

ORDINANCE NO. 21

Series 2007

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING EXTERIOR LIGHTING

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

Section 1. Section 9-1-19 of the Breckenridge Town Code is hereby amended by the addition of a new Policy 46 (Absolute), to be entitled "Exterior Lighting", which shall read in its entirety as follows:

46. (ABSOLUTE) EXTERIOR LIGHTING

Exterior Lighting: All development within the Town shall comply with Title 9, Chapter 12, Exterior Lighting Regulations.

Section 2. The Breckenridge Town Code is hereby amended by the addition of a new Chapter 12 of Title 9, entitled "Exterior Lighting Regulations", which shall read in its entirety as follows:

CHAPTER 12

EXTERIOR LIGHTING REGULATIONS

SECTION:

- 9-12-1: Title
- 9-12-2: Findings
- 9-12-3: Purpose
- 9-12-4: Legislative Findings Regarding the Elimination of Nonconforming Lighting Fixtures
- 9-12-5: Authority
- 9-12-6: Applicability; Compliance Date
- 9-12-7: Definitions
- 9-12-8: Exemptions
- 9-12-9: Prohibited Lighting
- 9-12-10: Lighting Zones
- 9-12-11: Lighting Standards
- 9-12-12: Lighting Standards for Specific Uses
- 9-12-13: Relief Procedures
- 9-12-14: Violations; Penalties; Enforcement
- 9-12-15: Lighting Zones Map

9-12-1: TITLE: This Chapter shall be known and may be cited as the "Town of Breckenridge Exterior Lighting Ordinance."

9-12-2: FINDINGS: The Town Council of the Town of Breckenridge hereby finds and determines that:

- A. the welfare and enjoyment of the Town is associated with its small town character;
- B. because of the importance of the view of the stars in the night sky to the Town's residents and visitors, it is important that the Town adopt responsible lighting standards to preserve that view;
- C. preserving and protecting the night sky enhances the use and enjoyment of property through the use of appropriate lighting practices;
- D. the Town values the practice of energy conservation, and because of the Town's devotion to energy conservation, emphasis on responsible lighting practices is desired to decrease the human impact on the environment; and
- E. individual pole and building mounted fixtures and lighting systems should be designed, constructed, and installed to: (a) preserve the Town's small town character; (b) minimize impacts on adjacent property owners; (c) control glare and light trespass; (d) conserve energy; (e) maintain safety and security of people and wildlife; and (f) maintain the view of the stars in the night sky.

9-12-3: PURPOSE: The purposes of this Chapter are to:

- A. provide adequate light for safety and security;
- B. promote efficient and cost effective lighting and to conserve energy;
- C. reduce light pollution, light trespass, glare, and offensive light sources;
- D. provide an environmentally sensitive nighttime environment that includes the ability to view the stars against a dark sky;
- E. prevent inappropriate, poorly designed or installed outdoor lighting;
- F. encourage quality lighting design and light fixture shielding; and
- G. establish a program to remove or replace light fixtures that violate the requirements of this Chapter.

9-12-4: LEGISLATIVE FINDINGS REGARDING THE ELIMINATION OF NONCONFORMING LIGHTING FIXTURES:

- A. On balance, the burdens created to individual property owners by the provisions of this Chapter requiring the eventual eliminating of nonconforming lighting fixtures are greatly outweighed by the benefits that will be provided to all of the citizens of and the many visitors to the Town and areas that are in close proximity to the Town. The value of the fixtures required to be replaced by this Chapter are comparatively small and that, on balance, the burden placed on property owners is minimal, given the value of such fixtures as compared to be substantial benefits gained by such replacement, which is a substantial decrease of unnecessary light trespass and light pollution.
- B. The required period for the eventual elimination of nonconforming lighting fixtures contained in this Chapter, which is based upon the formula that is used by the United States Internal Revenue Service to depreciate fixtures attached to real property over a fifteen year period, is reasonable and provides a rational basis for the deadline of July 1, 2022 for the elimination of nonconforming lighting fixtures established by this Chapter.
- C. The deadline for the eventual elimination of nonconforming lighting fixtures established by this Chapter will allow the property owner to recoup or recover costs or otherwise to reap the benefits of the useful life of such nonconforming fixtures in a manner that is consistent with the generally accepted methods of depreciating fixtures utilized by the United States Internal Revenue Service.

