

**Town of Basalt, Colorado
Ordinance No. 4
Series of 2009**

ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, EXTENDING THE DATE BY WHICH THE APPLICANT IS REQUIRED TO FILE THE HOMESTEAD CONDOMINIUMS MINOR SUBDIVISION CONDOMINIUM AMENDMENT MAP PURSUANT TO SECTION 17-83 OF THE BASALT CODE AS APPROVED BY ORDINANCE NO. 16, SERIES OF 2004, AUTHORIZING THE RECORDING OF THE REMAINING APPROVAL DOCUMENTS AUTHORIZED BY THAT ORDINANCE, AND THEREBY RECORDING THE LANDMARK DESIGNATION FOR THE REBEKAH LODGE (ALSO KNOWN AS 148 HOMESTEAD DRIVE).

RECITALS:

A. The Town of Basalt approved Ordinance No. 16, Series of 2004 in response to an Application filed by David Borkenhagen and Michael Dunsdon (Owners of Units A & C) and Kirk Brinks and Cindy Ashcroft Brinks (Owners of Unit B) (collectively "Applicant") submitted on March 25, 2004, for landmark designation, zoning incentives, site plan, and minor subdivision for the property known as 148 Homestead Drive, more particularly described on the Condominium Map for Homestead Condominiums recorded as Reception No. 679883 of the Eagle County Records (the "Property").

B. The Application requested the designation of an existing structure as a landmark, the approval of certain zoning incentives, and a minor amendment to an approved condominium.

C. The Ordinance was properly noticed and approved by the Town and became effective on October 21, 2004. The recording of the Minor Subdivision – Condominium Amendment Map and related documents including the Historic Landmark designation was delayed due to a quiet title law suit filed against the property by an adjoining property owner.

D. The Town has been notified that the law suit has been settled by the Quiet Title Decree and Dismissal Order with Retained Jurisdiction in Case No. 04CV492 in Eagle County District Court. The Applicants have advised the Town that they wish to record the Minor Subdivision - Condominium Amendment Map for the Homestead Condominiums and related documents.

E. The Town of Basalt Technical Review Committee ("TRC") has considered

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101 Midland Avenue
Basalt, CO 81621

whether formal public notice is required for this request pursuant to Section 17-83 (a)(1) and (b)(2), Town Code, and has determined that the Town Council may consider the request at a public hearing without the requirement for formal public notice.

F. At a public meeting held on February 24, 2009, the Town Council considered the Application on first reading and continued and set a public hearing and second reading for this Ordinance for March 10, 2009 at a meeting beginning no earlier than 6:00 p.m. at Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

G. At a public hearing and second reading on March 10, 2009, the Town Council heard evidence and testimony by Town Staff and members of the public.

H. The Town Council finds and determines it is in the best interests of the Town to approve this Ordinance. The Town Council finds and determines this Ordinance is reasonable and consistent with the Town Code. Further, the Town Council finds and determines this Ordinance is reasonably necessary to promote the legitimate public purposes of the public health, safety and welfare.

I. Condition No. B.(2)(f) of Ordinance No. 16, Series of 2004 in anticipation of the potential for legal quiet title action, provided that in the event of a legal resolution to property line disputes, the setbacks may be as set forth in such legal resolution provided that the Town Attorney and Town Planner determine the setbacks as set forth in such legal resolution are consistent with the intent and purposes of Ordinance No. 16, Series of 2004, the Building Code and the R-3/TN setback requirements of the Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Basalt, Colorado, that the Town Council finds and concludes as follows:

A. FINDINGS.

1. The Town Council incorporates the foregoing recitals as findings and determinations and conclusively makes all the findings of fact, determinations and conclusions contained herein.

2. All previous findings of fact, determinations and conclusions contained in Ordinance No. 16, Series of 2004 remain applicable today.

3. On the Homestead Condominium property, the minor modifications to lots lines resulting from the Quiet Title Decree and Dismissal Order with Retained Jurisdiction in Case No. 04CV492 in Eagle County District Court affect only the Homestead Condominium Common Area have been accurately shown on the updated Amended Condominium Map.

4. The Town Attorney and Town Planner have determined that the setbacks as set forth in the legal resolution are consistent with the intent and purpose of Ordinance No. 16, Series of 2004, Building Code, and the R-3/TN setback requirements of the Town Code.

B. CONCLUSIONS.

1. The date by which the Applicant was required to file the Homestead Condominiums Minor Subdivision Condominium Amendment Map is extended as provided herein, allowing recording of the map and the remaining approving documents authorized by Ordinance No. 16, Series of 2004, subject to compliance with all material representations made by the Applicant in the original application and public hearings before the Planning and Zoning Commission and the Town Council and all conditions of approval contained in Ordinance No. 16, Series of 2004.

2. The Mayor and Town Clerk are authorized to sign the Minor Subdivision Condominium Amendment Map for the Homestead Condominiums subject to final approval of the Plat and related documents by the Town Attorney and Town Planner. The Applicants shall comply with Section 17-87 of the Basalt Town Code and shall record the Map within 30 days of the effective date of this ordinance. The Town Planner is permitted to grant an extension up to 6 months if sufficient progress has been made.

3. By unanimous approval, the TRC shall have the ability to make interpretations and minor changes to the above conditions but shall not have the ability to grant any more square footage or reductions in setback requirements.

4. This Ordinance shall be binding on and inure to the benefit of the owners of the Property. All provisions related to vested property rights for the Landmark Structure contained in Ordinance No. 16, Series of 2004 shall remain in effect, with the vested rights to have commenced on the effective date of said Ordinance, October 21, 2004.

5. This Ordinance, after being fully executed and after appropriate publication, shall be recorded in the office of the Clerk and Recorder of Eagle County.

6. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC

HEARING TO BE HELD ON March 10, 2009, by a vote of 7 to 0 on February 24, 2009.

READ ON SECOND READING AND ADOPTED, by a vote of 7 to 0 on March 10, 2009.

TOWN OF BASALT

By: _____
Leroy Duroux, Mayor

ATTEST:

Pamela Schilling, Town Clerk

First Publication Date: March 5, 2009
Second Publication Date: March 19, 2009
Effective Date: April 2, 2009