

ORDINANCE NO. 29

Series 2008

AN ORDINANCE ADOPTING A SUSTAINABLE BUILDING CODE FOR THE TOWN OF BRECKENRIDGE

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

Section 1. The Breckenridge Town Code is amended by the adoption of a new Chapter 4 of Title 8, to be entitled "Sustainable Building Code", which shall read in its entirety as follows:

CHAPTER 4

SUSTAINABLE BUILDING CODE

SECTION:

- 8-4-1: Title
- 8-4-2: Intent
- 8-4-3: Authority of Chief Building Official
- 8-4-4: Resource Guide Adopted By Reference; Authority of Building Official to Adopt Updated Version
- 8-4-5: Description Of Sustainable Building Code—Generally.
- 8-4-6: Applicability
- 8-4-7: Determination of Compliance
- 8-4-8: Mandatory Measures
- 8-4-9: Secondary Measures
- 8-4-10: Intensive Energy Use Amenities
- 8-4-11: Unlawful To Modify Premises
- 8-4-12: Conflict With Building Codes
- 8-4-13: Enforcement and Penalties
- 8-4-14: Liability
- 8-4-15: Effective Date; Transition

8-4-1: TITLE: This Chapter shall be known and may be cited as the "Town of Breckenridge Sustainable Building Code."

8-4-2: INTENT: The intent of this Chapter is to encourage cost effective and sustainable building methods to conserve fossil fuels, water, and other natural resources; to promote the reuse and recycling of building materials and a reduction in solid waste; and to promote enhanced indoor health and amenity in residential buildings.

8-4-3: AUTHORITY OF CHIEF BUILDING OFFICIAL: The Chief Building Official has the authority to interpret this Code, and to adopt policies and procedures to clarify the application of its provisions. The Chief Building Official has the authority to adopt and enforce administrative rules and regulations as may be necessary for the proper administration of this Chapter. Such rules and regulations shall be adopted in accordance with the procedures established by Chapter 1 of Title 1 of this Code.

8-4-4: RESOURCE GUIDE ADOPTED BY REFERENCE; AUTHORITY OF BUILDING OFFICIAL TO ADOPT UPDATED VERSION: The Summit Sustainable Building Resource Guide Version 1.0, dated March 2008, issued by the High County Conservation Center, is adopted and made a part of this Chapter by reference. If the Summit Sustainable Building Resource Guide is amended or revised after the effective date of this Chapter, such amended or revised version may be adopted by the building official as a building code policy pursuant to the authority granted to the building official by Section B104.1 of the International Building Code and Section R104.1 of the International Residential Code. The provisions of Chapter 18 of Title 1 of this Code shall not apply to the building official's adoption of an amended or revised version of the Summit Sustainable Building Resource Guide. All references in this Chapter to the "Resource Guide" are to Summit Sustainable Building Resource Guide Version 1.0, dated March 2008, as well as to any amended or revised version of the Summit Sustainable Building Resource Guide adopted by the building official as a building code policy.

#### 8-4-5: DESCRIPTION OF SUSTAINABLE BUILDING CODE—GENERALLY.

The Town's Sustainable Building Code adopted by this Chapter uses a combination of mandatory requirements (called "Mandatory Measures") and secondary (or elective) provisions (called "Secondary Measures"). Secondary Measures must either be met or offset by measures of equal value from the Resource Guide. The Mandatory Measures and Secondary Measures are combined with a points-based system to ensure that all residential buildings that are constructed within the Town achieve or exceed a minimum level of efficiency without limiting or restricting the size, design, and type of construction of the buildings or the amenity level provided. The Mandatory Measures, Secondary Measures and Resource Guide are intended to be interrelated.

#### 8-4-6: APPLICABILITY:

- A. The provisions of this Chapter shall apply to all new residential occupancy construction including, but not limited to, one and two family dwellings, and multi-family buildings (a building containing three or more dwelling units). The provisions of this Chapter shall also apply to all residential dwelling units constructed within a mixed-use development.
- B. Alterations and additions to residential structures existing at the time of the adoption of this Chapter shall comply with the provisions of this Chapter.
- C. For the purposes of calculating building size the entire building, existing and proposed shall be used.

