

**TOWN OF SNOWMASS VILLAGE  
TOWN COUNCIL**

**ORDINANCE NO. 11  
SERIES OF 2008**

**AN ORDINANCE TO BE IMPLEMENTED INTO CHAPTER 18 OF THE TOWN OF SNOWMASS VILLAGE MUNICIPAL CODE TO ESTABLISH BUILDING EFFICIENCY STANDARDS AND A RENEWABLE ENERGY OFFSET PROGRAM (REOP).**

**WHEREAS**, the Town Council supports and promotes energy conservation and the use of energy efficient building practices within the Town of Snowmass Village; and

**WHEREAS**, the Town Council supports and promotes renewable energy generation within the Town of Snowmass Village; and

**WHEREAS**, the Town Council finds it necessary and beneficial to establish building efficiency standards that exceed those required under the Town's Energy Conservation Code, and

**WHEREAS**, the Town Council finds it necessary and beneficial to require on-site renewable energy generation to offset the energy demand of outdoor amenities such as pools and hot tubs, snowmelt systems, and heated garages, and

**WHEREAS**, the Town Council finds it necessary and beneficial to establish in-lieu fee options for property owners that choose not to employ energy efficient building practices, or that wish to build highly energy consumptive outdoor amenities, and

**WHEREAS**, the revenues derived from such in-lieu fees will establish a funding mechanism to facilitate the development of renewable energy generation projects and programs to enhance energy efficiency throughout the Village; and

**WHEREAS**, the Town Council finds that the adoption of this Ordinance is in the best interest of the Town and is reasonably necessary to promote and preserve the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Snowmass Village, as follows:

A. Chapter 18 of the Snowmass Village Municipal Code is hereby amended by the addition of the following:

**Sec. 18-224. Building Efficiency Standards and Renewable Energy Offset Program (REOP)**

**1. Residential Construction**

This section shall apply to all residential new construction, and to any residential addition of at least 1,000 square feet. In order to provide evidence of compliance with this Section, a Home Energy Rating System (HERS) rating shall be submitted at the time of

building permit application. A final HERS rating certificate, based upon field inspections and testing conducted during construction, shall be submitted prior to receiving a Certificate of Occupancy.

- a. Residential building projects up to 5,000 square feet are required to achieve a minimum Home Energy Rating System (HERS) Index of 70, or less, utilizing the Colorado Energy Star Home Energy Rating System, and .
  - i. In lieu of achieving the required HERS index, owners may pay a fee of \$5.00 *per* square foot.
- b. Residential building projects between 5,000 and 9,999 square feet are required to achieve a minimum HERS Index of 65 points, or less.
  - i. In lieu of achieving the required HERS Index, owners may choose to comply with the HERS Index requirements of Section 18-224.1.a. above, and pay a fee of \$3.00 per square foot.
- c. Residential building projects of 10,000 square feet, or more, are required to achieve a HERS index of 60 points, or less.
  - i. In lieu of achieving the required HERS Index, owners may choose to comply with the HERS Index requirements of Section 18-224.1.b. above, and pay a fee of \$4.00 per gross square foot.

If a residential building project includes exterior energy uses, then a separate and additional fee may be required pursuant to Section 3. Exterior Energy Use, below.

## **2. Non-Residential and Mixed-Use Construction**

This section shall apply to all non-residential or mixed-use new construction, and to any non-residential or mixed-use addition of more than 1,000 square feet. For buildings or additions up to 5,000 square feet, COMcheck documentation or a DOE-2 based energy simulation shall be submitted as evidence of compliance with this section. For buildings greater than 5,000 square feet, a DOE-2 based energy simulation shall be required.

- a. Based upon total energy usage for the building or addition being proposed, non-residential or mixed-use building projects are required to exceed the performance of the Town's Energy Conservation Code in place at the time the building permit is issued by at least 30%.
  - i. For building projects pursuing Leadership in Energy and Environmental Design (LEED) certification, energy efficiency requirements and performance reviews may be based upon the standards established by the US Green Building Council (i.e., American Society of Heating, Refrigerating and Air Conditioning Engineers - ASHRAE Standard 90.1).
- II. In lieu of achieving the required energy performance standards, owners may pay a fee of \$8.00 per square foot and shall meet the performance standards required pursuant to the Town's Energy

Conservation Code in place at the time the building permit is issued.

