

ORDINANCE NO. 9

Series 1996

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, ENTITLED "OFF-STREET PARKING REGULATIONS"; ADOPTING STANDARDS AND CRITERIA FOR REQUIRED OFF-STREET PARKING IN CONNECTION WITH THE DEVELOPMENT OF REAL PROPERTY; AUTHORIZING THE TOWN TO ACCEPT PAYMENT OF A PARKING FEE IN LIEU OF THE PROVISION OF OFF-STREET PARKING; PROVIDING FOR THE AMOUNT OF THE IN LIEU FEE; AND ESTABLISHING RESTRICTIONS ON THE USE OF IN LIEU FEES COLLECTED BY THE TOWN

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

Section 1. Chapter 3 of Title 9 of the Breckenridge Town Code, entitled "Off-Street Parking Regulations", is hereby repealed and readopted with changes so as to read in its entirety as follows:

CHAPTER 3

OFF-STREET PARKING REGULATIONS

SECTION:

- 9-3-1: Title
- 9-3-2: Purpose
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- 9-3-13: Use of In Lieu Fee By Town
- 9-3-14: Refund of In Lieu Fee
- 9-3-15: In Lieu Fee Account
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- 9-3-17: Responsibility
- 9-3-18: Violations; Penalties

**9-3-1: TITLE:** This Chapter shall be known and cited as the "Town of Breckenridge Off-Street Parking Ordinance."

**9-3-2: PURPOSE:** The purpose of this Chapter is to (i) encourage the provision of adequate off-street parking in connection with the development of real property within the Town, (ii) establish standards and criteria pertaining to required off-street parking in connection with the development of real property within the Town, (iii) preserve and protect the air quality within the Town, (iv) minimize the disruptions to traffic flow and pedestrian safety resulting from poorly designed or inadequate amounts of off-street parking, (v) provide the developer of commercial property located within a portion of the Town's commercial core the option to satisfy the Town's off-street parking requirement by payment of a parking fee in lieu of providing required off-street parking, (vi) establish the rules governing the accounting and use of all in lieu fees collected by the Town, and (vii) generally implement the Town's Master Plan and land use ordinances by requiring that new development provide its fair share of off-street parking facilities.

**9-3-3: AUTHORITY:** This Chapter is adopted pursuant to one or more of the following authorities: (i) the authority granted to home rule municipalities in Colorado by Article XX of the Colorado Constitution, (ii) the powers contained in the Breckenridge Town Charter, (iii) the powers contained in Parts 2 and 3 of Article 23 of Title 31, C.R.S., and (iv) The Colorado Land Use Enabling Act, Article 20 of Title 29, C.R.S. The provisions of this Chapter shall not be construed to limit the power of the Town to utilize other methods authorized under state law or pursuant to other local government powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this Chapter.

**9-3-4: FINDINGS:** The Town Council of the Town of Breckenridge hereby finds and determines that (i) new development within the Town imposes increased demands for off-street parking, (ii) studies conducted for the Town by Felsburg, Holt & Ullevig show that there is currently insufficient public off-street parking to meet the present and future parking needs of the Town, its residents and visitors, (iii) studies conducted for the Town by Felsburg, Holt & Ullevig further demonstrate that new commercial development will place ever-increasing demands on the Town to provide public parking facilities to serve new commercial development, (iv) the development potential and value of properties in the Town are strongly influenced by Town policies as expressed in the Town's Master Plan and as implemented by the Town in its Development Code and other land use regulations, (v) the "Service Area" of downtown Breckenridge, as hereafter defined in this Chapter, consists of a variety of land uses exhibiting parking demands which can vary by season as well as by time of day and, therefore, there is a significant potential for joint use of shared parking facilities, (vi) the parking demand ratios for the Service Area set forth in Section 9-3-8 have been verified by field observations and reflect the joint use aspect as set forth above, (vii) the parking demand ratios set forth in Section 9-3-8 yield reasonable total parking supplies when applied to the aggregate development totals for the entire geographic area encompassed by the Service Area, (viii) to the extent new development places demands upon the Town's public parking facilities, those demands should be satisfied, at least in substantial part, by shifting the responsibility for providing off-street parking from the public to the development creating the demands, (ix) the Town is responsible for and is committed to providing public parking facilities at levels necessary to cure any existing deficiencies in already developed areas, and (x) in lieu fees collected pursuant to this Chapter may not be used to cure existing deficiencies in public parking facilities.