#### 8-4-7: DETERMINATION OF COMPLIANCE:

- A. A completed Sustainable Building Checklist shall be submitted to the Town along with the appropriate building permit application.
- B. Compliance with each measure described in this Chapter or found in the Resource Guide shall be demonstrated by one of two methods. If compliance is "Inspected," Town staff will inspect these measures during typical inspections and shall require the submission of appropriate documentation to establish compliance. All materials and/or methods selected on the submitted Sustainable Building Checklist must be identified on the plans. If a measure is indicated as "Self-Certified," the applicant's signature on the Sustainable Building Checklist serves as certification that a measure will be complied with as described in each section. The Town may conduct follow-up inspections or compliance audits of self-certified measures prior to the issuance of a certificate of occupancy. If for any reason an inspection or compliance audit fails, no certificate of occupancy will be issued until such time as those self-certified measures are corrected.
- C. Buildings that meet the mandatory measures required by Section 8-4-8 and the secondary measures in Sections 8-4-9 and 8-4-10, as applicable to the project type, shall be deemed to comply with this Chapter.
- D. Buildings that meet the mandatory measures in Section 8-4-8 but do not meet the secondary measures in Sections 8-4-9 and 8-4-10, as applicable to the project type, must off set the level of non compliance by undertaking alternative measures and achieving points of equal value as identified in the Resource Guide.
- E. Buildings that meet and receive certification under L.E.E.D, Green Globes, or other approved Nationally recognized Green Building Programs may be deemed to meet the requirements of this Chapter Project specific approval is required for an alternate green building program certification.
- G. No certificate of occupancy for a residential project that is subject to the requirements of this Chapter shall be issued unless compliance with all of the requirements of this Chapter is demonstrated.

#### 8-4-8: MANDATORY MEASURES: The following measures are mandatory for all projects:

##### A. Insulation:

Exterior wall insulation R-21  
Roof ceiling insulation R- 49

Basement wall insulation R-10 (continuous) R13 (framing cavity)  
Conditioned crawl space wall (below grade) R-10 (continuous) R-13 (framing cavity)  
Conditioned crawl space wall (above grade) R-19  
Under slab insulation R- 10  
Slab edge insulation R- 10, R-15 for heated slabs  
Floor (over crawl) insulation R-30  
Cantilever floor R-30

A reduction of the above minimum values that is permitted by the International Energy Conservation Code will be permitted by this Chapter.

Compliance: Inspected (Insulation)

B. Fenestrations, (windows and doors):

Windows, maximum U- value of .35  
Doors, maximum U- value of .35  
Skylights and other fenestrations, maximum U- value .60

Compliance: Inspected (Plan Check and Final). Inspector must be able to clearly identify the U-value and the window type.

C. Exterior opaque doors:

One exterior opaque door assembly to the house and one to the garage are exempt from the fenestrations U-Factor requirement. Over head garage doors are also exempt.

Compliance: Inspected (Final)

D. Energy efficient boiler or furnace:

When a boiler is installed, it must meet a minimum 87% efficiency rating. For a forced air system, an 88% efficient system must be installed.

Compliance: Inspected (Final)

E. Water Heater:

Any conventional (storage) water heater installed must meet a minimum .63 energy factor (EF) rating for gas and a minimum .93 energy factor (EF) rating for electric. If a tankless, indirect, solar, or heat pump water heater is installed, this mandatory requirement shall be deemed to be met.

Compliance: Inspected (Final)

F. Owners Manual:

An owner's manual including the operational instructions for all mechanical systems and energy saving systems installed in the residential structure shall be provided to the homeowner. Not required for Multi Family.

Compliance: Inspected (Final)

8-4-9: SECONDARY MEASURES: Secondary measures for a sustainable building must be provided according to the specific units types and unit sizes outlined within this Section. In order to provide the designer and builder with flexibility, each secondary measure listed is also accompanied by an "offset value." This offset value refers to the alternative methods and materials found in the Resource Guide which may be used instead of the listed secondary measure.

A. Building size

1. Single Family (Attached and Detached)

For every 50 square feet of conditioned space (including heated garage) over 3,000 square feet, a dwelling unit shall be required to earn one point which must be offset by applicable measures listed in the Resource Guide. Dwelling units 3000 square feet or less will be credited with one point for every 50 square feet less than 3000 square feet.