If a non-residential or mixed-use building project includes exterior energy uses, then a separate and additional fee may be required pursuant to Section 3. Exterior Energy Use, below.

**3. Exterior Energy Use.**

This section shall apply to outdoor pools, hot tubs, snowmelt systems, and heated garages.

- a. At least 50% of the Annual Energy Use accountable to outdoor pools and hot tubs, snowmelt systems, and heated garages, as defined in Section 18-224.3.b and Section 18-224.3.c, and in excess of the "Fee Exempt Area" described therein, shall be offset with renewable energy generated on site.
- b. Heated Garages. Any garage heated by a boiler or furnace system must be controlled by a separate thermostat and zone. A REOP fee shall apply for these types of applications, as described below.
- c. In lieu of producing the required amount of renewable energy on site, owners may pay a fee calculated in accordance with the following fee schedule and calculation example:

**i. Single-Family Residential**

Energy Use	Annual Energy Use BTU/Sq. Ft.	Fee Exempt Area	Fee per SF Above Exempt Area
Snowmelt System	81,800	200 sq. ft. (See Note)	\$ 34
Spa	430,000	64 sq. ft.	\$ 176
Pool	332,000	N/A	\$ 136
Heated Garage	19,500	See Section 18-224.3.b	\$ 8

(NOTE: The Fee Exempt Area for snowmelt systems shall apply to driveways and driveway aprons only, and shall be equal to the greater of 200 square feet, or that portion of the on-site driveway that exceeds 8% slope plus 200 square feet. The Fee Exempt Area for snowmelting shall not apply to decks, patios, or walkways unless the Chief Building Official determines that snowmelting of these areas represents a life-safety issue and is essential to building ingress or egress. Applicants may appeal decisions regarding the necessity of providing snowmelted decks, patios, or walkways to the Town's Board of Appeals and Examiners.)

<b>ii. Multi-Family Residential</b>			
<b>Energy Use Type</b>	<b>Annual Energy Use BTU/So. Ft</b>	<b>Fee Exempt Area</b>	<b>Fee per SF Above Exempt Area</b>
<b>Snowmelt System</b>	<b>81,800</b>	<b>50 sq. ft.</b> (See Note 1)	<b>\$ 34</b>
<b>Spa</b>	<b>430,000</b>	<b>64 sq. ft.</b> (See Note 2)	<b>\$ 176</b>
<b>Pool</b>	<b>332,000</b>	<b>N/A</b>	<b>\$ 136</b>
<b>Heated Garage</b>	<b>19,500</b>	<b>N/A</b>	<b>\$ 8</b>

(NOTE 1: The Fee Exempt Area for snowmelt systems shall apply to driveways and driveway aprons only, and shall be equal to the greater of 50 square feet per unit, or that portion of the on-site driveway that exceeds 8% slope plus 200 square feet. The Fee Exempt Area for snowmelting shall not apply to decks, patios, or walkways unless the Chief Building Official determines that snowmelting of these areas represents a life-safety issue and is essential to building ingress or egress. Applicants may appeal decisions regarding the necessity of providing snowmelted decks, patios, or walkways to the Town's Board of Appeals and Examiners. )

(NOTE 2: The Fee Exempt Area for Spas shall be equal to the greater of 64 square feet, or 3 square feet per unit.)