**9-3-5: APPLICABILITY:** The provisions of this Chapter shall apply to all new development of real property (as that term is defined in the Town's Development Code) which (i) involves new construction for which a Development Permit is required, (ii) involves a change of use which causes an increase in the parking requirement, or (iii) involves a remodel of an existing building or structure for which a Development Permit is required; provided, however, that compliance with the requirements of this Chapter is required for a remodel or change of use only to the extent additional off-street parking is required (using the requirements of this Chapter to determine the parking requirement for a pre-existing use) as a result of the remodeling or change of use of the existing building or structure. There is no obligation on the part of a developer to cure any existing deficiency in the provision of off-street parking for an existing structure in connection with the issuance of a Development Permit for the further development of such structure.

**9-3-6: DEFINITIONS:** When used in this Chapter, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Words, terms, and phrases, and their derivations, used in this Chapter which are defined in the Breckenridge Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code) shall have the meaning ascribed to them in that Chapter, unless there is a conflict with a specific definition set forth in this Section, in which case the specific definition in this Section shall control.

<b>CAPITAL REPAIR</b>	A repair of a municipal parking facility which extends the useful life of such facility by five years or longer.
<b>COMMERCIAL USE</b>	See definition of "Commercial Use" in Section 9-1-5 of this Code.
<b>COMMITTED FOR EXPENDITURE</b>	The earmarking of in lieu fees to fund or partially fund eligible parking improvements.
<b>DEVELOPMENT CODE</b>	Chapter 1 of Title 9 of the <u>Breckenridge Town Code</u> .
<b>ELIGIBLE PARKING IMPROVEMENT</b>	Those uses for which parking fees collected by the Town may be expended as provided in Section 9-3-13 of this Chapter.
<b>GROSS FLOOR AREA (GFA)</b>	See definition of "Floor Area" set forth in Section 9-1-5 of this Code.
<b>IN LIEU FEE</b>	The optional fee authorized to be paid by a developer and collected by the Town pursuant to Section 9-3-12 of this Chapter.
<b>MOTOR VEHICLE OR VEHICLE</b>	Any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways.
<b>MUNICIPAL PARKING FACILITY</b>	A surface lot, parking structure or other facility owned, operated and maintained by the Town to provide parking for the general public.

OFF-STREET PARKING FACILITY	A privately owned surface lot, parking structure or other facility containing one or more off-street parking spaces or stalls.
OFF-STREET PARKING SPACE OR STALL	A parking space for a motor vehicle which is located on the property to be developed and not on or within any public property or public street, alley or right of way.
PARKING SPACE	An individual space designed to park a motor vehicle and meeting the minimum specifications of this Chapter.
SERVICE AREA	The multi-use area of the Town as depicted on the map maintained in the office of the Director. Such map is incorporated herein by reference and made a part of this Chapter. A copy of the map is attached to this Chapter as Attachment A. The map shall be interpreted so that the boundaries of the Service Area follow the centerline of streets, roads, alleys and rights-of-way, and existing property boundary lines; provided that the boundary of the Service Area around the area commonly known as the "Dredge Pond" shall be the indicated on the map irrespective of property boundaries. Disputes regarding the boundaries of the Service Area shall be determined by the Town Council.

**9-3-7: PROCEDURES:**

A. Applications, site plans and designs for off-street parking shall be processed pursuant to the provisions of Section 9-1-17 of the Development Code.

B. In addition to all information required under the Development Code, all applications for a Development Permit for which off-street parking is required under this Chapter shall be accompanied by an analysis of the number of off-street parking spaces required under this Chapter for the proposed development, together with a site plan meeting the requirements of Paragraph C of this Section.

C. Two (2) copies of a detailed site plan shall be submitted at the time of the application. The site plan shall be drawn in ink at a scale of one inch equals ten feet (1" = 10') unless another scale is authorized by the Director. The site plan shall clearly indicate the direction North; the street or alley providing access; pedestrian ways; public rights of way and setback lines affected by the parking facility; access points; bay and stall locations; other maneuvering areas; landscaped areas; snow stacking areas; signs; striping; traffic control devices; lighting structures; and the location of the uses or structures for which the parking is intended.