9-12-5: AUTHORITY: The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to:

- (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (iii) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (iv) Section 31-15-401, C.R.S.(concerning municipal police powers);
- (v) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and
- (vi) the powers contained in the Breckenridge Town Charter.

9-12-6: APPLICABILITY; COMPLIANCE DATE:

A. The provisions of this Chapter shall apply to all new development of real property (as that term is defined in Section 9-1-5 of this Code) which:

- (i) involves new construction for which a Development Permit is required;
- (ii) involves the remodeling 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 of an existing building or structure only with respect to the remodeled portion of the existing building or structure; or
- (iii) involves the installation of new exterior light fixtures.

B. All commercial and residential outdoor lighting fixtures that were lawfully installed prior to July 1, 2007 but that do not comply with the requirements of this Chapter are declared to be legal nonconforming fixtures. All legal nonconforming fixtures may continue to be used and maintained after the adoption of this Chapter, but shall be brought into compliance with the requirements of this Chapter upon the first to occur of:

- (i) a determination by the Director that the legal nonconforming fixture constitutes a public hazard or nuisance;
- (ii) the replacement of the legal nonconforming fixture; or
- (iii) July 1, 2022.

Notwithstanding any other provision of this Chapter, all legal nonconforming fixtures shall be brought into compliance with the requirements of this Chapter not later than July 1, 2022.

9-12-7: **DEFINITIONS:** When used in this Chapter, the following words, terms, and phrases, and their derivations shall have the meanings provided 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 provided 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.

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| EMERGENCY LIGHTING: | Lighting used by a police department, fire department, or other governmental entity for the purpose of public safety. |
| ENERGY STAR: | A joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy which aims to save money and protect the environment through energy efficient products and practices. |
| FOOT-CANDLE: | A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot. |
| FULLY SHIELDED: | An outdoor light fixture constructed so that in its installed position all of the light emitted by the fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture. |
| HOLIDAY LIGHTING: | Outline lighting on a building or structure, or decorative string lighting in trees, commonly associated with the winter holiday season which begins November 1 st of each year. |
| ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (OR IESNA) | The professional society of lighting engineers, including those from manufacturing companies and others professionally involved in lighting. |
| LZ-1 | Lighting Zone 1 (the Main Street Business Lighting Zone) as described in Section 9-12-10. |
| LZ-2 | Lighting Zone 2 (the Perimeter Lighting Zone) as described in Section 9-12-10. |
| LIGHT POLLUTION: | Any artificial light that is emitted either directly or indirectly by reflection that alters the appearance of the night sky; interferes with astronomical observation; or interferes with the natural functioning of nocturnal native wildlife. |
| LIGHT TRESPASS: | Any form of shining light emanating from a fixture that penetrates property other than that for which it is intended and permitted. |
| LIGHTING ZONE | A geographic area of the Town as described in Section 9-12-8. The lighting zones of the Town are 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 located in Section 9-12-15 of this Chapter. The map shall be interpreted so that the boundaries of the lighting zones follow the centerlines of streets, roads, alleys and rights of way, and existing property boundaries. Disputes regarding the boundaries of the lighting zones shall be determined by the Town Council. |
| MOTION SENSOR: | A mechanism for controlling illumination by turning lights on when activated by motion and remaining on during activity for a maximum of thirty minutes following the last detection of motion. |

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| PHOTOCELL: | A mechanism that is activated by the nonpresence of sunlight (and has the effect of illuminating a property all night). Photocells are permitted only at primary entrances and where the light source is fully shielded. |
| PUBLIC ART: | Artwork created and placed on a site in connection with the Town's public art program. |
| SECURITY LIGHTING: | A light used either commercially or residentially for protection of goods or property. |
| UNSHIELDED FIXTURE: | A light fixture shielded in such a manner that the light emitted directly from the lamp or indirectly from the fixture is projected at angles above the horizontal plane without limitation. |
| UP LIGHTING: | Lighting that is directed in such a manner as to shine light rays above the horizontal plane. |

9-12-8: EXEMPTIONS: The provisions of this Chapter shall not apply to the following:

- A. Emergency lighting: Temporary lighting required for public safety in the reasonable determination of public safety officials with authority.
- B. Holiday lighting: Temporary winter holiday lighting in LZ-1 is permitted between November 1 and the end of the Breckenridge Ski Resort ski season. Temporary winter holiday lighting in LZ-2 is permitted between November 1 through February 1. Holiday lighting is prohibited at all other times. Holiday lighting shall not blink all at once, flash, or rotate, nor create a hazard or nuisance from glare.
- C. Street lighting: Lighting required for public safety installed by a public entity or private utility company along a public right-of-way.
- D. Temporary Lighting: Lighting for festivals, celebrations, or other public activities as approved by the Town.
- E. Lighting of Flags: The lighting of national, state or local municipal flags is permitted lit with a maximum of two fixtures of not more than eighty watts each. This exemption shall not apply to any other type of flag.
- F. Lighting of Public Art: The lighting of public art is permitted with a maximum of two fixtures of not more than sixty watts each.
- G. Architectural Accent Lighting: Lighting to accent an architectural element that is aimed or shielded to prevent lighting of the night sky with a maximum of one fixture of not more than 40 watts.
- H. Sign Lighting: The lighting of a sign when done in accordance with the requirements of Chapter 2 of Title 8 of this Code.

9-12-9: PROHIBITED LIGHTING: The following are prohibited within the Town:

- A. an unshielded fixture or lamp for outdoor lighting;
- B. a searchlight;
- C. a laser light; and
- D. a semi-opaque or transparent backlit canopy or awning.

9-12-10: LIGHTING ZONES:

- A. The purpose of the lighting zones is to separate areas within Town which have different lighting needs, natural conditions, different levels of appropriate light usage, and different sensitivities to the various obtrusive aspects of outdoor lighting. Because of this, two lighting zones are defined within this Chapter with lighting standards appropriate to each zone.
- B. The boundaries of the lighting zones are shown on the map in Section 9-12-15 of this Chapter..

9-12-11: LIGHTING STANDARDS:

- A. Lighting Standards for LZ-1:
 1. Fully shielded, opaque fixtures with no portion of bulb visible and non-adjustable mounting.
 2. Pole lights may have a maximum of two light sources per pole.
 3. Photometric plan of estimated foot-candle levels with maximum, and average illumination are required for parking lots with ten or more parking spaces.

Emitted light shall not be greater than one foot-candle at the property line, except at site entry points if determined by the Director to be necessary for safety. Cut-sheets for all exterior light fixtures shall also be submitted with the photometric plan.

4. Maximum fixture height as measured from finished grade:

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| Residential | 15 feet |
| Commercial | 18 feet |
| Pedestrian Pathways | 10 feet |
| Upper-Story Decks | 7 feet above deck |

5. Lamp type. The lamp shall be Energy Star rated fluorescent with adequate cold rating, induction, high-pressure sodium, LED or low-pressure sodium. Incandescent lamps are permitted on building mounted or signage fixtures at a maximum wattage of 60 watts. Energy Star rated compact fluorescent lamps are encouraged. Other lamp types are not permitted.

B. Lighting Standards for LZ-2:

1. Fully shielded, opaque fixtures with no portion of bulb visible and non-adjustable mounting.
2. Pole lights may have a maximum of two light sources per pole.
3. Commercial and mixed-use properties require a photometric plan of estimated foot-candle levels with maximum, and average illumination. Emitted light shall not be greater than two-tenths foot-candles at the property line, except at site entry points if determined by the Director to be necessary. Cut-sheets for all exterior light fixtures shall also be submitted with the photometric plan.
4. Maximum fixture height. Maximum fixture height above existing grade for all fixtures except those used for outdoor sports facility (field, arena or track) lighting shall be as follows:

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|---------------------|-------------------|
| Residential | 15 feet |
| Commercial | 18 feet |
| Pedestrian Pathways | 10 feet |
| Upper-Story Decks | 7 feet above deck |

5. Lamp type. The lamp shall be Energy Star rated fluorescent with adequate cold rating, induction, high-pressure sodium, LED or low-pressure sodium. Incandescent lamps are permitted on building mounted or signage fixtures at a maximum wattage of 60 watts. Energy Star rated compact fluorescent lamps are encouraged. Other lamp types are not permitted.
6. Location. The setbacks from the property line shall be at least equal to the total height of the luminaries.