2. Multi Family (3 or more units) or Residential units in mixed use developments.

For every 50 square feet of conditioned space within a dwelling unit over 1200 square feet, a building shall be required to earn one point, which must be offset by applicable measures listed in the Resource Guide.

C. Additions

For the purpose of calculating total building size the existing plus the proposed building/unit size will be used.

A single-family building that has a total building size of more than 3000 square feet shall be required to earn one point for every additional 50 square feet of new conditioned space, which must be offset according to applicable measures listed in the Resource Guide. The amount of new conditioned space between the existing home size and 3000 square feet will not need to be offset.

A multi family unit that has a total unit size of more than 1200 square feet shall be required to earn one point for every 50 square feet of new living space which must be offset by applicable measures listed in the Resource Guide. The amount of new living space between the existing living space and 1200 square feet will not need to be offset.

B. Renewable or Engineered Lumber

Install the following quantities of renewable/engineered lumber in each building: Multi Family and Mixed Use Buildings of non-combustible construction as defined by the Building Code are deemed to comply with this requirement.

Minimum 60% of wood roof framing to be renewable or engineered lumber  
Minimum 80% of wood floor framing to be renewable or engineered lumber  
Minimum 80% of wood beams and headers to be of renewable or engineered lumber.

The percentage area for floors and roofs will be measured as a percentage of the floor/roof area in plan view.

The percentage of beams and headers will be measured as a percentage of the total lineal length of all wood beams and headers.

Off set value: 1 point for every 10% less than required and 1point credit for every 10% more than required.

Compliance: Inspected (Plan Review/ Framing)

C. Day Lighting

Bathrooms, laundry rooms, and garages shall have windows and/or skylights to the outside or transoms to adjoining rooms meeting natural light requirements of the Building Code. Separate toilet compartments within a bathroom are exempt from this requirement.

Offset value: 2 points for every bathroom/powder room/laundry room without exterior windows.

Compliance: Inspected (Plan Review/Final)

D. Air Stratification

All vaulted/raised ceiling areas greater than fifteen feet above the finished floor level are to include an air destratification fan or vent system.

Off set value: 5 points

Compliance: Inspected (Final)

#### E. Recycling

Install a recycling center in all kitchen areas. Provide a dedicated space in all garages for the storage of recycling bins.

Off set value: 3 points

Compliance: Inspected (Final)

#### F. Energy Star® rated appliances

Install an energy efficient dishwasher, refrigerator / freezer, and clothes washer. Energy efficient appliance designation is indicated on the required Department of Energy "Energy Star®" label.

Off set value: 1 point for each appliance not rated or not provided.

Compliance: Inspected (Plan Review / Final)

#### 8-4-10: INTENSIVE ENERGY USE AMENITIES:

A. Any new residential occupancy construction, alterations and additions, and new construction, including but not limited to, one and two family dwellings, and multi-family dwellings that propose any of the following amenities must offset the energy usage in the following amounts:

1. Outdoor, gas fire pits/fire places and stoves, (excluding grills)

Off set value: 5 points for appliance.

Compliance: Inspected (Plan Review / Final)

2. Hot tubs, spa pools and swimming pools.

Off set value: 5 points for every 50 square feet, or portion thereof, of hot tub, spa, or pool water surface area.

Compliance: Inspected (Plan Review/Final)

3. Outdoors heated surfaces, including exterior drives, pathways patios, and garage aprons, etc.

Off set value: 2 points for every 100 sq/ft, or portion thereof, of out door heated surface

Compliance: Inspected (Plan Review/Final)

4. Air Conditioning

Off set value: 1 point for every 200 sq/ft. , or portion thereof, of air conditioned space

Compliance: Inspected (Plan Review/Final)

B. Points awarded under this section in excess of those points required for project approval are available for future use in connection with additions to or the remodeling of the property, but only if the addition or remodel involves one or more of the intensive use amenities described in this section. Such retained points shall run with the land, and may not be transferred separately from the land or retained by the seller of the property.

8-4-11: UNLAWFUL TO MODIFY PREMISES: For a residential construction project that is subject to the provisions of this Chapter, once a certificate of occupancy for such project has been issued it shall be unlawful for any person to do the following without the prior written approval of the Town:

A. modify the premises for which the certificate of occupancy was issued in a manner that makes the premises noncompliant with the mandatory measures of Section 8-4-8 of this Chapter; or

B. modify the premises for which the certificate of occupancy was issued in a manner that reduces the net number of points awarded for the project under Section 8-4-9 or 8-4-10 of this Chapter.