**9-3-8: OFF-STREET PARKING REQUIREMENT:**

A. Within the Service Area. In connection with the development of all property within the Service Area there shall be provided the following amount of off-street parking:

Land Use Category	Number of Required Off-Street Parking Spaces (Per TSF-GFA * Unless Otherwise Noted)
<b>Residential</b>	
Single Family	1.1
Duplex	1.1
Multi-Family: Efficiency, Studio	1.1
Multi-Family: 1 Bedroom Plus	1.1
Condominium: Efficiency, Studio	1.1
Condominium: 1 Bedroom Plus	1.1
Condominium - Hotel: Efficiency, Studio, 1 Bedroom	1.1
Condominium - Hotel: 2 Bedroom Plus	1.1
Divisible Unit	1.1
Lodging, Hotel, Motel	1.1

Dormitory	1.1
<b>Commercial</b>	
Retail Sale, Commercial	
- General Retail, Commercial	1.4
- Supermarket	2.5
- Financial	1.9
Office	
- General Office	1.4
- Government Office	2.2
Auto Service Station	3.0/Bay + 1/Pump
Restaurant: Sit Down	3.5
Auditorium, Theater	0.3/seat
Church	0.5
Convention Center	3.1
Library, Museum	1.8
Medical/Dental Clinic	3.3
Commercial Recreation	2.0

\*TSF-GFA = 1,000 square feet of Gross Floor Area

Note: If the required parking is less than one (1) space, and for any fractional parking space required, the applicant shall be required to pay the in lieu fee provided in Section 9-3-12 of this Chapter.

B. Outside the Service Area. In connection with the development of all property outside the Service Area there shall be provided the following amount of off-street parking:

<b>Residential</b>	
Single-family	2.0/du
Duplex	1.5/du
Multi-family	
Efficiency-Studio	1.0/du
1 Bedroom and larger	1.5/du
Divisible Unit	+0.5 for each divisible room
Condominium-Hotel	
Efficiency, Studio, one bedroom	1.0/du
Two bedroom and larger	1.5/du
Divisible Unit	+0.5 for each divisible room
Lodging, Hotel, Motel	1.0/guest room
Dormitory	0.5/bed
<b>Schools</b>	
Elementary and Junior High	2/classroom
High School	1/4 students and faculty
College	1/4 students and faculty

Commercial	
Retail Sale, Commercial & Office	1/400 sq. ft. GFA (min 2/bldg)
Construction-Contracting	1/200 sq. ft + 1 loading bay per 1000 sq. ft.
Industrial Use	1/400 sq. ft. + 1 loading bay per 1000 sq. ft.
Auto Service Stations	3/service bay + 1/pump
Restaurants-Sit Down	1/4 persons capacity
Restaurants-Drive In	1/100 sq. ft. GFA
Auditoriums-Theaters	1/4 seats
Churches	1/6 seats
Convention Center Facility	By special review of the Director and Planning Commission
Library and Museum	1/500 sq. ft. GFA
Medical and Dental Clinics	1/300 sq. ft. GFA
Hospital	1/3 beds
Commercial Recreation/Indoor & Outdoor	By special review of the Director and Planning Commission

**Note:** The required number of parking spaces shall be rounded up to the nearest whole number.

C. Compliance with Parking Requirement Mandatory. No new development for which off-street parking is required under this Chapter may be approved unless compliance with the requirements of this Section is achieved.

**9-3-9: DESIGN STANDARDS FOR OFF-STREET PARKING FACILITIES:** Each off-street parking facility constructed pursuant to the requirements of this Chapter shall conform to the following design standards:

A. Compliance With Codes Required. The design and structural quality of all off-street parking spaces and facilities required by this Chapter shall conform to (i) all applicable standards contained in this Chapter, (ii) the Development Code, (iii) the Breckenridge Street Standards Ordinance (Chapter 1 of Title 10 of this Code), and (iv) other applicable Town Ordinances. Drainage facilities shall be constructed pursuant to the Breckenridge Storm Drainage Ordinance (Chapter 2 of Title 10 of this Code) and the Town's Water Quality and Sediment Transport Control Ordinance (Chapter 4 of Title 10 of this Code).

