

ORDINANCE NO. 8

Series 2011

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", BY ADOPTING PROCEDURES TO BE FOLLOWED TO AMEND THE TOWN OF BRECKENRIDGE "LAND USE GUIDELINES"

WHEREAS, by Ordinance No. 18, Series 1997, the Town Council adopted procedures to amend the Breckenridge "Land Use Guidelines"; and

WHEREAS, by Ordinance No. 12, Series 2001, the Town Council amended the procedures to amend the Land Use Guidelines; and

WHEREAS, neither Ordinance No. 18, Series 1997, nor Ordinance No. 12, Series 2001, were codified in the Breckenridge Town Code; and

WHEREAS, the Town Council finds and determines that including the substantive provisions of Ordinance No. 18, Series 1997, and Ordinance No. 12, Series 2001, in the Breckenridge Town Code will make the code easier to work with and more useful; and

WHEREAS, the Town Council find and determines that the minor changes made by this ordinance to the procedures adopted by Ordinance No. 18, Series 1997, and Ordinance No. 12, Series 2001 are appropriate.

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

Section 1. The Breckenridge Town Code is amended by the inclusion of a new Section 9-1-15-1, to be entitled "Amendments to Land Use Guidelines", which shall read in its entirety as follows:

9-1-15-1: AMENDMENTS TO LAND USE GUIDELINES:

- A. Authority. From time to time the Town Council may by ordinance amend the number, shape, boundaries, or area of any Land Use District, or any regulation of or within such Land Use District, or any other provision of the Land Use Guidelines.
- B. Legislative Amendment. In connection with any amendment to the Land Use Guidelines that is determined by the Town Council to be legislative or quasi-legislative in nature, the procedures set forth in Section 5.10 of the Breckenridge Town Charter for the adoption of Town ordinances shall be followed; provided, however, that no ordinance involving a legislative or quasi-legislative amendment to the Land Use Guidelines shall be adopted as an emergency ordinance. In addition to any other notice of public hearing that may be required by the Breckenridge Town Charter, notice of a public hearing to consider the proposed adoption of a legislative or quasi-legislative amendment to the Land Use Guidelines shall be published twice in a newspaper of general circulation in the Town, the first publication occurring at least twelve (12) days prior to the hearing and the second publication occurring at least four (4) days prior to the hearing. Such newspaper notice shall contain the date and time of the public hearing on the proposed amendment; the location of the hearing on the proposed amendment; and a brief description of nature of the proposed amendment to the Land Use Guidelines. Such newspaper notice is reasonably calculated to afford affected persons the realistic opportunity to protect their interests.
- C. Quasi-judicial Amendment. In connection with any amendment to the Land Use Guidelines that is determined by the Town Council to be quasi-judicial in nature, the procedures set forth in Section 5.10 of the Breckenridge Town Charter for the adoption of Town ordinances shall be followed; provided, however, that no ordinance involving a quasi-judicial amendment to the Land Use Guidelines shall be adopted as an emergency ordinance. In addition to any other notice of public hearing that may be required by the Breckenridge Town Charter, notice of a public hearing to consider the proposed adoption of a quasi-judicial amendment to the Land Use Guidelines shall be published twice in a newspaper of general circulation in the Town, the first publication occurring at least twelve (12) days prior to the hearing and the second publication occurring at least four (4) days prior to the hearing. Such newspaper notice shall contain the date and time and of the public hearing on the proposed amendment; the location of the hearing on the proposed amendment; and a brief description of nature of the proposed amendment to the Land Use Guidelines. Such

newspaper notice is reasonably calculated to afford affected persons the realistic opportunity to protect their interests. In addition to the newspaper notice, not less than twelve (12) days prior to the date of the public hearing the Director shall mail a copy of the text of the newspaper notice by first class mail to all owners of real property located within the Land Use District(s) that would be affected by the proposed Land Use Guidelines amendment as shown by the records of the Summit County Clerk and Recorder; provided, however, that the failure of the Director to mail such notice, or the failure of a person to receive such mailed notice, shall not impair the validity of the public hearing or any amendment made by the Town Council to the Land Use Guidelines following such hearing.

