

Series 1993

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION ORDINANCE", AND THE UNIFORM BUILDING CODE, 1988 EDITION, AS ADOPTED BY REFERENCE IN CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE TOWN CODE, CONCERNING THE DURATION OF DEVELOPMENT PERMITS, BUILDING PERMITS AND VESTED PROPERTY RIGHTS

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

Section 1. There is hereby added to Section 9-1-5 of the Breckenridge Town Code a new definition of "Approval By Town Council", which shall read in its entirety as follows:

APPROVAL BY TOWN COUNCIL The approval by the Town Council of the issuance of a development permit, either by affirmation of the decision of the Planning Commission, or following a call-up procedure held in accordance with Section 9-1-18-5.

Section 2. The definition of "Site Specific Development Plan" as set forth in Section 9-1-5 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

SITE SPECIFIC DEVELOPMENT PLAN A Class A, B or C development permit.

Section 3. There is hereby added to Section 9-1-5 of the Breckenridge Town Code a new definition of "Substantial Construction", which shall read in its entirety as follows:

SUBSTANTIAL CONSTRUCTION The completion of the construction of footings, foundation, and the installation of water and sewer service lines for a project. The completion of the foundation must be certified by the building official; the installation of the water service lines must be approved by the Town; and the installation of the sewer service lines must be approved by the Breckenridge Sanitation District. If the development permit for a project provides that the project will be constructed in phases, substantial construction must be achieved for each phase within the time period provided in the development permit.

Section 4. Section 9-1-17-8 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

9-1-17-8: DURATION OF DEVELOPMENT PERMIT:

A. Development permits issued pursuant to this Chapter are valid only for the following time periods:

Table with 2 columns: Class of Development Permit, Duration of Permit. Rows: A (3 years), B (3 years), C (18 months), D (6 months)

The term of a Class A, B or C development permit shall commence on the date of approval of the development permit by the Town Council. The term of a Class D development permit shall commence on the date of the issuance of such permit by the Director.

B. For those development permits for which vested property rights are created pursuant to Section 9-1-17-11, the duration of the development permit and the duration of the vested property rights are the same. The extension of the vested property rights for a project also operates to extend the duration of the development permit for so long as such vested property rights continue to exist as provided in this Section.

Section 5. There is hereby added to the Breckenridge Town Code a new Section 9-1-17-11, to be entitled "Vested Property Rights", which shall read in its entirety as follows:

9-1-17-11 VESTED PROPERTY RIGHTS:

A. *Vested Property Right Created:* A vested property right for a development other than a subdivision shall be deemed to have been created only upon the approval by the Town Council of a site specific development plan in accordance with this Section.

B. *Notice and Hearing:* No site specific development plan shall be approved until after a public hearing preceded by notice. In all cases, such hearing shall be held before the Planning Commission in connection with the normal development application process. In those instances where the decision of the Planning Commission is called up, a second hearing, also preceded by notice, shall be held before the Town Council. At all such hearings interested persons shall have an opportunity to be heard.

C. *Notice of Approval:* Each development permit which constitutes a site specific development plan shall contain the following language:

Issuance of this development permit constitutes a vested property right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended." The failure of the development permit to contain such language shall invalidate the creation of the vested property right.

A notice generally describing the type and intensity of the use approved, the specific parcel or parcels or property affected, and stating that a vested property right has been created shall also be published once by the Town in a newspaper of general circulation in the Town not more than fourteen (14) days after the approval of the issuance of the development permit which gives rise to the vested property right.

D. *Duration of Vested Right:* Subject to the provisions of subparagraph F of this Section, all vested rights with respect to any Class A or B development permit shall terminate and expire at the end of three years from the date of the approval by the Town Council of such development permit, and all vested rights with respect to a Class C development permit shall expire eighteen months from the date of the approval by the Town Council of such permit, unless substantial construction pursuant to such permit has been completed. If substantial construction has been completed during such three year period, the vested property rights for such project shall be extended for so long as the Building Permit for such project remains in effect. The vested property rights for a project may be extended in the manner provided in subparagraph I of this section. For those development permits for which vested property rights are created pursuant to this Section, the duration of the development permit and the duration of the vested property rights are the same, and the extension of the vested property rights also operates to extend the development permit for so long as such vested property rights continue to exist pursuant to this Section.

E. *Phasing of Projects:* If a project is proposed to be constructed in phases, such phasing shall be considered by the Planning Commission and, if phasing is approved, the duration of the development permit and the vested property rights for such project shall be as provided in the development permit.

F. *Execution of Development Permit:* Within twenty one (21) days following approval of a site specific development plan the Town shall prepare and mail or hand deliver to the applicant a development permit for the approved project. Within 30 days following the mailing of the development permit the applicant shall execute and return the development permit to the Town. Failure to execute and return the development permit within such time period shall operate as a waiver of all vested property rights with respect to the project, and the duration of the permit shall be as provided in Section 9-1-17-8, without the benefit of any vested property right.

