

ORDINANCE NO. 23

Series 2007

AN ORDINANCE AMENDING THE TOWN OF BRECKENRIDGE "LAND USE GUIDELINES" BY ESTABLISHING THE "DOWNTOWN OVERLAY DISTRICT"; AND MAKING CONFORMING AMENDMENTS TO CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE"

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

Section 1. Findings. The Town Council has heard and considered the evidence presented in support of and in opposition to the adoption of this ordinance. Based upon the evidence presented to the Town Council in connection with its consideration of this ordinance, as more fully set forth in the record of the proceedings in this matter, the Town Council of the Town of Breckenridge, Colorado hereby finds and determines as follows:

Series 1987, the Town adopted the Breckenridge Land Use Guidelines ("Land Use Guidelines").

2. The Land Use Guidelines contain provisions governing the development of real property located within the various Land Use Districts of the Town, and represent the Town's general zoning restrictions with respect to real property located within the Town.

3. By Ordinance No. 18, Series 1997, the Town Council adopted certain procedures to be followed to amend the Land Use Guidelines.

4. The amendment to the Land Use Guidelines made by this ordinance is legislative in nature.

5. The procedural requirements of Ordinance No. 18, Series 1997 concerning a proposed legislative amendment to the Land Use Guidelines have been fully satisfied. A public hearing was held by the Town Council of the Town of Breckenridge on August 14, 2007 to consider the adoption of this ordinance. Notice of such hearing was published twice in The Summit County Journal, a newspaper of general circulation in the Town, the first publication occurring at least twelve (12) days prior to the hearing and the second occurring at least four (4) days prior to the hearing, all as required by Ordinance No. 18, Series 1997. The Proof of Publication of such notice was admitted into evidence and made a part of the record in connection with the adoption of this ordinance.

6. The amendment to the Land Use Guidelines contained in this ordinance is consistent with the Town's adopted Master Plan and bears a reasonable relationship to the general welfare of the community.

Section 2. Adoption of Downtown Overlay District. The Town of Breckenridge Land Use Guidelines are hereby amended by the adoption of the following additional provisions:

DOWNTOWN OVERLAY DISTRICT

1. Authority. These regulations ("Regulations") are adopted pursuant to the authority granted by:
 - (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.
2. Findings and Purpose. The Town Council of the Town of Breckenridge hereby finds and determines that in order to maintain a viable and vibrant downtown commercial area, certain restrictions should be enacted regarding land uses on ground floors. Such restrictions should provide for and encourage pedestrian circulation and interesting shopping attractions for the residents of and the many visitors to the Town. These Regulations are adopted for this purpose.

3. **Overlay District Adopted.** The Town of Breckenridge Land Use Guidelines are amended by the adoption of these Regulations, and the "Downtown Overlay District" ("District") is created. If the provisions of these Regulations conflict with either the other provisions of the Land Use Guidelines or the Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code)("Development Code"), the provisions of these Regulations shall control.
4. **Area of Applicability; District Boundaries.** These Regulations apply throughout the District. The boundaries of the District are depicted on the attached Exhibit "A", which is incorporated herein by reference and made a part of these Regulations. The map shall be interpreted so that the boundaries of the District follow the centerline of streets, roads, alleys, rights of way, and existing property lines. Disputes regarding the boundaries of the District shall be determined by the Planning Commission, subject to the right of the Town Council to call up the Planning Commission's decision and to decide the matter for itself pursuant to Section 9-1-18-5 of the Development Code.
5. **New Residential Use on Ground Floor Prohibited.** A new residential use on the ground floor of a structure is prohibited. The conversion of an existing commercial use to a new residential use on the ground floor of a structure is also prohibited. For a split-level structure, a new residential use is prohibited on all floors immediately above and below the sidewalk fronting at street level.
6. **Exception:** The restrictions in Section 5 do not apply to any new residential use that is set back a minimum of 40 feet from the street and recessed behind a commercial use and behind the street-facing façade of the building. This exception does not apply to any structure fronting the Riverwalk or any structure located between the Blue River and North Main Street.
7. **Application to Existing Uses.** Any residential use that was lawful when these Regulations became effective on August 29, 2007, is lawful and may continue to be occupied and used. However, if a residential use is converted to a commercial use, then the use may not be changed back to residential.
8. **Definitions.** Terms used in these Regulations that are defined in Section 9-1-5 of the Development Code have the meanings provided in Section 9-1-5.
9. **Variance.** The provisions of Section 9-1-11 of the Development Code do not apply to these Regulations, and no variance may be granted from the provisions of these Regulations.
10. **Compliance Required.** Compliance with the requirements of these Regulations is to be enforced through the application of Policy 2(Absolute) of the Town's Development Code.

