

ORDINANCE NO. 32

Series 2009

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", BY ADOPTING A NEW DEVELOPMENT POLICY 4 (ABSOLUTE) CONCERNING MAXIMUM ABOVE GROUND FLOOR AREA RATIO AND MAXIMUM ABOVE GROUND SQUARE FOOTAGE, AND MAKING CONFORMING AMENDMENTS TO POLICY 4 (RELATIVE) CONCERNING MASS

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

Section 1. The Town Council finds and determines as follows:

A. In September, 2007, the Town Council expressed its concern about the increasing number of large single family residence that were being built in the Town.

B. The Town Council desires to maintain the character of the Town, particularly the character of its older, more established neighborhoods.

C. The Town's "small town" character is vitally important to its social and economic future and, as a result, to the social and economic well being of the current and future residents of the Town.

D. The Town Council has tried to maintain the Town's "small town" character, and has made the preservation of the Town's small town character part of the Town's Vision Plan. The Town's Vision Plan envisions a community "where residents and visitors experience a historic mountain town with characteristic charms that offers a safe, friendly and peaceful atmosphere where individuals can live, work, play and raise a family."

E. Although the Town's land use and development codes (Chapter 1 and Chapter 2 of Title 9 of the Breckenridge Town Code, primarily) require platted building envelopes and site disturbance envelopes for newer subdivisions, the current Town codes do not adequately control the size of single family residences in the Town's older subdivisions.

F. Large single family and duplex residences outside of the Town's Conservation District have been built with increasing frequency in recent years, and the sizes of such residences have also increased.

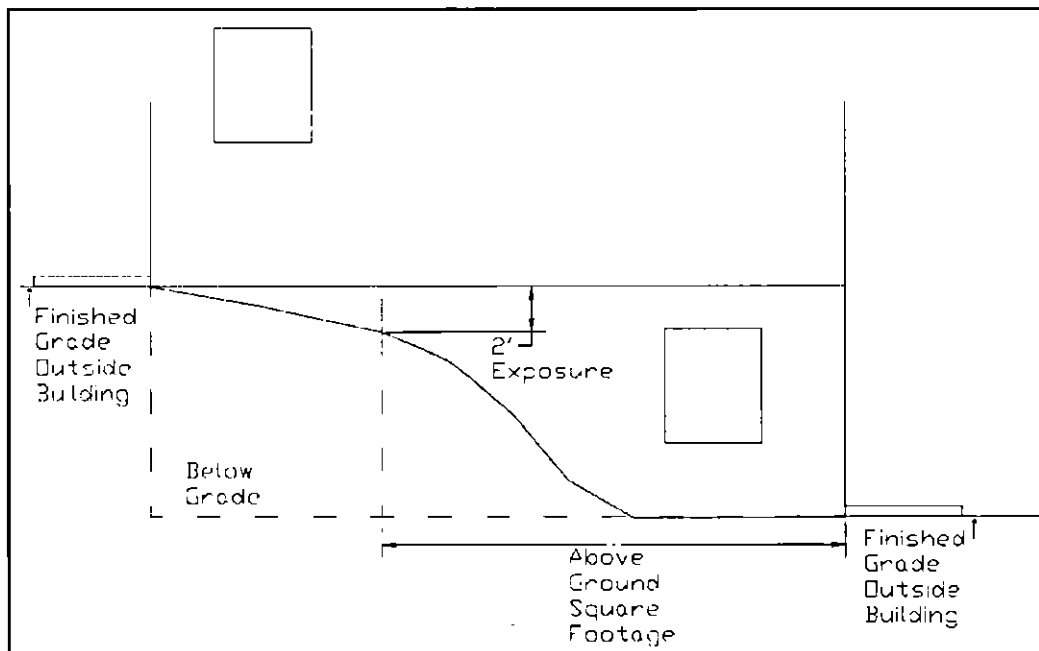
G. The development of large single family and duplex residences has a significant number of negative impacts on the Town and its residents. Such impacts, include, but are not limited to, development that:

1. is out-of-scale with existing neighborhood home sizes;
2. increases the demand on existing infrastructure, such as water, sewer, and other utility services;
3. decreases important areas of wildlife and vegetative habitat;
4. increases the Town's overall "carbon footprint" and creates other adverse environmental impacts;
5. increases the demand for workers to construct, service, and maintain the large residences; and
6. increases the demand for attainable employee housing within the Town.

H. Establishing a Town development policy providing a maximum above ground floor area and maximum above ground square footage in those older subdivisions that do not have platted building or site disturbance envelopes will help to preserve the character of the community, and will protect the public health, safety and welfare. As such, the adoption of such a policy is a legitimate exercise of the Town's zoning and police powers.

Section 2. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of the following definitions, which shall read in their entirety as follows:

Above Ground Square Footage: That portion of the floor area of the structure that is above finished grade. Any portion of a foundation wall that is exposed more than two feet (2') above finished grade shall be counted as above ground square footage.



Floor Area Ratio (F.A.R.):

The total square footage of the structure to be developed divided by the total square footage of the lot, tract or parcel.