B. Width of Parking Aisles. The following minimum aisle widths shall apply to all off-street parking facilities within the Town:

<u>Angle of Parking Stall</u>	<u>Aisle Width</u>
45°	12 feet
60°	16 feet
75°	22 feet
90°	24 feet

C. Size of Parking Stalls. The following minimum sizes shall apply to all off-street parking stalls within the Town:

	<u>Length</u>	<u>Width</u>
30°-90° parking	8 ft.	9 ft.
Parallel parking	25 ft.	8 ft.
Enclosed parking	18 ft.	9 ft.

D. Ingress and Egress. The ingress and egress provisions for off-street parking spaces shall conform to the following standards:

1. No portion of any entrance or exit driveway leading from or to a public street, highway or alley for the purpose of off-street parking shall be closer than thirty five feet (35') to an intersection point of two (2) or more public streets, alleys or highways. The intersection point shall be determined by the crossing of two (2) rights of way, curb lines or two (2) physically established edges of the public street, alley or highway, whichever is most restrictive.

2. Width of Driveways. The width of any driveway connecting an off-street parking area with a public street, alley or highway shall not exceed thirty feet (30') at its intersection with the property line, curb line, right of way or the physically established edge of the public street, alley or highway, whichever is most restrictive.

3. Frequency of Driveways. No two (2) driveways connecting a public street, alley or highway to an off-street parking area shall be within thirty feet (30') of one another at their intersections with the property line, curb line, right of way line or the physically established edge of the public streets, alley or highway, whichever is most restrictive.

4. Angle of Intersection. All driveways serving off-street parking facilities shall intersect public streets and alley ways and other driveways at a ninety degree (90°) angle.

5. Accessibility. All off-street parking stalls shall have legal, unobstructed access to a public street or alleyway.

6. Backing On To Public Street. Excepting single-family and duplex parking areas all other parking stalls shall be so designed, located and served by maneuvering lanes or spaces that their use will under no circumstances require a backing movement onto any public street.

7. Visual Clearance. All driveways leading to and from off-street spaces that intersect possible pedestrian ways shall be visually unobstructed for such distances as not to imperil pedestrians or interfere with vehicular traffic on the street.

8. Traffic. The location and number of driveways must be so arranged that they will reduce the possibilities of traffic hazards as much as possible.

E. Lighting. All parking facilities containing ten (10) or more parking spaces shall have an average surface illumination of not less than 0.2 foot candles or more than 1.5 foot candles. All lights shall be designed, located and arranged so as to reflect the light away from adjacent streets and structures.

F. Grades. The sustained surface grades for parking areas shall not exceed a minimum of one-half percent (.5%) or a maximum of four percent (4%).

G. Drainage. All off-street parking facilities shall be graded for proper drainage so that all surface discharge is channelled to a natural or improved drainage way without causing nuisance or damage to other properties or the improvements thereon.

H. Location. The location of all required off-street parking facilities shall be as follows:

1. Residential Uses: For residential uses, except residences located in buildings adjacent to the Riverwalk as defined in Policy 37 (Absolute) of Section 9-1-19 of this Chapter, all required off-street parking spaces shall be provided on the same property as the residential units they are intended to serve.

2. Nonresidential Uses: Off-street parking for nonresidential uses shall be placed totally on the same parcel of land as the use.

3. Parking Space Location: No parking space shall be located closer than five feet (5') from any public street, public alley, public pedestrian way or public right of way.

I. Landscaping. A minimum of twenty five (25) square feet per parking stall shall be utilized for landscaping purposes. Any parking facility containing more than two side-by-side loading spaces shall contain at least two hundred (200) square feet of landscaped area raised a minimum of six inches (6") above the parking surface for each two side-by-side loading spaces. Landscaping shall be maintained according to the standards contained in the Development Code.

J. Snow Stacking. All off-street surface parking facilities shall provide a minimum of sixty (60) square feet of snow stacking space for each parking space. Such space shall be so located as to reasonably facilitate the snow plowing process. The snow stacking space shall be landscaped in such a manner as not to interfere with the snow stacking process.

K. Signs. The placement of appropriate signs is encouraged according to the provisions of the Breckenridge Sign Ordinance (Chapter 2 of Title 8 of this Code). Parking lot and circulation directional signs must be approved pursuant to the Town's Sign Ordinance. All signs relating to off-street parking facilities shall be reviewed according to the Development Code.

