

ORDINANCE NO. 10

Series 2009

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING SOLAR PANELS, SOLAR DEVICES, AND SOLAR ARRAYS

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

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

BUILDING-INTEGRATED PHOTO-VOLTAIC DEVICE:	Solar membranes; solar shingles; solar in glass; other non-panelized photo-voltaic technology; and any other solar technology of any kind that is proposed to be located on or outside of a structure which does not meet the definition of solar panel or solar array.
DETACHED SOLAR ARRAY:	Any solar array that is mounted independently of the building structure.
ELEVATED SOLAR ARRAY:	Any solar array that does not run parallel to the roofline.
HIGHLY VISIBLE:	A solar device is highly visible if a majority of the solar device is always visible or capable of being observed from a public right of way during daylight hours by a person of normal visual acuity. Conversely, a solar device is not highly visible if a majority of the solar device is not visible or capable of being observed from a public right of way during daylight hours by a person of normal visual acuity.
MOUNTING STRUCTURE:	Any racking, hardware, or material used to affix solar panels to a roof, wall, pole or to facilitate a detached array.
ORIENTATION (AZIMUTH):	The compass bearing that the collection surface faces. True south is defined as 13 degrees to the east of magnetic south.
RIDGELINE:	The intersection of two roof surfaces forming the horizontal line of the roof.
ROOFLINE:	The roof plane.
SOLAR ARRAY:	A grouping of solar panels that are connected together. The term "solar array" includes both detached and elevated solar arrays.
TILT ANGLE:	The angle above the horizon that the array faces. Optimum angle for year round production is equal to the latitude of the site (Breckenridge is at 40 degrees latitude).

Section 2. The definition of "Solar Device" in Section 9-1-5 of the Breckenridge Town Code is amended to read in its entirety as follows:

SOLAR DEVICE:	A solar panel; solar array; or building-integrated photo-voltaic device.
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Section 3. The definition of "Solar Panel" in Section 9-1-5 of the Breckenridge Town Code is amended to read in its entirety as follows:

SOLAR PANEL

A device which collects or harvests solar energy. A solar panel is used for the capture and creation of solar electric or solar thermal energy, including, without limitation, heated air and heated fluids (also referred to as a solar collector)

Section 4. The definition of "Class C - Minor Development" set forth in Section 9-1-5 of the Breckenridge Town Code is hereby amended by the addition of the following item:

- Installation of solar device within the Conservation District

Section 5. The definition of "Class D Development" set forth in Section 9-1-5 of the Breckenridge Town Code is hereby amended by the addition of the following item:

- Installation of solar device outside the Conservation District

Section 6. Subsection E of Policy 5 (Absolute)("Architectural Compatibility") of Section 9-1-19 of the Breckenridge Town Code is amended to read in its entirety as follows:

E. Solar Devices:

1. Within the Conservation District: The preservation of the character of the Conservation District and the historic structures and sites within the Conservation District are of the utmost importance. The Town encourages the installation of solar devices as an alternative energy source. However, there may be instances where solar devices are not appropriate on a particular building or site if such a device is determined by the Town to be detrimental to the character of the Conservation District or would result in a reduced state, federal or local historic rating.

The Town encourages solar device placement to be sensitive to the character of the Conservation District and located away from the public right of way.

Within the Conservation District a solar device shall be located based upon the following order of preference. Preference 1 is the highest and most preferred; preference 6 is the lowest and least preferred. A solar device shall be located in the highest preference possible. The order of preference for the location of a solar device within the Conservation District is as follows: (1) as a building-integrated photo-voltaic device; (2) as a detached solar device in the rear or side yard away from view from a public right of way; (3) on non-historic structures or additions; (4) on an accessory structure; (5) on the primary structure; and (6) highly visible from the public right-of-way.

2. Within the Conservation District, no solar device shall be installed on a structure or site without first obtaining a Class C minor development permit. Solar devices are encouraged to be installed on a non-historic building or building addition and integrated into the building design. To ensure that the character of the Conservation District and its historic structures and sites are protected, an application for a development permit to install a solar device within the Conservation District will be reviewed under the following requirements:
 - a. Solar devices on roofs shall be placed on a non-character defining roofline of a non-primary elevation (not highly visible from a public right-of-way). For lots which have exhausted the preferred placement options as set forth above, solar devices that are visible from the right of way may be appropriate if they are designed to have minimal visual impacts from the right of way and do not result in detrimental character to the Conservation District, or a reduced state, federal or local historic rating for the structure or surrounding structures. Roof mounted solar devices shall not break the existing ridgeline of the roof to which the solar device is mounted. Solar devices shall be setback from the edge of a flat roof to minimize visibility and may be set at a pitch and elevated if not highly visible from public right-of-way. On all other roof types, solar devices shall be located so as not to alter a historic roofline or character defining features such as dormers or chimneys. All solar devices shall run parallel the original roofline and shall not exceed nine inches (9") above the roofline as measured from the bottom of the panel. Solar devices and

related mechanical equipment and mounting structures shall be non-reflective such as an anodized finish. Mechanical equipment associated with the solar device such as invertors, convertors and tubing attached to the building fascia shall be painted to match the building color to blend into the building.

