAL CODES, UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, UNIFORM HOUSING CODE, AND MODEL ENERGY CODE

Whereas, the Town of Breckenridge has been utilizing the Planning Commission as the Board of Appeals for Building Codes and wishes to change; and

Whereas, a Board of Appeals is necessary in order to determine the suitability of alternate materials and methods of construction, and to provide for reasonable interpretations of the Building Code and other Uniform Codes; and

Whereas, the establishment of a Board of Appeals is authorized by Article IX of the Breckenridge Town Charter; and

Whereas, a Board of Appeals is necessary to preserve the health, safety, and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

SECTION 1.

Title 2, Chapter 3 "Board of Appeals" is hereby adopted and shall read as follows:

2-3-1 Establishing Board of Appeals

Pursuant to the Breckenridge Home Rule Charter of the Town of Breckenridge, the Board of Appeals (Board) is hereby established.

2-3-2 Membership Requirements - Appointment

The Board of Appeals shall consist of five (5) members who are residents and electors of the Town, who are qualified by experience and training to pass upon matters pertaining to building construction, and who are not employees of the jurisdiction.

2-3-3 Term of Office

The term of office for all Board of Appeals members shall be three (3) years, except that the initial appointments shall be for two, two (2) year terms, and three, three (3) year terms. Terms of office shall begin the first day of January and end December 31.

2-3-4 Vacancies

Vacancies shall automatically occur upon the happening of one or more of the following events:

1. A term is completed.
2. A member ceases to be a resident and elector of the Town.
3. A member resigns.

In addition, the Town Council may remove any member of the Board without cause by an affirmative vote of five (5) members. If removed, the member shall be given written notice of such action. The removed member may appeal the Council's decision in writing within five (5) days after said notice and if appealed, the Council shall set a hearing within fourteen (14) days of the written notice of the appeal at which time the issue shall be heard and a decision rendered. A member removed by the Town Council shall not be entitled to serve on the Board pending hearing on an appeal of the removal.

#### 2-3-5 Appointments to Fill Vacancies

Within thirty (30) days of any vacancy on the Board of Appeals, the Town Council by majority vote shall appoint a Town resident and elector to fill such vacancy for the unexpired term of the vacated position. Appointment shall be made only after solicitation of applicants by advertisement in a newspaper of local circulation and review of all such applications by the Town Council.

#### 2-3-6 Functions, Powers, and Duties

The Board shall have all the powers and duties of Municipal Boards of Building Appeals as now or hereafter set by law, the powers and duties set forth in this Chapter, and such other powers and duties as may be established by the Council from time to time.

#### 2-3-7 Officers, Rules, Quorum

The Board shall elect a Chairman and Vice-Chairman from among its members during January of each year. Terms of all elected offices shall be for one (1) year, with each office eligible for re-election. The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

A quorum shall consist of three (3) members, and a majority vote of three (3) members shall be necessary to act on any appeal request before the Board.

#### 2-3-8 Appeals Process

A. Form of Appeal. Those matters subject to decision by a Board of Appeals as set forth in the Building Codes and other Uniform Codes adopted by the Town may be appealed by filing a written appeal at the office of the Building Official with a copy to the Town Clerk. Said written appeal shall contain the following:

1. A heading in the words: "Before the Board of Appeals of the Town of Breckenridge."
2. A caption reading: "Appeal of \_\_\_\_\_," giving the names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within thirty (30) days from the date of issuance of an appealable order or appealable action of the Building Official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 404 of the Uniform Code for the Abatement of Dangerous Buildings 1985 Edition or Section 1104 of the Uniform Housing Code 1985 Edition, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the Building Official.