L. Paving. All off-street parking spaces for non-residential and multi-family uses shall be paved.

**9-3-10: MAINTENANCE OF OFF-STREET PARKING FACILITIES:**

A. It shall be the responsibility of the owner to maintain the off-street parking facility in a state of good repair and in an unobstructed condition so as to assure that all required off-street parking spaces are available for use on a daily basis. This shall include the facility as a whole and each of its component parts including surfacing, drainage, signs, striping, lights and landscaping.

B. Upon an accumulated snow depth of four inches (4") of uncompacted snow all off-street parking facilities shall be substantially cleared of snow within twenty four (24) hours. The removed snow shall be stacked in such a way so as to not to impair lines of sight or disrupt the proper flow of vehicular or pedestrian traffic or drainage waters.

**9-3-11: USE RESTRICTIONS FOR OFF-STREET PARKING FACILITIES:**

A. The required amount of off-street parking spaces shall be for the parking of operable passenger vehicles of residents, customers, patrons, and employees only, and shall not be used as parking for vehicles which are being used as a residence, for storage of vehicles or materials or for the parking of trucks used in conducting the business or use. The parking requirements for such excluded vehicles shall be determined according to the provisions relating to special reviews.

B. In residential areas, off-street parking spaces may not be used by vehicles that do not fit entirely within the parking space.

C. Off-street parking spaces shall not be used for the parking or storage of trailers, boats, detached campers, disabled or inoperable vehicles or other objects that will render the parking space unusable according to the intent and purpose of this Chapter.

D. No off-street parking spaces shall be used for the sale, repair, dismantling or servicing of any vehicle, equipment, materials or supplies.

**9-3-12: AUTHORITY OF TOWN TO ACCEPT PAYMENT OF FEE IN LIEU OF THE PROVISION OF OFF-STREET PARKING:** An applicant to develop property for a commercial use within the Service Area (and only within such area) may be permitted to pay a fee to the Town in lieu of providing all or part of the off-street parking required by Section 9-3-8 of this Chapter. The right of an applicant to make such payment, and the authority of the Town to accept such payment, shall be subject to the following limitations:

A. The amount of the in lieu fee shall be \$13,000.00 per space, or fraction thereof, for each required off-street parking space. The amount of this fee shall be reviewed annually by the Town Council, and shall be adjusted if required.

B. No in lieu fee shall be imposed by the Town or paid by the applicant without the consent of the applicant. Such consent may be evidenced by the applicant's signature on the Development Permit.

C. An in lieu fee shall be collected prior to or at the time of the issuance of a building permit for the development.

D. Except as provided in Section 9-3-14(D), in lieu fees once paid are non-transferable and non-refundable. Any in lieu fee paid in connection with the development of a particular lot, tract or parcel shall run with the land for which is paid and is non-transferable to any other lot, tract or parcel.

E. If the development permit for which an in lieu fee has been paid has expired, and a new application for a development permit is thereafter filed for the same development, the Town shall credit any previous payment of in lieu fees against any in lieu fees due for the new application.

F. If a change in use of a property results in a reduced requirement for off-street parking under the provisions of this Chapter, no compensation shall be paid or provided by the Town with respect to off-street parking spaces which are no longer required.

**9-3-13 USE OF IN LIEU FEES BY TOWN:**

A. The in lieu fees collected by the Town pursuant to Section 9-3-12 may be expended by the Town only for the following purposes:

1. Acquisition, or recoupment of the cost of acquiring, real property for the construction of municipal parking facilities within the Service Area, or any area located immediately adjacent thereto if the Town Council determines that the Service Area will benefit from the provision of parking on such property;
2. Development, expansion or capital repair of municipal parking facilities within the Service Area, or any area located immediately adjacent thereto if the Town Council determines that the Service Area will benefit from the provision of parking on such property, including, but not limited to, payment of any construction contract price, and surveying, engineering and similar expenses related thereto;
3. Payment of the principal, interest, and other costs of bonds, notes and other obligations issued or undertaken by or on behalf of the Town to finance the acquisition, development, expansion or capital repair of municipal parking facilities within the Service Area, or any area located immediately adjacent thereto if the Town Council determines that the Service Area will benefit from the provision of parking on such property; or
4. The provision or operating expenses of transit facilities and equipment designed to reduce reliance on private automobiles; provided that such transit facilities or equipment shall, in the determination of the Town Council, provide a benefit to the Service Area.

