

ORDINANCE NO. 8

Series 2013

AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS, AND CHAPTER 3 OF TITLE 9 " OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE OFF-STREET PARKING ORDINANCE"

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

Section 1. Section 9-1-17-11(l) of the Breckenridge Town Code is amended to read in its entirety as follows:

I. Extension Of Vested Property Rights: An approved development permit and the vested property rights for such project may be extended by the planning commission. An application for an extension shall be made in writing to the director and shall include such submittal information as the director may require. Such application must be received at least thirty (30) days prior to the expiration of the development permit. An application for an extension which is received within the specified time period shall extend the development permit and the vested property rights for such project until such application is finally determined, and an application for extension shall be considered even though, at the time of such consideration, the development permit would have otherwise expired. Failure to submit a written request for extension within the specified time period shall cause the development permit and the vested property rights for such project to expire at the end of the time period provided in subsection D of this section. An extension application shall be classified and processed one classification lower than the classification of the development permit which gave rise to the vested property rights for the project. No extension of a vested property right may be approved unless the approved project complies with all Town land use laws in effect at the time of the extension request. The planning commission may approve the requested extension, deny the requested extension, or approve the requested extension with conditions. If an extension is granted, the planning commission shall fix the period of extension which may be up to and including a period of three (3) years.

Section 2. Section 9-1-18-1(E)(6) of the Breckenridge Town Code is amended to read in its entirety as follows:

6. Notice And Council Call Up: The director shall notify the council of all planning commission decisions on class A applications at the council's next regular meeting after the decision. At that meeting, the council may, by an affirmative vote of the members present call up any decision of the planning commission for their own review under section 9-1-18-5 of this chapter. In lieu of calling up a planning commission decision the council may, with the consent of the applicant, modify or eliminate any condition of approval imposed on the application by the planning commission, or add any condition of approval. All planning commission decisions on class A applications shall stand as presented unless called up or modified by the town council.

Section 3. Section 9-1-18-2(E)(6) of the Breckenridge Town Code is amended to read in its entirety as follows:

6. Notice And Council Call Up: The director shall notify the council of all planning commission decisions on class B applications at the council's next regular meeting after the decision. At that meeting, the council may, by an affirmative vote of the members present, call up any decision of the planning commission for their own review under section 9-1-18-5 of this chapter. In lieu of calling up a planning commission decision the council may, with the consent of the applicant, modify or eliminate any condition of approval imposed on the application by the planning commission or add any condition of approval. All planning commission decisions on a class B application shall stand as presented unless called up or modified by the town council.

Section 4. Section 9-1-18-3(C)(2) of the Breckenridge Town Code is amended to read in its entirety as follows:

2. The director shall forward his decision to the planning commission at their next regularly scheduled meeting. At that meeting the planning commission may, by an affirmative vote of the members present, call up any decision of the director for their own review. In lieu of calling up a director's decision the planning commission may, with the consent of the applicant, modify or eliminate any condition of approval imposed on the application by the director or add any condition of approval.

Section 5. Section 9-1-18-3(C)(3) of the Breckenridge Town Code is amended to read in its entirety as follows:

3. The director shall then forward the decision to the town council at their next regularly scheduled meeting. At that meeting, the town council may, by an affirmative vote of the members present, call up any decision for their own review. In lieu of calling up a planning commission decision the council may, with the consent of the applicant, modify or eliminate any condition of approval imposed on the application by the planning commission or add any condition of approval.

a. If called up, the town council shall review the application at their next regularly scheduled meeting. The town council after review may grant or deny the application as they deem appropriate, with or without conditions.

b. If the decision forwarded to the town council is not called up or modified, it shall stand as presented.

Section 6. Section 9-1-6(B) of the Breckenridge Town Code is amended to read in its entirety as follows:

B. Violations:

1. As used in this section, the term "development permit" shall include, without limitation, any specific condition of approval contained in a development permit issued by the town pursuant to this chapter which has been signed by both the director and the holder of such development permit.

2. It shall be unlawful and a misdemeanor offense for any person to do any of the following:

a. To engage in "development" as defined in section 9-1-5 of this chapter without a valid development permit issued pursuant to this chapter authorizing such development. This is a strict liability offense.

b. To use or occupy any real property without a valid development permit issued pursuant to this chapter authorizing such use or occupancy. This is a strict liability offense.

c. To engage in any development, use, construction, remodeling, or other activity of any nature which is materially inconsistent with the terms and conditions of a development permit issued pursuant to this chapter, including, but not limited to, any site plan approved by the town as part of the approval of a development permit. As used in this subsection the term "materially inconsistent" means any development, use, construction, remodeling, or other activity of any nature that is inconsistent with at least one of the following provisions of an approved development permit:

(1) The site plan (including, without limitation, parking, grading, drainage, utilities and the location on the site of the approved improvements);

(2) The landscape plan;

(3) The floor plans, but only as to:

(a) Density;

