

ORDINANCE NO. 4

Series 2007

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", BY REQUIRING THE SUBMISSION OF A STATEMENT OF COMPLIANCE PRIOR TO THE ISSUANCE OF A BUILDING PERMIT

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

Section 1. There is hereby added to the Breckenridge Town Code a new section 9-1-18-7, to be entitled "Statement of Compliance Required", which shall read in its entirety as follows:

9-1-18-7: STATEMENT OF COMPLIANCE REQUIRED:

A. As used in this section, the following words shall have the following meanings:

"approving authority" shall mean the Planning Commission, if its decision on the particular development permit application was affirmed by the Town Council, or the Town Council, if the Town Council called up the Planning Commission's decision on the development application.

"building codes" shall mean the Town's building codes adopted pursuant to chapter 1 of title 8 of this code.

"building official" shall mean the Town's building official designated in the Town's building codes.

"construction documents" shall mean all of the construction drawings, plans and specifications for a development project submitted to the building official in connection with a request for the issuance of a building permit under the Town's building codes.

"development permit documents" shall mean all of the drawings, plans and specifications for a development project approved by the approving authority in connection with the issuance of a development permit pursuant to this chapter, including any amendments thereto.

"material change to development permit documents" shall mean a change to one or more of the design elements of a project required to be described in a Statement of Compliance which, if known to the approving authority at the time of the approval of the project's development permit, could reasonably have been expected to have changed the final point analysis for the project, or the conditions of approval of the project.

"responsible person" shall mean as follows: (i) for a development project described in section 9-1-17-10 of this chapter, and for any other development project where the construction documents are prepared by an architect, the responsible person shall be the architect who affixed his or her professional seal to the construction documents; and (ii) for all other development projects, the responsible person shall be the person who prepared the construction documents.

B. At the time of the submission of an application for a building permit the responsible person shall submit to the director a Statement of Compliance as required by this section. The Statement of Compliance shall be signed by the responsible person and the by the property owner.

C. The Statement of Compliance shall clearly indicate all material changes to the development permit documents with respect to the following design elements:

1. the site plan (including, without limitation, parking, grading, drainage, and utilities);
2. the landscape plan;

3. the floor plans, but only as such changes affect: (i) density; (ii) mass, (iii) the parking requirement for the project; or (iv) the project's Plant Investment fees;
4. the building elevations (including, without limitation, existing and proposed grades, finished floor elevations, ridge elevations, and exterior material specifications);
5. the building roof plan;
6. the exterior building details;
7. the project's density, mass, above ground density (if located in the Historic District), and the site area calculations (including, but not limited to, building footprint, hard surface and open space); and
8. the project's land uses.

IMPORTANT NOTE: Changes to the development permit documents not affecting any of the design elements set forth above in this subsection C need not be described in the Statement of Compliance.

D. The form of the Statement of Compliance shall be determined by the director.

E. If a Statement of Compliance submitted to the director indicates that the construction documents contain no material changes to the development permit documents with respect to any of the design elements set forth in subsection C of this section, the building official shall issue the requested building permit, subject to the other requirements for the issuance of a building permit set forth in Town codes.

F. If a Statement of Compliance submitted to the director indicates that the construction documents contain material changes to the development permit documents with respect to any of the design elements set forth in subsection C of this section, or if the director determines that construction documents contain material changes to the development permit documents with respect to any of the design elements set forth in subsection C of this section, the building official shall not issue the requested building permit until the proposed changes have been reviewed and approved in accordance with this chapter. The director may require the responsible person to submit an amended or supplemental Statement of Compliance when the director determines such action to be necessary to determine compliance with the requirements of this section. The building official shall issue a building permit if the construction documents contain no material changes to the development permit documents for the project with respect to any of the design elements set forth in subsection C of this section, subject to the other requirements for the issuance of a building permit set forth in Town codes.

G. If the building official determines that a responsible person failed to disclose to the director on the Statement of Compliance filed pursuant to this section one or more material changes to the development permit documents for the project described in the Statement of Compliance, the building official may issue a stop work order, and suspend or revoke the building permit or certificate of occupancy for the project in accordance with the procedures set forth in the Town's building codes.

H. It is unlawful and a strict liability offense for a responsible person to fail to disclose to the director, on a Statement of Compliance filed pursuant to this section any material change to the development permit documents for the project described in the Statement of Compliance. The first offense by a responsible person shall be an "infraction", and upon being found liable for such a violation the person shall be punished as provided in section 1-4-1-1 of this code. The second and each subsequent offense by the same responsible person shall be a misdemeanor offense, and upon conviction such person shall be punished as provided in title 1, chapter 4 of this code.

I. The obligation to construct an approved development in accordance with the development permit documents shall be specifically enforceable against the holder of the development permit. In addition to any other remedy available to the Town, if the director believes that a responsible person failed to disclose one or more material changes to development permit documents on a Statement of Compliance filed pursuant to this section, the Town may commence an action pursuant to section 1-8-10 of this code or other applicable law to obtain a permanent mandatory injunction to require that the project described in the Statement of Compliance be brought into compliance with the approved

development permit documents. It shall not be a defense to such an action: (i) that the owner of the property had no knowledge that the responsible person failed to disclose to the director on the Statement of Compliance the material changes to the development permit documents; or (ii) that the Town issued a building permit or certificate of occupancy for the project described in the Statement of Compliance.

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.

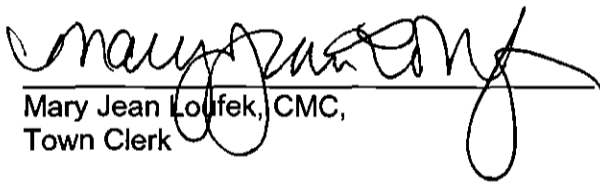
Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) 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 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 13th day of February, 2007. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 27th day of February, 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

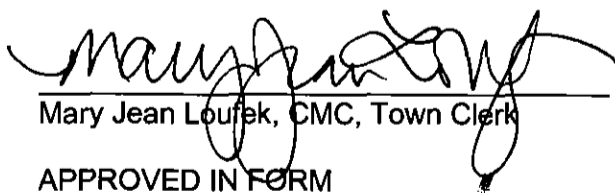
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on February 23, 2007.

The public hearing on this ordinance was held on February 27, 2007.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 27th day of February, 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
APPROVED IN FORM


Ernie Blake, Mayor


Town Attorney 2/27/07
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on March 9, 2007.