- b. Applications for new structures within the Conservation District are encouraged to include building integrated solar devices into the initial design, including a similar roof color, rather than as a later addition. Solar devices which contrast with the color of the roof of new or historic structures are inappropriate if found to be detrimental to the character of the Conservation District.
- c. Detached arrays of solar devices at a historic site may be located in the rear or side yard if the arrays are not highly visible from a public right of way and do not detract from other major character defining aspects of the site. The location of detached arrays of solar devices shall also consider visibility from adjacent properties, which shall be reduced to the extent possible while still maintaining solar access.
- d. On historic buildings, character defining elements such as historic windows, walls, siding or shutters which face a public right-of-way or contribute to the character of the building shall not be altered in connection with the installation of solar devices. Solar devices in non-historic windows, walls, siding or shutters which do not face a public right of way are encouraged.

3. Outside the Conservation District: The Town encourages the installation of solar devices on structures or sites located outside the Conservation District as an alternative energy source. The following regulations shall apply to the installation of solar devices outside the Conservation District:

- a. No solar device shall be installed on a structure or site without first obtaining a Class D development permit. The director shall have the authority to reclassify an application as a Class C minor application, and to require review by the Planning Commission, if he feels the purpose of this code would be best served by the reclassification. Reclassification shall be done pursuant to the definition of "Classification" in Section 9-1-5 of this chapter.

Outside of the Conservation District a solar device shall be located based upon the following order of preference. Preference 1 is the highest and most preferred; preference 6 is the lowest and least preferred. A solar device shall be located in the highest preference possible. The order of preference for the location of a solar device outside of the Conservation District is as follows: (1) as a building-integrated photo-voltaic device; (2) flush mounted (9" above the roofline) panel on an accessory structure roof, or as a detached array of solar devices; (3) flush mounted roof panel on the primary structure or screened detached array; (4) a tilted roof mounted panel that is not highly visible from the public right of way; (5) a tilted or angled and tilted roof mounted panel that is not highly visible from the public right of way; and (6) a tilted or angled and tilted roof mounted panel that is highly visible from the public right of way.

- b. Roof mounted solar devices shall run as closely parallel to the roofline as possible while still maintaining efficient solar access. Solar devices and related mechanical equipment and mounting structures shall be non-reflective such as an anodized finish. Mechanical equipment associated with the solar device such as invertors, convertors and tubing attached to the building fascia shall be painted to match the building color to blend into the building. New structures are encouraged to include building integrated solar devices into the initial design, rather than as a later addition.
- c. Roof mounted solar devices shall not break the existing ridgeline of the roof to which the panels are mounted. All mounting structures shall be on the same roofline as the panels. Elevated solar arrays which follow the orientation of the roofline are allowed. An east or west facing roof may

have an angled orientation in relation to the existing roofline. A maximum tilt angle of 45 degrees is allowed for electrical solar devices. An elevated array for a solar hot water heating system may have a maximum tilt angle of 50 degrees and a maximum tilt angle of 55 degrees for a solar heating system.

- d. Solar devices which appear as an awning may be mounted onto building facades or decks.
 - e. The location of detached solar devices shall also consider visibility from adjacent properties and public right of way, which shall be reduced to the extent possible while still maintaining solar access. Detached solar devices which serve the structure on the site may be located outside of the building or disturbance envelope if no significant existing vegetation must be removed for the installation and an adequate buffer is provided to adjacent properties.
4. Any solar devices that falls into a state of disrepair or that ceases to be fully operational for more than 90 days shall be removed and properly discarded. The landowner's obligation to comply with this requirement shall be contained in a recorded restrictive covenant acceptable in form and substance to the Town Attorney.

Section 7. 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 8. 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 9. 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.

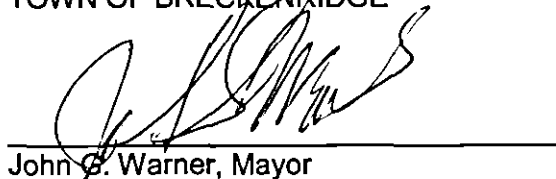
Section 10. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 24th day of March, 2009. 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 April, 2009, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:


Mary Jean Loufek, CMC, Town Clerk

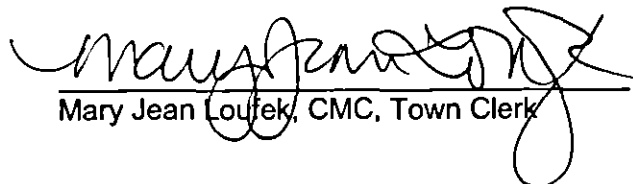
TOWN OF BRECKENRIDGE


John G. Warner, Mayor

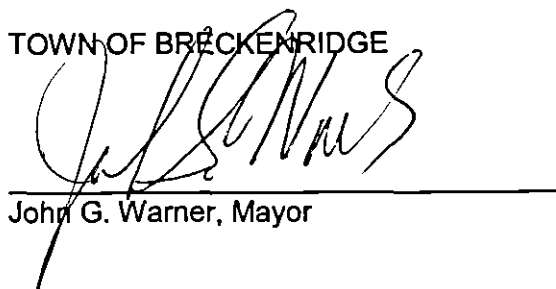
The public hearing on this ordinance was held on April 14, 2009.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS this 14th day of April, 2009. This ordinance is available for inspection in the office of the Town Clerk.

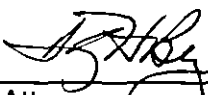
ATTEST:


Mary Jean Loufek, CMC, Town Clerk

TOWN OF BRECKENRIDGE


John G. Warner, Mayor

APPROVED IN FORM


Town Attorney

7/14/09
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 April 24, 2009.