B. In lieu fees collected by the Town shall not be used for any purpose except those enumerated in this Section 9-3-13, nor shall such fees be used to cure existing deficiencies in the Town's public parking facilities.

C. The Town shall annually update and identify the intended uses of in lieu fees collected pursuant to Section 9-3-12.

D. The Town Council shall determine which municipal parking expenditures may properly be paid for using in lieu fees collected by the Town pursuant to this Chapter. Such determination may be made either at the time of such expenditure, or within two (2) years thereafter.

**9-3-14: REFUND OF IN LIEU FEE:**

A. Any in lieu fee or portion thereof collected pursuant to this Chapter which has not been expended or which has not been committed for expenditure for an eligible parking improvement within ten (10) years from the date of payment shall be refunded, upon application, to the record owner of the property for which the in lieu fee was paid, together with interest thereon at the legal rate calculated from the date of collection to the date of refund.

B. An in lieu fee collected pursuant to Section 9-3-12 shall be considered to be expended if the total expenditures for eligible parking improvements as described in Section 9-3-13 (including funds committed for expenditure) within ten (10) years following the date of payment equals or exceeds the total in lieu fees collected during such period.

C. If a refund is due pursuant to Paragraphs A or B of this Section 9-3-14, the Town shall divide the difference between the amount of expenditures for eligible parking improvements made by the Town during such ten (10) year period and the amount of in lieu fees collected by the total number of density units for which in lieu fees have been paid in order to determine the refund due per density unit. The refund to the record owner shall be calculated by multiplying the refund due per density unit by the number of density units for the development for which the in lieu fee was paid, and interest due shall be calculated upon that amount.



D. The Town may refund in lieu fees by direct payment, by offsetting the refund against other fees or charges due for development projects by the owner on the same or other property, or otherwise by agreement with the owner.

**9-3-15: IN LIEU FEE ACCOUNT:**

A. The Finance Director shall establish an interest-bearing account into which all in lieu fees collected by the Town pursuant to Section 9-3-12 shall be deposited. Interest earned on the account into which the in lieu fees are deposited shall be considered funds of the account and shall be used solely for eligible parking improvements as authorized in Section 9-3-13. In lieu fees, and the interest earned thereon, shall not be commingled with any other funds of the Town.

B. The Finance Director shall establish adequate financial and accounting controls to ensure that the in lieu fees disbursed from the account are utilized solely for eligible parking improvements as authorized in Section 9-3-13. Disbursement of funds shall be authorized at such times as are reasonably necessary to carry out the purposes and intent of this Chapter; provided, however, that funds shall be expended or committed for expenditure within a reasonable period of time, but not to exceed ten (10) years from the date such fees are deposited into the account.

C. The Finance Director shall maintain and keep financial records for in lieu fees which shall show the source and disbursement of all in lieu fees collected and expended. The records of the account into which in lieu fees are deposited shall be open for public inspection and copying pursuant to the Colorado Open Records Act, Part 2 of Article 72 of Title 24, C.R.S.

**9-3-16: RELIEF PROCEDURES:**

A. The Town Council may grant a variance, exception or waiver of condition from any requirement of this Chapter, upon written request by a developer or owner of property subject to this Chapter, following a public hearing, and only upon finding that (i) a strict application of such requirement would, when regarded as a whole, result in confiscation of the property or (ii) that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal or requirement. No variance, exception or waiver of condition shall have the effect of nullifying the intent and purpose of these regulations. The Town Council shall not approve a variance, exception or waiver of condition unless it makes findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance, exception or waiver of condition will not be detrimental to the public health, safety, or welfare or injurious to other property;
2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and
4. The relief sought will not in any manner vary the provisions of the Development Code, Town Master Plan or other Town law, except that those documents may be amended in the manner prescribed by law.

B. If the Town Council grants a variance, exception or waiver of condition from the requirements of this Chapter for a particular development which results in the reduction or elimination of an in lieu fee, it shall cause to be appropriated to the In Lieu Fee Account created pursuant to Section 9-3-15, from other Town funds, the amount of the reduction or elimination in the in lieu fee resulting from the granting of the variance.

