

ORDINANCE NO. 18

Series 2005

AN ORDINANCE AMENDING POLICY 37 (ABSOLUTE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING DEVELOPMENT WITHIN THE TOWN'S SPECIAL "RIVERWALK" AREA

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

Section 1. Policy 37(Absolute) of Section 9-1-19 of the Breckenridge Town Code, entitled "Special Areas", is hereby amended so as to read in its entirety as follows:

37. (ABSOLUTE) SPECIAL AREAS:

Blue River: An applicant whose project is adjacent to, or separated by only an alley from, the Blue River shall comply with the following special conditions:

- A. An applicant whose project is within the Riverwalk area as defined below shall participate in the construction of those improvements set forth in the "Riverwalk Improvement Plan", as amended from time to time, or shall participate in any improvement district established by the Town to develop the Blue River Corridor.

1. Definitions: As used in this subsection B:

OTHER RIVERWALK IMPROVEMENTS: An improvement constructed on private property within the Riverwalk which is not a Riverwalk Compatible Improvement.

RIVERWALK: The area bounded by French Street on the north, South Park Avenue on the south, Main Street on the east and the easterly bank of the Blue River on the west where the Town has constructed or intends to construct public improvements in order to make the area more attractive for use by the residents of, and visitors to the Town.

RIVERWALK COMPATIBLE IMPROVEMENT: An improvement constructed on private property which is necessary or useful in order to provide greater visibility of or pedestrian access to the Riverwalk, and which helps a building to achieve a functional and aesthetic compatibility with the Riverwalk. Examples include, without limitation, a rear entry improvement, such as a porch; door; vestibule; window; landscaping; outdoor seating area or public gathering place, such as a deck or patio; or other decorative features consistent with design policies appropriate for the area.

2. Limitation Concerning On-Site Parking: An applicant for a project with an existing commercial use may not locate new or additional parking on site.

3. Credit For Voluntarily Abandoned Parking Spaces: The parking requirement for any property within this area will be reduced to the extent of the number of functional parking spaces voluntarily abandoned by the property owner.

4. Parking Requirement For Riverwalk Compatible Improvement: No additional parking shall be required as a result of the construction of a Riverwalk compatible improvement.

5. Loss Of Parking Space Resulting From Construction Of Riverwalk Compatible Improvement: Where an applicant can demonstrate that one or more functional parking spaces could have been provided on land which has been used for the construction of a Riverwalk compatible improvement, the Town shall waive the parking requirement for the number of functional parking spaces which were lost as a result of the construction of such Riverwalk compatible improvement.

6. Development Agreement For Density Bonus: Notwithstanding anything contained in this chapter, the Town Council may, by Development Agreement, authorize the Planning Commission to review and approve (subject to compliance with all other applicable development policies of the Town) a development permit containing a density bonus for qualifying development occurring within the Riverwalk under the following circumstances. The

provisions of Chapter 9 of Title 9 of this Code shall apply to any application for a Development Agreement submitted under this section 6; provided, however, that no application fee normally required under Section 9-9-8 shall be required to be submitted in connection with such application.

A. Construction of A Riverwalk Compatible Improvement:

1. The provisions of this subsection (A) shall apply only to commercial development.
2. The provisions of this subsection (A) shall apply only to an application for a development permit to construct a Riverwalk compatible improvement for non-leasable floor area which could not otherwise be approved because the site of the proposed development: (i) is over the allowed above ground density and overall density/mass allowed by Policy 5(Absolute)(Architectural Compatibility) as of May 1, 2005, or (ii) lacks sufficient remaining above ground density to allow for the construction of the proposed Riverwalk compatible improvement.
3. Subject to the other provisions of this subsection (A), an above ground density bonus for non-leasable floor area may be allowed for the construction of a Riverwalk compatible improvement.
4. For the density bonus described in subsection (A)(3) to be allowed, an applicant shall demonstrate that: (i) there are no Riverwalk compatible improvements already located on the property, or (ii) if there are existing Riverwalk compatible improvements on the property, (a) such improvements are insufficient to provide adequate visibility of or pedestrian access to the Riverwalk, or to adequately allow the building to achieve a functional and aesthetic compatibility with the Riverwalk; and (b) the construction of the proposed Riverwalk compatible improvement is necessary in order to provide greater visibility of or pedestrian access to the Riverwalk, and to help the building achieve a functional and aesthetic compatibility with the Riverwalk.
5. The amount of any above ground density bonus for non-leasable floor area granted pursuant to this subsection (A) shall be limited to the amount of density needed to create a functional Riverwalk compatible improvement as determined by the Town Council.

B. Construction of Other Riverwalk Improvement:

1. The provisions of this subsection (B) shall apply only to commercial development.
2. Within the Riverwalk, the Town may allow the construction of additional density for leasable floor area that is not a Riverwalk compatible improvement, subject to the following conditions:
  - a. such additional density for leasable floor area shall be approved only in connection with the concurrent approval of a new Riverwalk compatible improvement;
  - b. such additional density shall be allowed only if the Riverwalk compatible improvement is constructed concurrently with or prior to the construction of such additional density; and
  - c. the applicant must provide a substantial public benefit to the Town in connection with the approval of such additional density. Such public benefit must be contained on the property upon which the additional density will be developed, and shall, in the judgment of the Town Council, significantly further the Town's established goals for the development of the Riverwalk. An example of an acceptable public benefit shall include, without limitation, the granting of a non-exclusive public easement for use of private property to the Town for Riverwalk compatible improvements in addition to the pedestrian easement to allow for public ingress and egress for the Riverwalk. Any such easement shall be subject to the approval of the Town Attorney. Public benefits provided under this subsection (c), may, in the discretion of the Town Council, suffice for the commitments described in Section 9-9-4 of this Code.
  - d. the amount of additional density allowed under this subsection (B)(2) for the construction of an improvement that is not a Riverwalk Compatible

Improvement shall not exceed the amount of density allowed on the property under the Land Use Guidelines, and shall be roughly proportional to the public benefit provided by the applicant as determined by the Town Council; and

7. Compliance With Other Development Policies: Except as expressly provided above, an applicant whose project is subject to the provisions of this subsection B shall also be required to comply with all other applicable development policies of this Code and the Town's Historic District Guidelines. However, the Town may waive the connector element requirement when warranted in light of all other relevant aspects of the proposed development.

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.

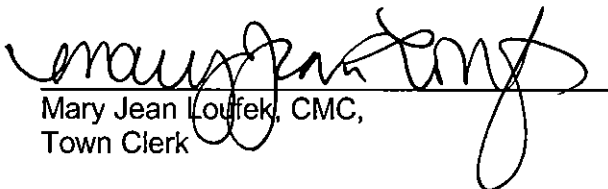
Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 5. 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 14<sup>th</sup> day of June, 2005. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28<sup>th</sup> 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 24, 2005.

The public hearing on this ordinance was held on June 28, 2005.

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

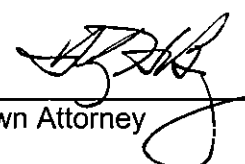
ATTEST:

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.