- D. Public Hearing. The public hearing required to be held in connection with the adoption of an ordinance amending the Land Use District Guidelines shall be the same public hearing as is required by Section 5.10 of the Breckenridge Town Charter in connection with the second reading of a Town ordinance.
- E. Application of Land Use Guidelines to Specific Lot, Tract or Parcel. Any change in the manner in which the Land Use Guidelines are to be applied to a specific lot, tract or parcel of land, including, without limitation, the recommended density for such lot, tract or parcel, shall be accomplished either by written agreement with the owner(s) of the subject lot, tract or parcel (such as an Annexation Agreement), a Master Plan or by ordinance adopted by the Town Council using the procedures for a quasi-judicial amendment to the Land Use Guidelines as set forth in Subsection C, above. Following the introduction of an ordinance as described in the preceding sentence, the Director shall not accept an application to develop or subdivide the real property that is the subject of the ordinance until such time as the ordinance has either been finally approved or rejected by the Town Council, and any applicable referendum period has expired.
- F. Legal Standards for Land Use Guideline Amendments. In considering a proposed amendment to the Land Use Guidelines, the Town Council shall apply the following standards:
1. If the proposed change is found by the Town Council to be consistent with or in compliance with the Town's Comprehensive Plan, and all parts thereof, the proposed change need only bear a reasonable relationship to the welfare of the community.
 2. If the proposed change is found by the Town Council to be in conflict with or inconsistent the Town Master Plan, or any part thereof, the applicant seeking the change must show either: (1) that a manifest error was made in establishing the current Land Use Guidelines or its application to a specific lot, tract or parcel, or (2) that the proposed change bears a reasonable relationship to the welfare of the community and there has been a change in the conditions of the neighborhood that supports the requested change.

Section 2. Subsection C of Section 9-1-15 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

C. If, in accordance with Section 9-1-15-1, changes are made in land use district boundaries or other matters portrayed on the Official Land Use District Map, such changes shall be entered on the map. No amendment to the Official Land Use District Map shall become effective until entry of such change has been made on said map.

Section 3. 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 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. 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.

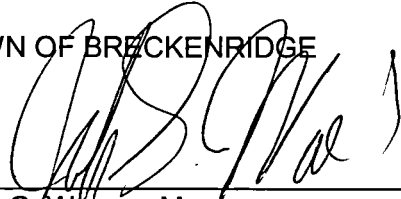
Section 6. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 8th day of February, 2011. A Public Hearing on the ordinance shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado, on the 22nd day of February, 2011 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

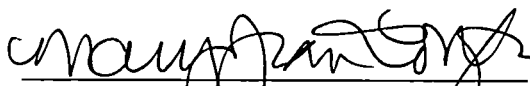
This Ordinance was published in full on the Town of Breckenridge website, on February 10, February 11, February 12, February 13, February 14, 2011.

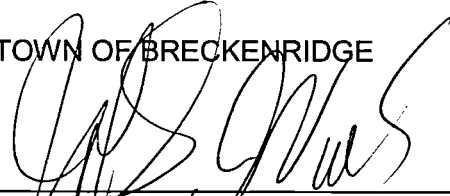
The public hearing on this ordinance was held on February 22, 2011.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 22nd day of February, 2011. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

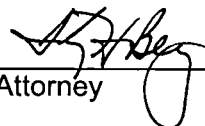
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


John G. Warner, Mayor

APPROVED IN FORM


Town Attorney

2/22/11
Date

This Ordinance was published on the Town of Breckenridge website on February 24, February 25, February 26, February 27, and February 28, 2011. This ordinance shall become effective on March 30, 2011.