G. *Other Provisions Unaffected:* Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development and use of property.

H. *Amendment to Site Specific Development Plan:* In the event an amendment to a site specific development plan is proposed and approved, the effective date of such amendment for the purpose of determining the duration of a vested property right shall be the date of the approval of the original development permit which gave rise to the vested property rights for the project, unless the an extension of the vested property rights is approved in the manner provided in subparagraph (I) of this Section.

I. *Extension of Vested Property Right:* A development permit and the vested property rights for such project may be extended by the Planning Commission. An application for an extension shall be made in writing to the Director, and shall include such submittal information as the Director may require. Such application must be received at least thirty (30) days prior to the expiration of the development permit. An application for an extension which is received within the specified time period shall extend the development permit and the vested property rights for such project until such application is finally determined, and an application for extension shall be considered even though, at the time of such consideration, the development permit would have otherwise expired. Failure to submit a written request for extension within the specified time period shall cause the development permit and the vested property rights for such project to expire at the end of the time period provided in subparagraph D of this section. An extension application shall be classified and processed one classification lower than the classification of the development permit which gave rise to the vested property rights for the project. The Planning Commission may approve the requested extension, deny the requested extension or approve the requested extension with conditions. If an extension is granted, the Planning Commission shall fix the period of extension which may be up to and including a period of three (3) years.

J. *Effect of Termination of Vested Property Right on Public Rights Of Way:* The termination of a vested property right shall have no effect upon public streets, alleys or rights of way previously dedicated with respect to such project.

K. *Development Agreements:* The Town Council may, by agreement with the landowner or developer, provide that a property right shall be vested for a period exceeding three (3) years when warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions. In such agreement the Town Council may also designate an approval other than that described in this Section as a site specific development for a specific project.

Section 6. There is hereby added to Section 9-2-2 a new definition of "Approval By Town Council", which shall read in its entirety as follows:

APPROVAL BY TOWN COUNCIL

The approval by the Town Council of the issuance of a development permit for a subdivision, either by affirmation of the decision of the Planning Commission, or following a call-up procedure held in accordance with Section 9-2-3-4.

Section 7. The definition of "Site Specific Development Plan" as set forth in Section 9-2-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

SITE SPECIFIC DEVELOPMENT PLAN

A development permit issued under this Chapter which approves a Class A or Class B subdivision plan.

Section 8. Section 9-2-1-13 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. Class C Subdivisions: Development permits for Class C subdivisions shall be valid for a period of only eighteen (18) months after the date of the approval of the Planning Commission decision by the Town Council, unless otherwise authorized by the provisions of this Chapter.

B. Class A or B Subdivisions (site specific development plans): Development permits for Class A and Class B subdivisions shall be valid for a period of three (3) years after the date of the approval by the Town Council, unless otherwise authorized by the provisions of this Chapter. Vested property rights for Class A and Class B subdivision approvals shall be established and administered under the provisions of this Section.

1. Vested Property Right Created: A vested property right for a subdivision shall be deemed to have been created only upon the approval by the Town Council of a site specific development plan in accordance with this Section.

2. Notice and Hearing: No site specific development plan shall be approved until after a public hearing preceded by notice. In all cases, such hearing shall be held before the Planning Commission in connection with the normal development application process. In those instances where the decision of the Planning Commission is called up, a second hearing, also preceded by notice, shall be held before the Town Council. At all such hearings interested persons shall have an opportunity to be heard.

3. Notice of Approval: Each development permit which constitutes a site specific development plan for a subdivision shall contain the following language:

"Issuance of this development permit constitutes a vested property right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended." The failure of the development permit to contain such language shall invalidate the creation of the vested property right.

A notice generally describing the type and intensity of the use approved, the specific parcel or parcels or property affected, and stating that a vested property right has been created shall also be published once by the Town in a newspaper of general circulation in the Town not more than fourteen (14) days after the approval of the issuance of the development permit which gives rise to the vested property right.

4. *Duration of Vested Right:* Subject to the provisions of subparagraph 6 of this Section, all vested rights with respect to any Class A or B subdivision shall terminate and expire at the end of three years from the date of the approval by the Town Council of the development permit for such subdivision. The vested property rights for a subdivision may be extended in the manner provided in subparagraph I of this section. For those development permits for which vested property rights are created pursuant to this Section, the duration of the development permit and the duration of the vested property rights are the same, and the extension of the vested property rights also operates to extend the development permit for so long as such vested property rights continue to exist pursuant to this Section.

5. *Phasing of Subdivisions:* If a subdivision is proposed to be constructed in phases, such phasing shall be considered by the Planning Commission and, if phasing is approved, the duration of the development permit and the vested property rights for such subdivision shall be as provided in the development permit.

6. *Execution of development permit:* Within twenty one (21) days following approval of a site specific development plan the Town shall prepare and mail or hand deliver to the applicant a development permit for the approved subdivision. Within 30 days following the mailing of the development permit the applicant shall execute and return the development permit to the Town. Failure to execute and return the development permit within such time period shall operate as a waiver of all vested property rights with respect to the subdivision, and the duration of the permit shall be as provided in Section 9-2-1-13A of this Chapter, without the benefit of any vested property rights.

7. *Other Provisions Unaffected:* Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development and use of property.