**9-3-17: RESPONSIBILITY:** The duty to provide and maintain off-street parking areas is and shall be the responsibility of the owners of land, structures or uses for which off-street parking is required pursuant to this Chapter. The duty is continuing in nature.

**9-3-18: VIOLATIONS; PENALTIES:**

A. Every person convicted of a violation of any provision of this Chapter shall be punished as provided in Chapter 4 of Title 1 of this Code.

B. It shall be unlawful for any person to fail to comply with the requirements of this Chapter. Failure to comply with the requirements of this Chapter shall also be deemed to be a violation of a the Development Code, and such violation shall be subject to a civil action to enjoin such violation as provided in Section 9-1-6 of this Code.

C. During the duration of any Development Permit for a development for which off-street parking is required pursuant to this Chapter, the failure of the permittee to comply with the requirements of this Chapter shall also be deemed to be a violation of the Development Permit, and such Development Permit shall be subject to revocation as provided in Section 9-1-17-9 of this Code.

Section 2. Policy 18 (Relative), entitled "Parking", as set forth in Section 9-1-19 of the Breckenridge Town Code, is hereby amended so as to read in its entirety as follows:

18. (RELATIVE) PARKING:

A. General Parking Requirements: It is encouraged that each development design their parking in a manner that exceeds the minimum requirements of the off-street parking regulations. The Town will evaluate the implementation of this policy based on how well the applicants meet the following criteria:

1 x (-2/+2) (1) Design Criteria: Construction to standards and design criteria, beyond those set forth in Title 9, Chapter 3, the Off-Street Parking Regulations is strongly encouraged. This shall include, but not be limited to, paved parking areas for single family and duplex residential uses, downcast lighting, striping of stalls, landscaping, and screening.

2 x (-2/+2) (2) Public View: The placement and screening of all off-street parking areas from public view is encouraged.

(3) Public Usage: Making private off-street parking areas available to the general public in nonresidential areas is encouraged.

1 x (+1) (4) Joint Parking Facilities: The utilization of joint parking facilities to minimize the proliferation of parking areas and resultant traffic disruptions from their use is encouraged.

1 x (+1) (5) Common Driveways: The sharing of common driveways leading from public streets or alleyways to off-street parking facilities by more than one use or parcel of land is encouraged, whether the parking facilities be joint or separate.

2 x (-2/+2) (6) Downtown Service Area Parking: It is strongly encouraged that non-residential buildings between 2,000 to 10,000 square feet of density, inclusive, provide two off-street parking spaces. When non-residential buildings fall within additional 5,000 square foot increments, another off-street parking space is encouraged.

Some locations within the Service Area may not be appropriate for any off-site parking. Therefore, parcels adjacent to the Riverwalk, and other properties having no rear access to an alley, are not subject to the assessment of negative points under this Policy 6.

Section 3. Nothing in this Ordinance shall be construed or interpreted as abrogating, reducing, or modifying in any manner an obligation evidenced by a "Parking District Covenant" or other similar restrictive covenant executed and delivered to the Town pursuant to the prior Section 9-3-6-1 of the Breckenridge Town Code. Such covenants shall continue to be enforceable notwithstanding the repeal and reenactment of Chapter 3 of Title 9 of the Breckenridge Town Code as provided in this Ordinance.

Section 4. 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 5. 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 6. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 7. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 27th day of February, 1996. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 12th day of March, 1996, 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

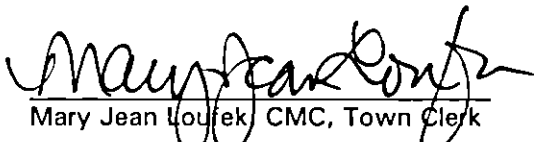
This Ordinance was published in full in The Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on March 6, 1996.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE this 12th day of March, 1996.

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

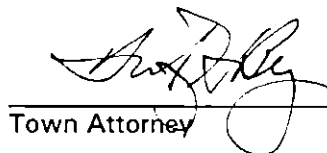
ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, CMC, Town Clerk

  
Stephen C. West, Mayor

APPROVED IN FORM

  
Town Attorney

3/12/96  
Date

This Ordinance was published by title in The Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on March 20, 1996.