

ORDINANCE NO. 22

Series 2012

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING AIR QUALITY

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

Section 1. The definition of "Wood burning Cooking Appliance" in Section 9-1-5 of the Breckenridge Town Code is amended to read in its entirety as follows:

WOOD BURNING COOKING APPLIANCE:

Any cooking appliance that utilizes the burning of wood for fuel, including, but not limited to, a **wood smoker**. A wood-fired oven is not classified as a wood burning cooking appliance.

Section 2. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of the following definitions:

WOOD SMOKER:

Any cooking appliance that utilizes the burning of wood with the intent of producing smoke and relatively low cooking temperatures (usually below 400 degrees Fahrenheit) in order to cook and infuse flavor into foods (usually meats and other types of barbeque) at relatively low temperatures.

WOOD-FIRED OVEN:

A cooking appliance that utilizes the burning of hardwoods and/or fruitwoods with the intent of cooking pizzas and other foods quickly and at very high temperatures (usually above 500 degrees Fahrenheit).

Section 3. Section 9-1-19-30A (ABSOLUTE) AIR QUALITY of the Breckenridge Town Code is amended to read in its entirety as follows:

30. (ABSOLUTE) AIR QUALITY (30/A): Due to the effects of unregulated wood burning appliances on the air quality of Breckenridge as the Town continues to grow, it is necessary to place limitations on the number of new wood burning appliances in order to protect the quality of our air. In order to retain the quality of air present in Breckenridge the following Policy shall apply. Those projects that wish to provide additional fireplaces or stoves over and above those allowed here shall do so through the use of gas, electricity, or similar means.

A. The number of wood burning appliances that may be installed in any project constructed or remodeled within the Town is hereby limited to the following:

- (1) Single-Family Residential: One wood burning appliance per dwelling unit. No wood burning appliances shall be allowed in any accessory apartments.
- (2) Duplex And Townhouse Residential: One wood burning appliance per dwelling unit; provided, that each unit has one thousand five hundred (1,500) square feet or more of internal heated floor area. No wood burning appliances shall be allowed in units with less than one thousand five hundred (1,500) square feet of internal heated floor area.
- (3) Multi-Unit Residential: One wood burning appliance per floor located in a lobby or common area containing greater than one thousand (1,000) square feet, with a maximum of two (2) per individual building. No such wood burning appliances shall be allowed in dwelling units.

- (4) Restaurant Or Bar: One wood burning appliance per restaurant or bar, or restaurant/bar combined.
- B. The installation of coal-burning appliances is prohibited.
- C. The installation of a wood burning appliance which does not meet or exceed any applicable emission standards promulgated by the United States Environmental Protection Agency is prohibited.
- D. The installation of a wood burning cooking appliance, wood smoker, or wood-fired oven is prohibited except in a restaurant or restaurant/bar combined; and not more than: (i) one wood burning cooking appliance, (ii) one wood smoker, and (iii) one wood-fired oven are permitted per restaurant or restaurant/bar combined.
- E. No development shall cause directly or indirectly, either by itself or incrementally, a violation of the ambient air quality standards for the region as established from time to time by the Colorado Department of Health.
- F. Exceptions: Notwithstanding subsection A of this policy, if an existing wood burning appliance is proposed to be replaced with a new wood burning appliance that meets or exceeds the Environmental Protection Agency phase II emissions standards, the replacement wood burning appliance may be allowed even though wood burning appliances would not otherwise be allowed for new construction at the property, and even though the property would contain more wood burning appliances than allowed by subsection A of this policy.

Section 4. Section 9-1-19-30R (RELATIVE) AIR QUALITY of the Breckenridge Town Code is amended to read in its entirety as follows:

30. (RELATIVE) AIR QUALITY (30/R):

- A. Where wood burning appliances are permitted:

It is encouraged that all developments install alternative methods of heating, rather than wood burning appliances. To encourage the use of alternative methods of heating, the following point analysis shall be utilized to evaluate how well a proposal meets this Policy:

0 The installation of a wood burning appliance; or gas fireplace.

-2 The installation of a wood burning cooking appliance or wood smoker in a restaurant or restaurant/bar combined.

0 The installation of a wood-fired oven in a restaurant or restaurant/bar combined.

2 x (0/+2)

- B. Beyond the provisions of Policy 30 (Absolute) of this Section, other measures which are likely to reserve or enhance the quality of the air are encouraged. Measures which are effective over the long-term are preferred.

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 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 7. 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 8. 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 26 day of June, 2012.

This ordinance was published in full on the Town of Breckenridge website on June 28, June 29 and June 30, 2012.

A public hearing on this ordinance was held on July 10, 2012.

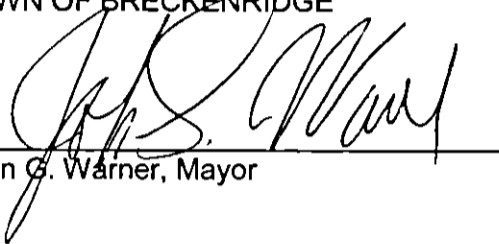
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 10th day of July, 2012. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE



Laura Kennedy, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on July 12, July 13, July 14, July 15 and July 16, 2012. This ordinance shall become effective on August 9, 2012.