

ORDINANCE NO. 17

Series 2005

AN ORDINANCE AMENDING POLICY 28 (ABSOLUTE) OF CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", TO AUTHORIZE THE TOWN TO ACCEPT A FEE IN LIEU OF REQUIRING EXISTING UTILITIES TO BE PLACED UNDERGROUND; AND PROVIDING THE TERMS AND CONDITIONS OF ANY SUCH IN-LIEU PAYMENT

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

Section 1. Policy 28 (Absolute) of Section 9-1-19 of the Breckenridge Town Code, entitled "Utilities", is hereby amended so as to read in its entirety as follows:

28. (ABSOLUTE) UTILITIES:

A. Underground Utilities: Within the area of the development and for any extensions off-site, all utility lines shall be placed underground. For renovations, restorations and remodels that exceed thirty percent (30%) of the structure's estimated value prior to renovation, restoration or remodel, all utility lines on-site shall be placed underground.

B. An applicant shall be permitted to pay a fee to the Town in lieu of placing existing utilities underground as required by paragraph A of this policy. An applicant may elect to pay an in-lieu fee only with respect to those overhead utility lines existing on the applicant's property as of the date of the filing of the applicant's development permit application. No in-lieu fee shall be accepted by the Town with respect to an applicant's obligation to place underground new utility service for the property which is the subject of the development permit. Further, the applicant's right elect to pay an in-lieu fee shall be subject to the limitations of this policy.

C. The amount of an in-lieu fee shall be determined by the Town Engineer based upon the Town Engineer's reasonable estimate of the actual cost of placing underground the existing utilities on the applicant's property. In making such estimate, the Town Engineer shall consider: (i) the size, location and physical characteristics of the applicant's property; (ii) the nature of the approved development of the applicant's property; and (iii) any special circumstances affecting the expected cost of undergrounding the existing utilities on the applicant's property. The Town Engineer shall also consult with the applicable utility provider with respect to the anticipated cost of undergrounding the applicant's existing utilities.

D. The decision to pay to the Town an in-lieu fee as authorized by this policy shall be in the sole discretion of the applicant. By electing to make an in-lieu payment, the applicant irrevocably waives any right to object to any of the terms or conditions of this policy.

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

F. Once paid, an in-lieu fee is nontransferable and nonrefundable. Any in-lieu fee paid in connection with the development of a particular lot, tract or parcel shall run with the land for which it is paid, but is nontransferable to any other lot, tract or parcel.

G. 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 property, the Town shall credit any previous payment of in-lieu fees against any in-lieu fees which may be paid for the new application.

H. In-lieu fees collected by the Town pursuant to this policy shall become the Town's property, and may be deposited in the Town's general fund. The in-lieu fees need not be segregated or separately accounted for.

I. Once an in-lieu fee has been paid, the applicant shall be relieved of the responsibility for placing underground those existing utilities on the applicant's property for which the in-lieu fee has been accepted by the Town, and the Town shall assume such responsibility. In connection therewith, the Town shall pay

all direct and indirect costs incurred in placing underground those utilities for which the in-lieu fee was accepted. Such costs shall include, but shall not be limited to, payment of the actual construction costs for such undergrounding, together with any surveying, engineering, legal and similar expenses related thereto.

J. The schedule for the undergrounding of utilities for which an in-lieu fee has been accepted shall be determined by the Town in its sole discretion.

Section 2. 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 3. 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 4. 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 5. At the option of the holder of the development permit, this ordinance may be applied to any development permit approved by the Town of Breckenridge on and after June 1, 2005.

Section 6. 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 24th day of May, 2005. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28th day of June, 2005, 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


Ernie Blake, Mayor

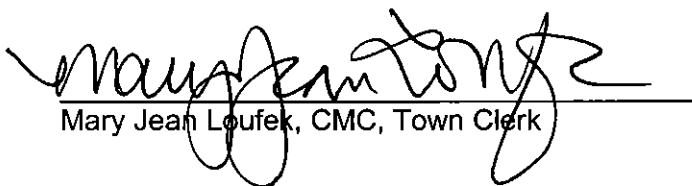
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on June 3, 2005.

The public hearing on this ordinance was held on June 28, 2005, the date to which such hearing was legally continued.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS, this 28th day of June, 2005. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

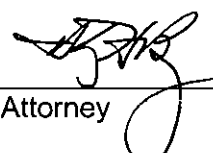
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney

6/28/05
Date

This ordinance was published by title with amendments in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on July 8, 2005.