Section 2. Continued Effect of Land Use Guidelines. Except as specifically amended by this ordinance, the Breckenridge Land Use Guidelines, as adopted by Ordinance No. 3, Series 1987, continues in full force and effect.

Section 3. Section 9-1-5 of the Breckenridge Town Code is hereby amended by the addition of the following additional definitions:

BASEMENT FLOOR:	The floor of a structure located below the ground floor of the same structure.
DOWNTOWN OVERLAY DISTRICT:	The geographic area of the Town identified as the Downtown Overlay District in the Land Use Guidelines, as amended from time to time.
GROUND FLOOR:	The floor of a structure at approximately the same elevation as the natural grade of the surrounding area.
LAND USE GUIDELINES:	The Town of Breckenridge Land Use Guidelines adopted by Ordinance No. 3, Series 1987, as amended from time to time.

SPLIT-LEVEL STRUCTURE:

A structure, or a portion of a structure, that includes multiple floors with the lowest floor visible from the streetfront having a finished grade below the finished grade level of the streetfront sidewalk.

UPPER FLOOR:

A floor of a structure located entirely above the ground floor of the same structure.

Section 4. Policy 2 (Absolute) of Section 9-1-19 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

2. (ABSOLUTE) LAND USE GUIDELINES: Land use guidelines have been adopted for the Town and surrounding areas by the Breckenridge Town Council. To promote the health, safety and general welfare of the community, all developments shall be reviewed against the land use uidelines, and where applicable, an approved master plan for the development of the property. Each development located within the boundaries of the Downtown Overlay District or the Cucumber Gulch Protection Overlay District as defined in the land use guidelines shall comply with the all of the regulations applicable to such overlay district.

Section 5. The Town Council hereby finds, determines and declares that it has the power to amend the Breckenridge Development Code as provided in 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.

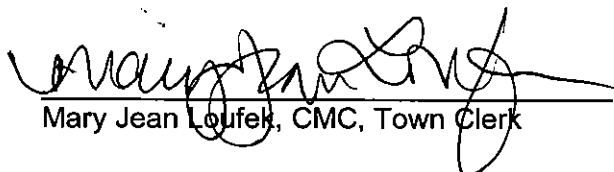
Section 6. Police Power Finding. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

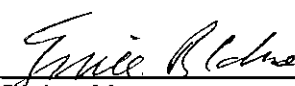
Section 7. Effective Date. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 10th day of July, 2007. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 14th day of August, 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

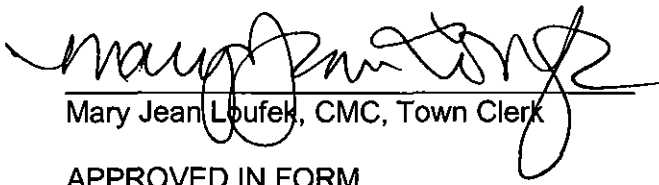
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on July 20, 2007.


The public hearing on this ordinance was held on August 14, 2007.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS, this 14th day of August, 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

8/14/07
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 August 31, 2007.



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**Exhibit A
Downtown Overlay District**

printed 7/11/2007

 downtown overlay