- B. Processing of Appeal. Within five (5) days of receipt of any appeal filed pursuant to this section, the Building Official shall notify the members of the Board of Appeals of such appeal in writing.
- C. Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than five (5) days nor more than thirty (30) days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least five (5) days (or such shorter time as may be agreed upon by appellants) prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of such notice to be delivered to the appellant(s) personally or by mailing a copy thereof, postage prepaid, addressed to the appellant(s) at the address(es) shown on the appeal.
- D. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of his right to an administrative hearing and adjudication of the order, action, or notice and any portion thereof.
- E. Scope of Hearing on Appeal. Only those matters or issues specifically specified by the appellant in its written appeal shall be considered in the hearing of the appeal.
- F. Hearing and Decision. The Board shall hold a hearing on each appeal before it, and shall render its decision based upon the evidence presented at said hearing, the requirements of the Code, and whatever additional evidence or knowledge that may be relevant. All decisions shall be reached within thirty (30) days after the hearing and shall be transmitted in writing to the appellant.
- G. Staying of Order Under Appeal. Except for vacation orders made pursuant to Section 403 of the Uniform Code for the Abatement of Dangerous Buildings 1985 Edition or Section 1103 of the Uniform Housing Code 1985 Edition, enforcement of any notice and order of the Building Official issued under this Code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

SECTION 2.

Title 2 Departments, Boards, and Commissions, Chapter 2, Section 2-8 of the Breckenridge Town Code "Functions, Powers, and Duties" is hereby amended to read as follows:

"The Commission shall have all the powers and duties of Municipal Planning Commissions, Boards of Zoning Adjustment as now or hereafter set by law, the powers and duties set forth in this Chapter, and such other powers and duties as may be established by the Council from time to time.

SECTION 3.

Section 8-1-3:A.2 of the Breckenridge Town Code is hereby repealed.

SECTION 4.

A. Section 204 of the Uniform Building Code 1985 Edition shall be amended to read as follows:

"Section 204. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of this Code, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction. The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business and shall render all decisions in writing to the appellant with a duplicate copy to the jurisdiction."

B. Section 203 of the Uniform Mechanical Code 1985 Edition shall be amended to read as follows:

"Section 203. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of this Code, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to mechanical design, construction and maintenance, and the public health aspects of mechanical systems and who are not employees of the jurisdiction. The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business and shall render all decisions in writing to the appellant with a duplicate copy to the jurisdiction."

C. Chapter 12 "Appeal" of the Uniform Housing Code 1985 Edition is hereby deleted in its entirety.

D. Chapter 5 "Appeal" of the Uniform Code for the Abatement of Dangerous Buildings 1985 Edition is hereby deleted in its entirety.

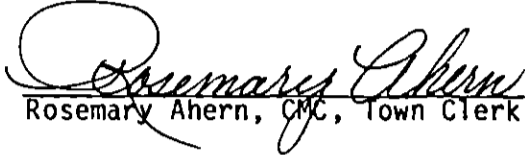
E. Section 203 of the National Electrical Code 1984 Edition shall be amended to read as follows:


"Section 203. In order to determine the suitability of alternate materials and methods of installation and to provide for reasonable interpretations of this Code, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to design, construction, installation, and maintenance of electrical systems and equipment. The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the jurisdiction."

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED  
IN FULL ONLY this 13th day of January, 1987. A Public Hearing on the  
Ordinance shall be held at the regular meeting of the Town Council of the  
Town of Breckenridge, Colorado, on the 27th day of January, 1987, at 7:30  
p.m. or as soon thereafter as possible in the Municipal Building of the  
Town.

ATTEST:

TOWN OF BRECKENRIDGE

  
Rosemary Ahern, CMC, Town Clerk

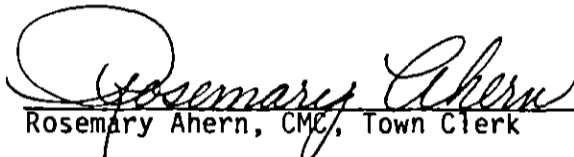
  
Stephen C. West, Mayor

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE  
ONLY this 27th day of January, 1987.

A copy of this Ordinance is available for inspection in the  
office of the Town Clerk.

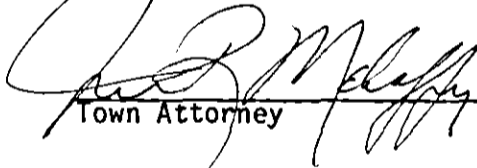
ATTEST:

TOWN OF BRECKENRIDGE

  
Rosemary Ahern, CMC, Town Clerk

  
Stephen C. West, Mayor

APPROVED IN FORM

  
Town Attorney

1-27-87  
Date