- (b) Mass;
  - (c) The parking requirement for the project; or
  - (d) The project's plant investment fees;
  - (4) The building elevations (including, but without limitation, existing and proposed grades, finished floor elevations, ridge elevations, and exterior material specifications);
  - (5) The building roof plan;
  - (6) The exterior building details;
  - (7) The project's density, mass, aboveground density (if located in the historic district), and the site area calculations (including, without limitation, building footprint, hard surface and open space); and
  - (8) The project's land uses.
- d. To violate the terms of any restrictive covenant required by the town to be recorded with the clerk and recorder of Summit County, Colorado, in connection with the issuance of a development permit pursuant to this chapter.
  - e. To violate any other provision of this chapter.
  - f. To remove, deface, obscure or otherwise interfere with any notice required to be given or posted pursuant to this chapter. This is a strict liability offense.

Section 7. Section 9-2-3-1(D)(3)(f) of the Breckenridge Town Code is amended to read in its entirety as follows:

f. Notice And Council Call Up: The director shall notify the council of all planning commission decisions on class A subdivision applications at the council's next regular meeting after the decision. At that meeting, the council may, by an affirmative vote of a majority of the members present, call up any decision of the planning commission for their own review under authority granted in section 9-2-3-5 of this chapter. In lieu of calling up a planning commission decision the council may, with the consent of the applicant, modify or eliminate any condition of approval imposed on the application by the planning commission or add any condition of approval. All planning commission decisions on class A subdivision applications shall stand as made unless called up or modified by the town council.

Section 8. Section 9-2-3-2(D)(3)(f) of the Breckenridge Town Code is amended to read in its entirety as follows:

f. Notice And Council Call Up: The director shall notify the council of all planning commission decisions on class B subdivision applications at the council's next regular meeting after the decision. At that meeting, the council may, by an affirmative vote of the members present, call up any decision of the planning commission for their own review under authority granted in section 9-2-3-4 of this chapter. In lieu of calling up a planning commission decision the council may, with the consent of the applicant, modify or eliminate any condition of approval imposed on the application by the planning commission or add any condition of approval. All planning commission decisions on class B subdivision applications shall stand as made unless called up or modified by the town council.

Section 9. Section 9-3-12 of the Breckenridge Town Code is amended to read in its entirety as follows:

9-3-12: AUTHORITY OF TOWN TO ACCEPT PAYMENT OF FEE IN LIEU OF THE PROVISION OF OFF-STREET PARKING: An applicant to develop property for a commercial use within the Service Area (and only within such area) may be permitted to pay a fee to the Town in lieu of providing all or part of the off-street parking required by Section 9-3-8 of this Chapter. The right of an applicant to make

such payment, and the authority of the Town to accept such payment, shall be subject to the following limitations:

- A. The amount of the in lieu fee shall be \$19,236.00 per space, or fraction thereof, for each required off-street parking space. The amount of the in lieu fee shall be adjusted annually, beginning in 2013, to reflect the percentage increase, if any, in the Consumer Price Index (CPI-U) for All Items for the Denver-Boulder, Colorado area produced by the Bureau of Labor Statistics, or any successor index.
- B. No in lieu fee shall be imposed by the Town or paid by the applicant without the consent of the applicant. Such consent may be evidenced by the applicant's signature on the Development Permit.
- C. An in lieu fee shall be collected prior to or at the time of the issuance of a building permit for the development.
- D. Except as provided in Section 9-3-14(D), in lieu fees once paid are non-transferable and non-refundable. Any in lieu fee paid in connection with the development of a particular lot, tract or parcel shall run with the land for which is paid and is non-transferable to any other lot, tract or parcel.
- E. If the development permit for which an in lieu fee has been paid has expired, and a new application for a development permit is thereafter filed for the same development, the Town shall credit any previous payment of in lieu fees against any in lieu fees due for the new application.
- F. If a change in use of a property results in a reduced requirement for off-street parking under the provisions of this Chapter, no compensation shall be paid or provided by the Town with respect to off-street parking spaces which are no longer required.

Section 10. Section 9-3-16 of the Breckenridge Town Code is amended to read in its entirety as follows:

9-3-16: RELIEF PROCEDURES:

- A. The Planning Commission, or the Town Council if the decision of the Planning Commission is called up, may grant a variance, exception or waiver of condition from any requirement of this Chapter, upon written request by a developer or owner of property subject to this Chapter, following a public hearing, and only upon finding that (i) a strict application of such requirement would, when regarded as a whole, result in confiscation of the property or (ii) that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal or requirement. No variance, exception or waiver of condition shall have the effect of nullifying the intent and purpose of these regulations. The Planning Commission or Town Council shall not approve a variance, exception or waiver of condition unless it makes findings based upon the evidence presented to it in each specific case that:
  - 1. The granting of the variance, exception or waiver of condition will not be detrimental to the public health, safety, or welfare or injurious to other property;
  - 2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
  - 3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and
  - 4. The relief sought will not in any manner vary the provisions of the Development Code, Town Master Plan or other Town law, except that those documents may be amended in the manner prescribed by law.