**8-4-12: CONFLICT WITH BUILDING CODES:** In the event of any conflict between the provisions of this Chapter and the Town's building codes adopted by Chapter 1 of this Title, the provisions of this Chapter shall control.

**8-4-13: ENFORCEMENT AND PENALTIES:**

A. General: It is an "infraction", as defined in Section 1-3-2 of this code, for any person to violate any of the provisions of this Chapter. Any person who violates any provision of this Chapter shall, upon a determination of liability, be punished as provided in Title 1, Chapter 4 of this Code. Each such person shall be liable for a separate offense for each and every day during any portion of which any violation of any of the provisions of this Chapter is committed, continued or permitted by such person, and such person shall be punished accordingly.

B. Injunctive Relief: 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; to authorize and compel the removal, termination or abatement of such violation; or if a property that is subject to the requirements of this Chapter has been modified in violation of Section 8-4-11 of this Chapter, to require that the property cease being used until it is restored to the condition that existed when the certificate of occupancy was issued.

C. Additional Remedies: 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.

**8-4-14: LIABILITY:**

The adoption of this Chapter and the codes provided for herein shall not create any duty to any person with regard to the enforcement or nonenforcement of this Chapter or said codes. No person shall have any civil liability remedy against the town or its officers, employees or agents, for any damage arising out of or in any way connected with the adoption, enforcement or nonenforcement of this Chapter or said codes. Nothing in this Chapter or in said codes shall be construed to create any liability or to waive any of the immunities, limitations on liability or other provisions of the Colorado governmental immunity act, section 24-10-101 et seq., C.R.S, or to waive any immunities or limitations on liability otherwise available to the town, or its officers, employees or agents.

**8-4-15: EFFECTIVE DATE; TRANSITION:**

This ordinance shall become effective January 1, 2009 and shall apply to all construction projects for which development permit applications are submitted to the Town on or after such date. This ordinance shall not apply to: (i) any construction project for which a development permit application was submitted to the Town prior to January 1, 2009; (ii) any construction project for which a development permit was approved by the Town prior to January 1, 2009; and (iii) any construction project for which a building permit was issued prior to January 1, 2009.

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.

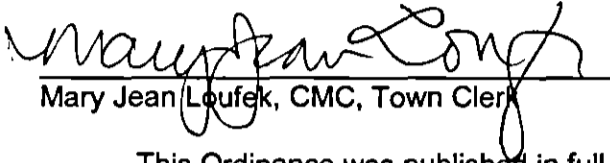
Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

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 10<sup>th</sup> day of June, 2008. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 24<sup>th</sup> day of June, 2008, 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

  
John G. Warner, Mayor

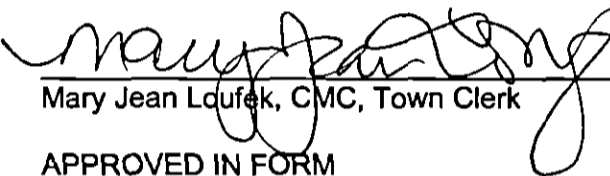
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on June 20, 2008.

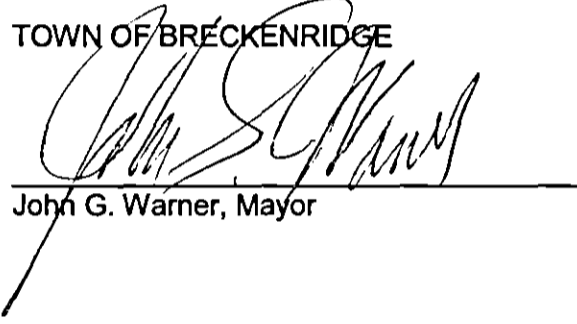
The public hearing on this ordinance was held on June 24, 2008.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 24<sup>th</sup> day of June, 2008. This ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, CMC, Town Clerk

  
John G. Warner, Mayor

APPROVED IN FORM

  
Town Attorney 6/24/08  
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on July 4, 2008.