8. *Amendment to Site Specific Development Plan:* In the event an amendment to a site specific development plan is proposed and approved, the effective date of such amendment for the purpose of determining the duration of a vested property right shall be date of the approval of the original development permit which gave rise to the vested property rights for the subdivision, unless the Town Council specifically finds to the contrary and incorporates such finding into its approval of the amendment.

9. *Extension of Vested Property Right:* A development permit and the vested property rights for such subdivision may be extended by the Planning Commission. An application for an extension shall be made in writing to the Director, and shall include such submittal information as the Director may require. Such application must be received at least thirty (30) days prior to the expiration of the development permit. An application for an extension which is received within the specified time period shall extend the development permit and the vested property rights for such subdivision until such application is finally determined, and an application for extension shall be considered even though, at the time of such consideration, the development permit would have otherwise expired. Failure to submit a written request for extension within the specified time period shall cause the development permit and the vested property rights for such subdivision to expire in three years as provided in subparagraph D of this section. An extension application shall be classified and processed one classification lower than the classification of the development permit which gave rise to the vested property rights for the subdivision. The Planning Commission may approve the requested extension, deny the requested extension or approve the requested extension with conditions. If an extension is granted, the Planning Commission shall fix the period of extension which may be up to and including a period of three (3) years.

10. *Effect of Termination of Vested Property Right on Public Rights Of Way:* The termination of a vested property right shall have no effect upon public streets, alleys or rights of way previously dedicated with respect to such subdivision.

11. *Development Agreements:* The Town Council may, by agreement with the landowner or developer, provide that a property right shall be vested for a period exceeding three (3) years when warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions. In such agreement the Town Council may also designate an approval other than that described in this Section as a site specific development for a specific subdivision.

Section 9. Subparagraph (A)(5) of Section 8-1-3 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

(d) Duration of Permit.

(1) Every permit issued by the building official under this code shall expire and become null, void and on no further effect upon the happening of any of the following events:

(a) the failure of the permittee to commence the building or work authorized by the permit within 180 days from the date of the issuance of such permit;

(b) the suspension or abandonment of the work after commencement for a period of 180 consecutive days; or

(c) the expiration of the development permit for the project as provided in Section 9-1-17-8 or 9-2-1-13 of the Town Code.

(2) In order to commence or continue the work following the expiration of a permit a new permit must be obtained and a new full permit fee paid; provided, however, that if (i) the application for the new permit is made within one year of the expiration of the prior and (ii) no changes have been made or will be made in the original plans and specification for the work, the permit fee for such new permit shall be one-half of the amount required for a new permit.

(3) Any permittee holding an unexpired permit may apply in writing to the building official for an extension of time within which work may be commenced under the permit when the permittee is unable to commence the work within the time required by Subparagraph (1)(a), above, as result of circumstances beyond the control of the permittee, or for other good cause. The Building Official may approve an extension of up to an additional 180 days for the commencement of the work under the permit. The time for the commencement of the work shall not be extended more than once. No extension of time for the commencement of the work shall be granted unless there existed at the time of the request a valid development permit for the project.

(4) Any permittee holding an unexpired permit may apply in writing to the building official for an extension of such permit to avoid the expiration of such permit due to suspension or abandonment of the work as provided in Subparagraph (1)(b), above, when the permittee is unable to continue the work during such 180 day period as result of circumstances beyond the control of the permittee, or for other good cause. The Building Official may approve an extension of the permit for up to an additional 180 days. The permit shall not be extended more than once pursuant to this Subparagraph (4). No extension pursuant to this Subparagraph (4) shall be granted unless there existed at the time of the request a valid development permit for the project.

(5) The issuance of a new permit following the expiration of a prior permit shall not operate to extend or revive the vested property rights or development permit for such project.

(6) Building permits are transferable, but permit fees and plan check fees are not refundable. When a change of general contractor is made, a prorated transfer fee based upon the percentage of construction yet to be completed shall be paid. The prorated percentage determined by the Building Official may be appealed by the owner to the Board of Appeals in accordance with Section 204. Single family and duplex dwellings (R-3) are exempt from transfer fees.

Section 10. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 11. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

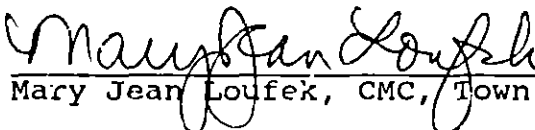
Section 12. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of Article 68 of Title 24, C.R.S., and the power possessed by home rule municipalities in Colorado.

Section 13. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Code.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 27th day of July, 1993. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 10th day of August, 1993 at 7:30 p.m. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Stephen C. West, Mayor

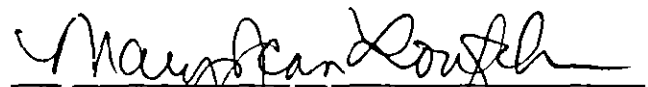
This Ordinance was published in full in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge, on August 5, 1993.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE with amendments this 10th day of August, 1993.

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


ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Stephen C. West, Mayor

APPROVED IN FORM


Town Attorney

8/10/93
Date

This Ordinance was published by title in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge, on August 19, 1993.