B. The variance criteria set forth in this Section shall control over the variance criteria set forth in Section 9-1-11 of this Title.


Section 11. 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 12. 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.

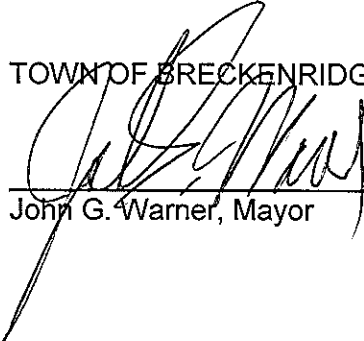
Section 13. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 9<sup>th</sup> day of April, 2013. A copy of this Ordinance is available for inspection in the office of the Town Clerk.


ATTEST:

  
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Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE

  
\_\_\_\_\_  
John G. Warner, Mayor

APPROVED IN FORM

  
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Town Attorney

4/9/13  
Date

This Ordinance was published on the Town of Breckenridge website on April 11, April 12, April 13, April 14 and April 15, 2013. This ordinance shall become effective on May 15, 2013.

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Town Council of the Town of Breckenridge, Colorado on Tuesday, April 9, 2013 at 7:30 o'clock P.M., or as soon thereafter as the matter may be heard, for the purpose of considering the adoption of Council Bill No. 8, Series 2013, which is entitled "An Ordinance Providing for the Vacation of a Right of Way (Portion of Skiwatch Drive)".

If adopted, Council Bill No. 8, Series 2013, will vacate the following portion of the public right of way known as Skiwatch Drive:

A TRACT OF LAND BEING A PORTION OF THE RIGHT-OF-WAY FOR SKI WATCH DRIVE ALONG THE NORTH BOUNDARY FOR THE REMAINDER OF TRACT C, AMENDMENT TO PEAK 8 SUBDIVISION, FILING NO. 1, ACCORDING TO THE PLAT RECORDED MARCH 24, 2010 AT RECEPTION NUMBER 936240 IN THE COUNTY RECORDS, AND LOCATED IN THE TOWN OF BRECKENRIDGE, COUNTY OF SUMMIT, AND DESCRIBED AS FOLLOWS:

COMMENCING AT AN ANGLE POINT ON SAID NORTH BOUNDARY FOR TRACT C BEING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE FOR SKI HILL ROAD AND THE SOUTH RIGHT-OF-WAY LINE FOR SAID SKI WATCH DRIVE, WHENCE CORNER NO. 5 OF THE SAW MILL PATCH PLACER, M.S. 2533, BEARS S47°43'53"W 834.83 FEET DISTANT; THENCE NORTHWESTERLY 1.12 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET, A CENTRAL ANGLE OF 00°32'12", AND A CHORD WHICH BEARS N61°32'56"W 1.12 FEET DISTANT TO THE POINT OF BEGINNING; THENCE CONTINUING WESTERLY ALONG THE NORTH BOUNDARY OF SAID TRACT C, ALSO BEING THE SOUTH RIGHT-OF-WAY LINE FOR SKI WATCH DRIVE FOR THE FOLLOWING THREE (3) COURSES:

- 1.) 78.86 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET, A CENTRAL ANGLE OF 37°39'09", AND A CHORD WHICH BEARS N80°38'37"W 77.45 FEET DISTANT;
- 2.) S80°31'49"W A DISTANCE OF 9.72 FEET;
- 3.) 12.83 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 70.00 FEET, A CENTRAL ANGLE OF 10°30'00", AND A CHORD WHICH BEARS S75°16'49"W 12.81 FEET DISTANT;

THENCE N39°33'58"E A DISTANCE OF 85.66 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE FOR SKI WATCH DRIVE, ALSO BEING THE SOUTH LINE OF THE REMAINDER OF TRACT B-2, PEAK 7 SUBDIVISION, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 841906; THENCE EASTERLY ALONG SAID LINE 33.28 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°35'34", A RADIUS OF 180.00 FEET, AND A CHORD WHICH BEARS S80°36'48"E 33.23 FEET DISTANT TO A POINT ON THE WEST RIGHT-OF-WAY LINE FOR SKI HILL ROAD; THENCE SOUTHERLY 28.15 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL

ANGLE OF 05°28'10", A RADIUS OF 294.87 FEET, AND A CHORD WHICH BEARS S02°12'22"W 28.14 FEET DISTANT; THENCE S16°46'51"E A DISTANCE OF 42.02 FEET TO THE POINT OF BEGINNING, CONTAINING 3,703 SQUARE FEET OR 0.085 ACRES, MORE OR LESS.

The public hearing will be held in the Town Council Chambers of the Breckenridge Town Hall, 150 Ski Hill Road, Breckenridge, Colorado. Interested parties are urged to attend.

This Notice of Public Hearing is given and published by order of the Town Council of the Town of Breckenridge, Colorado.

DATED: March 27, 2013.

  
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Helen Cospolich, Town Clerk