

ORDINANCE NO. 26

Series 2016

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE OFF STREET PARKING ORDINANCE," BY AUTHORIZING A CONDITIONAL WAIVER OF THE OFF STREET PARKING REQUIREMENT FOR CERTAIN DEED RESTRICTED RESIDENTIAL DEVELOPMENT

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

Section 1. Section 9-3-6 of the Breckenridge Town Code is amended by the addition of the following definition:

UPPER BLUE RIVER BASIN: Has the meaning provided in Section 9-1-5 of this Chapter.

Section 2. Section 9-3-8 of the Breckenridge Town Code is amended by the addition of a new Section F, which shall read as follows:

F1. Except as provided in section F5, the Director may approve a conditional and terminable waiver of the off street parking requirement in Section 9-3-8A for a residential unit located in the service area if the unit owner voluntarily agrees to the following conditions:

- a. Each adult occupant of the unit must work an average of 30 hours per week for a business that is physically located in and serves the Upper Blue River Basin;
- b. The unit shall not be the physical location of the business for which an adult occupant of the unit works;
- c. If the business for which an adult occupant of the unit works is located within the Town, such business must hold a valid Town business and occupational license issued pursuant to chapter 1 of title 4 of this code; and
- d. Any time that the unit is not owner-occupied it shall be leased for a minimum term of ninety (90) days to a tenant meeting the qualifications described in section F1a through F1c, inclusive.

2. The permittee shall acknowledge that the issuance of the permit does not entitle the permittee to a refund of any assessment previously paid to the Town in connection with Special Improvement District 98-1 (the "Parking District"); and

3. The unit owner shall execute and have recorded with the Clerk and Recorder of Summit County, Colorado a restrictive covenant confirming the unit owner's agreement to comply with the requirements of section F1. The restrictive covenant shall also include, without limitation:

- a. A provision that if the unit owner defaults under the restrictive covenant the Director may declare that the restrictive covenant and the conditional waiver that was granted to the unit owner are null, void, and of no effect.
- b. The right of the unit owner at any time to elect to declare that the restrictive covenant and the conditional waiver that was granted to the unit owner are null, void, and of no effect.
- c. Upon a declaration by either the Director or the unit owner that the restrictive covenant and the conditional waiver that was granted to the unit owner are null, void, and of no effect as authorized in subsection F3a and F3b:
  - (i) the Director shall take such action as shall be required to release the restrictive covenant in the records of the Clerk and Recorder of Summit County, Colorado;
  - (ii) the off-street parking requirements of this chapter shall then apply to the unit that was subject to the restrictive covenant;
  - (iii) the unit owner shall bring the unit that was subject to the restrictive covenant into compliance with the off-street parking requirements of this chapter within thirty (30) days of the applicable declaration; and

(iv) the Director shall enforce the off-street parking requirements of this chapter with respect to the unit that was subject to the restrictive covenant.

Any restrictive covenant required as a condition of approval by this section F shall be subject to the approval of the Town Attorney.

4. Notwithstanding section 9-1-26, or any other provision of this chapter, any restrictive covenant required by this section F shall be subordinate to the lien of a first mortgage encumbering the unit described in the restrictive covenant. As used in this section F, a first mortgage is a mortgage, deed of trust, or similar voluntary lien or encumbrance securing a financial obligation that is recorded with the Clerk and Recorder of Summit County, Colorado, and has priority over all other liens and encumbrances in the unit, except the lien of the general property taxes. If the Town's restrictive covenant required by this section F is ever lost through the foreclosure of a first mortgage, the Director's waiver of the required off street parking for the unit described in the restrictive covenant shall immediately become null, void, and of no effect, and the off-street parking requirements of this chapter shall then apply to such unit.

5. The Director may not grant a waiver under this section for a residential property that is classified in Section 9-3-8A as "lodging, hotel, or motel."

Section 3. Except as specifically amended by this ordinance, 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 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 5. 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 September, 2016.

This ordinance was published in full on the Town of Breckenridge website on September 15, September 16, September 17, September 18 and September 19, 2016.

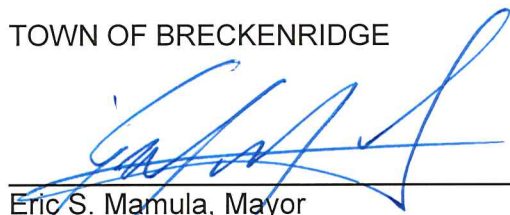
A public hearing on this ordinance was held on September 27, 2016.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of September, 2016. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

  
\_\_\_\_\_  
Helen Cospolich, Town Clerk

  
\_\_\_\_\_  
Eric S. Mamula, Mayor

APPROVED IN FORM

      9/2-16  
\_\_\_\_\_  
Town Attorney      Date

This Ordinance was published on the Town of Breckenridge website on September 29, September 30, October 1, October 2 and October 3, 2016. This ordinance shall become effective on November 2, 2016.