9-12-12: LIGHTING STANDARDS FOR SPECIFIC USES:

A. Standards for specific uses.

1. Single family residential: Exterior lighting shall be fully shielded, downcast and opaque with no bulb visible. Energy Star rated compact fluorescent lamps are encouraged.
2. Gas stations: Canopy fixtures shall be mounted on the lower surface of canopies and must be fully shielded in and of themselves (canopy edges do not qualify as shielding) by means of a flat lens recessed into the underside of the canopy or a flat lens with opaque sides. Lighting shall not exceed twenty foot-candles. Areas outside service station pump island canopy shall be illuminated so that the maximum horizontal luminance at grade level is no more than ten foot-candles.
3. Security lighting: Security lighting should use the lowest possible illumination to effectively allow surveillance, be shielded, and directed downward toward

designated areas. The use of motion sensors, timers, photocells or other means to activate lighting during times when it is needed is encouraged to conserve energy and provide safety and promote compatibility between different land uses. However, photocells are permitted only at primary entrances and where the light source is fully shielded. Security light intensity shall be a maximum of ten foot-candles.

4. Architectural accent lighting: Fixtures must be fully shielded and downcast. Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping or art shall be located, aimed and shielded so that light is directed downward onto those features. Up-lighting is permitted if the illumination is effectively contained within an overhanging architectural element and is no more than forty (40) watts.
5. Recreational facilities: Lighting for fields, courts or tracks shall not exceed maximum luminance criteria as defined by the Illuminating Engineering Society of North America (IESNA). Exterior sports arenas with exterior luminaires for the playing area shall be extinguished by 10:00 p.m. or within one half hour after the conclusion of the final event of the day, whichever is later. The remainder of the facility lighting, except for reasons of security, shall be extinguished at 10:00 p.m. or within one hour after the event, whichever is later.
6. Signage illumination: All signage in LZ-1 and LZ-2 shall comply with Chapter 2, Title 8 of the Town Code. Signage utilizing lighting shall have fixtures mounted to the top of the sign structure aimed downward onto the sign from above. Fixtures shall be fully shielded so that light is directed only onto the sign facade and not aimed at the sky, adjacent streets, roads or properties.

9-12-13: RELIEF PROCEDURES: The Town Council may grant a variance from any requirement of this Chapter, upon written request by a developer or owner of property 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 shall have the effect of nullifying the intent and purpose of these regulations. The Town Council shall not approve a variance under this section unless it makes findings based upon the evidence presented to it in each specific case that:

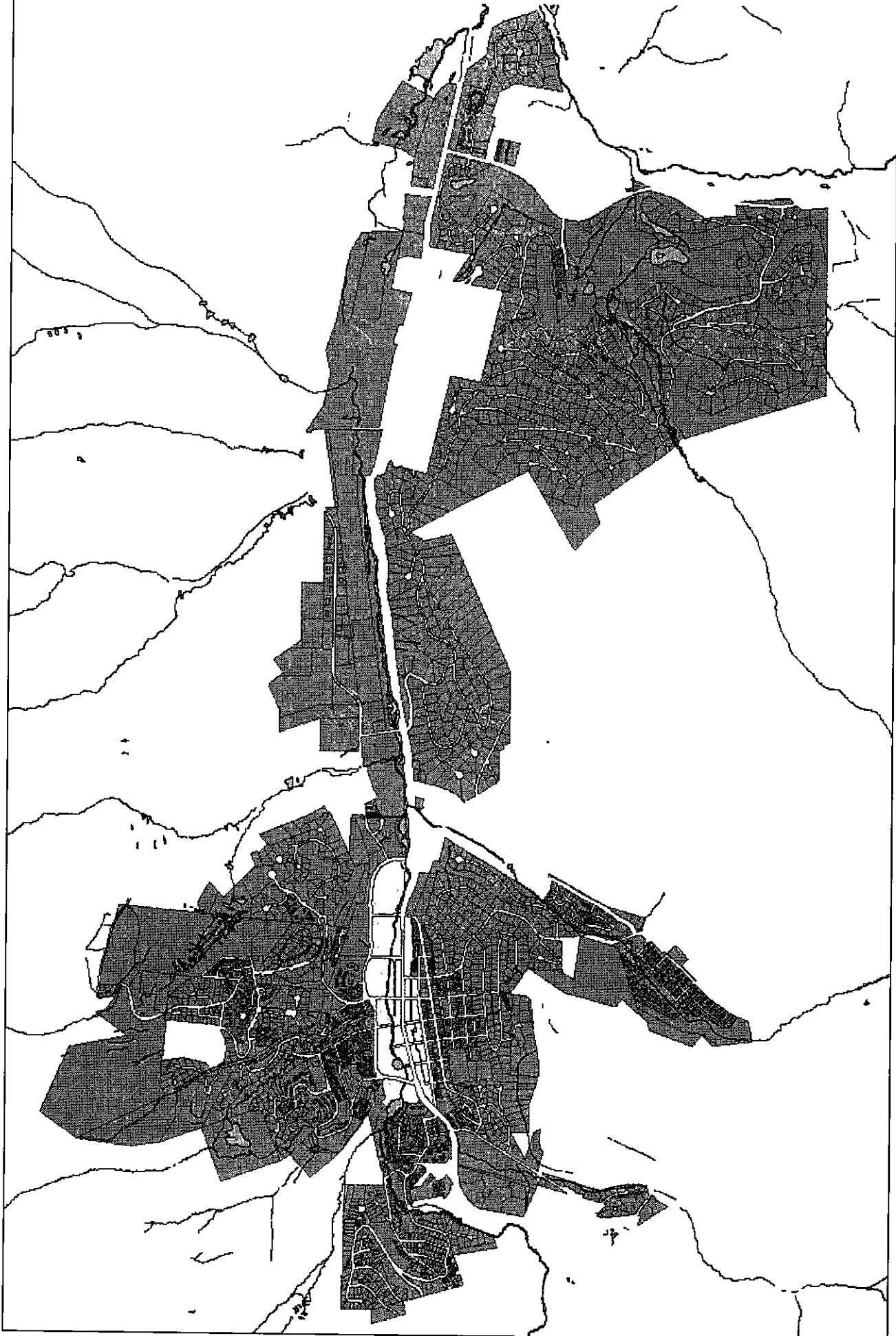
- A. The granting of the variance, exception or waiver of condition will not be detrimental to the public health, safety, or welfare or injurious to other property;
- B. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
- C. 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
- D. 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.



The variance criteria set forth in this Section shall control over the variance criteria set forth in Section 9-1-11 of this Code.

9-12-14: VIOLATIONS; PENALTIES: ENFORCEMENT

- A. It shall be unlawful and a misdemeanor offense for any person to fail to comply with the requirements of this Chapter. 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. In addition to other remedies available to the Town, the Town may commence an action pursuant to Section 1-8-10 of this Code to enjoin the alleged violation of any provision of this Chapter, or to compel compliance with any provision of this Chapter. Any remedies provided for in this Chapter shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

9-12-15: LIGHTING ZONES MAP



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|  | Town of Breckenridge and Summit County governments assume no responsibility for the accuracy of the data, and use of the product for any purpose is at user's sole risk. | printed 5/23/2007 <div style="display: flex; justify-content: center; align-items: center; gap: 10px;"> <div style="border: 1px solid black; width: 20px; height: 10px; background-color: white;"></div> 1 <div style="border: 1px solid black; width: 20px; height: 10px; background-color: #808080;"></div> 2 </div> |  |
| Lighting Zones | | | |

Section 3. 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.

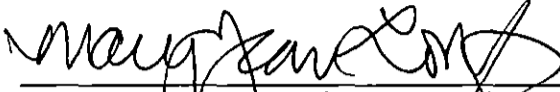
Section 4. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 5. This ordinance shall be published as provided by Section 5.9 of the Breckenridge Town Charter, and shall become effective July 1, 2007.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 22nd day of May, 2007. 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 June, 2007, 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

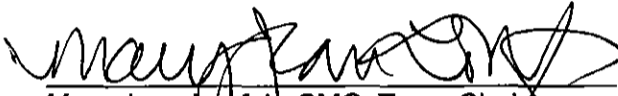
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on June 1, 2007.

The public hearing on this ordinance was held on June 12, 2007.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS, this 12th day of June, 2007. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

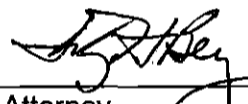


Mary Jean Loufek, CMC, Town Clerk



Ernie Blake, Mayor

APPROVED IN FORM



Town Attorney

6/12/07
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 June 22, 2007.