Section 3. Section 9-1-19 of the Breckenridge Town Code is amended by the addition of a new Policy 4 (Absolute), to be entitled "Mass", which shall read in its entirety as follows:

4. (ABSOLUTE) MASS

A. Maximum Mass:

For any development permit application submitted on or after November 11, 2009, the maximum above ground square footage of a single family or duplex structure located on a lot, tract or parcel without a platted building or disturbance envelope shall be the lesser of:

SUBDIVISION OR GEOGRAPHIC AREA	FLOOR AREA RATIO (F.A.R.)		MAXIMUM ABOVE GROUND SQUARE FOOTAGE
Brooks Hill	1:5.00	OR	7000
Breckenridge South	1:5.00	OR	6000
Christie Heights	1:3.50	OR	6500
Gold King	1:8.50	OR	7000
Gold Flake	1:4.50	OR	9000
Highlands, Filing 1	1:8.50	OR	9000
Highlands, Filing 2	1:8.50	OR	9000
Highlands, Filing 3	1:8.50	OR	9000
Highlands, Filing 4	1:8.50	OR	9000
Peaks	1:1.75	OR	6500
Penn Lode	1:3.00	OR	6000
Sunbeam Estates	1:3	OR	7000
Sunrise Point	1:2.00	OR	6500
Trafalgar	1:2.00	OR	7500
Tyra	1:2.00	OR	6000
Warrior's Mark	1:2.00	OR	4000
Warrior's Mark West	1:2.00	OR	4500
Weisshorn	1:4.00	OR	8000
Yingling & Mickles	1:1.30	OR	5600

Real property that has a platted building or disturbance envelope, or with a density or mass determined by an active Master Plan or Planned Unit Development or is within the Conservation District, is not subject to this policy.

The Floor Area Ratio and Maximum Above Ground Square Footage of any lot, tract or parcel of land without a platted building or disturbance envelope located outside of the Conservation District that is not listed in the table above shall be determined by the Director. In

making such determination, the Director shall consider the applicable Floor Area Ratio and Maximum Above Ground Square Footage of adjacent subdivisions or geographic areas, and shall establish the applicable Floor Area Ratio and Maximum Above Ground Square Footage so that it will be compatible with the character of the area in which the lot, tract or parcel of land is located.

B. If a single family or duplex structure contains a garage, the measurement of above ground square footage in subsection A applies only to that portion of the garage that exceeds 900 square feet.

C. If a single family or duplex structure that was lawfully constructed before the date described in subsection A of this policy is damaged or destroyed by fire or other calamity it may be rebuilt to the same size that existed immediately prior to the fire or other calamity. However, except as provided in the preceding sentence, the provisions of Section 9-1-12 of this chapter shall apply to the repair or reconstruction of such single family or duplex structure.

D. For any single family or duplex structure existing or for which a development permit has been issued before the date described in subsection A of this policy:

1. an additional 500 square feet of above ground square footage is permitted for a single family or duplex structure if such square footage is not allowed by subsection A; and

2. an interior addition is permitted without violating this policy if the addition does not result in any change to the exterior of the single family or duplex structure. If such addition results in the reduction of the size of the garage to below 900 square feet, additional garage space constructed on the property shall be counted toward the maximum allowable floor area ratio and maximum above ground square footage in Section A.

E. For any duplex structure that is subject to the provisions of subsection D(1), if each duplex unit has the same above ground square footage each duplex unit shall be allocated an additional 250 square feet of allowed above ground square footage. If either of the duplex units has a greater amount of above ground square footage than the other duplex unit, the smaller duplex unit shall receive so much of the additional above ground square footage as is required to make it equal to the above ground square footage of the larger duplex unit, and the remaining additional above ground square footage shall be divided equally between the two duplex units. If both duplex owners agree to an alternative allocation of the duplex's additional 500 square feet of allowed above ground square footage, the Town may approve such alternative allocation if both owners submit an agreement in a form acceptable to the Town Attorney prior to the submission of any application for a development permit that involves the use of any of the duplex's additional 500 square feet of above ground square footage. The duplex owners' agreement for an alternative allocation of the additional above ground square footage must be recorded in the real property records of the Clerk and Recorder of Summit County prior to the issuance of a development permit for the use of such additional square footage, and must run with the land and be binding upon all subsequent owners of the two duplex units.

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

2. Single-Family, Duplexes, Bed and Breakfasts, and Townhouses. Single-family, duplex, bed and breakfast, and townhouse developments may be allowed an additional twenty percent (20%) of aboveground floor area for the provision of garages, common amenity areas, and common storage areas. This mass bonus does not apply to single family or duplex structures listed in Policy 4 (Absolute) Mass, subsection A.

Section 5. 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 6. 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. 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.

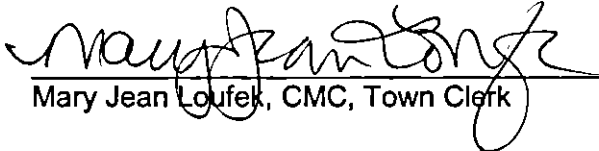
Section 8. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

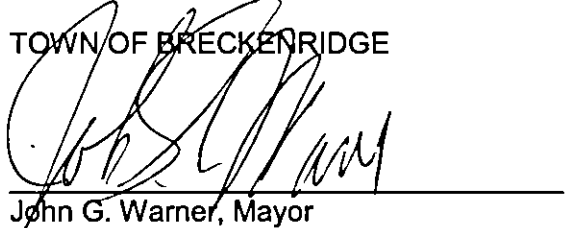
Section 9. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 13th day of October, 2009. 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 October, 2009, 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

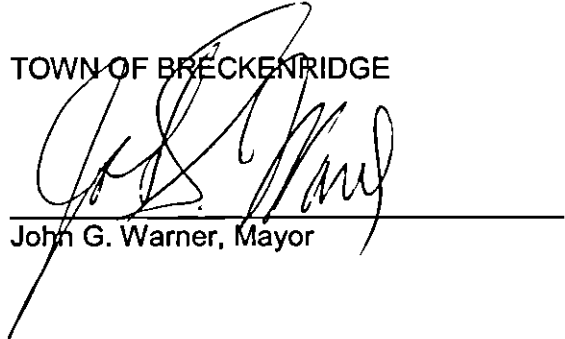
The public hearing on this ordinance was held on October 27, 2009.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS this 27th day of October, 2009. 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

10/27/09
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 November 6, 2009.