<b>iv. Non-Residential and Mixed Use</b>			
<b>Energy Use Type,</b>	<b>Annial Energy Use BTU1Sq. Ft.</b>	<b>Fee Exempt Area</b>	<b>Fee per SF Above Exempt Area</b>
<b>Snowmelt System</b>	<b>81,800</b>	<b>(See Note 1)</b>	<b>\$ 34</b>
<b>Spa</b>	<b>430,000</b>	<b>64 sq. ft.</b> (See Note 2)	<b>\$ 176</b>
<b>Pool</b>	<b>332,000</b>	<b>N/A</b>	<b>\$ 136</b>
<b>Heated Garage</b>	<b>19,500</b>	<b>N/A</b>	<b>\$ 8</b>

(NOTE 1: The Fee Exempt Area for snowmelt systems shall apply to driveways and driveway aprons only, and shall be equal to the greater of 200 square feet, 50 square feet per unit, or that portion of the on-site driveway that exceeds 8% slope plus 200 square feet. The Fee Exempt Area for snowmelting shall not apply to decks, patios, or walkways unless the Chief Building Official determines that snowmelting of these areas represents a life-safety issue and is essential to building ingress or egress. Applicants may appeal decisions regarding the necessity of providing snowmelted decks, patios, or walkways to the Town's Board of Appeals and Examiners.)

(NOTE 2: The Fee Exempt Area for Spas shall be equal to the greater of 64 square feet, or 3 square feet per unit.)

- d. The fees described in the schedule above shall be applied on a per square foot basis for exterior energy uses exceeding the "Fee Exempt Area," if 50% of such energy use is not offset with on-site renewables. Fees shall be calculated and adjusted to account for mechanical equipment efficiency as illustrated by the following calculation EXAMPLE:

A driveway snowmelt system of 700 square feet is proposed for a relatively flat single-family home site with a boiler efficiency of 85%. The 200 square foot "Fee Exempt Area" is excluded from the fee calculation. A fee of \$34 per sq. ft. applies to the remaining 500 sq. ft. ( $\$34 \times 500 = \$17,000$ ). That amount is adjusted by an efficiency rating of 0.85 ( $\$17,000 / 0.85 = \$20,000$ ), resulting in a total in-lieu fee of \$20,000.

#### **4. Energy Code Review Fee.**

An Energy Code Review fee equal to the lesser of One Thousand Dollars (\$1,000) or Ten Percent (10%) of the project's Building Permit Fee shall be paid prior to Building Permit issuance in order to cover the Town's administrative costs associated with verifying compliance with this Section 18-224 and calculating the required REOP Fees, if any. Energy Code Review Fees shall be required regardless of whether an owner elects to meet the applicable building efficiency standards, or pays a fee in-lieu.

#### **S. Fee Collection**

Fees will be collected by the Town of Snowmass Village Building Department prior to Building Permit issuance. Collected fees shall be deposited to the Town's Renewable Energy Offset Program Fund.

A building project will not be eligible to receive a Building Permit until the project owner has demonstrated that the required energy performance standards and/or on-site renewable energy generation requirements have been achieved, or that the Town has received payment of the in-lieu fee.

#### **6. Management and Appropriation of REOP Funds.**

Fees collected and deposited into the REOP account are to be managed by the Town Manager, or their designee, as such designee may be determined by Resolution of the Town Council of the Town of Snowmass Village.

Expenditures of REOP funds shall be used for the following purposes:

- a. planning, design, and implementation of renewable energy generation projects,
- b. purchase of renewable energy offsets (credits),
- c. providing a community grant and/or rebate program for energy efficiency enhancements or renewable energy generation projects, and
- d. funding other resources and administrative costs associated with green building and environmental sustainability-oriented efforts. .

Expenditures shall be consistent with the Renewable **Energy** Offset Program Protocols, as such Protocols shall be described and approved by Resolution of the Town Council of the Town of Snowmass Village prior to the effective date of this Ordinance.

**7. Effective Date and Applicability.** This Ordinance shall become effective on November 1, 2008, and shall apply to all Building Permit applications received after that date.


- a. Planned Unit Developments that have received Final Approval prior to the effective date shall not be subject to the provisions of this Ordinance.
- b. The Town Council shall review the fees established by this ordinance within one year of the ordinance's effective date.

**8. Waivers.** Upon receipt of a written waiver request from a project applicant, the Town Council may elect to waive any or all of the provisions of this ordinance based upon a finding of community benefit, or public safety need.

**9. Severability.** If any provision of this Ordinance or application hereof to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are severable.

**READ, APPROVED AND ADOPTED,** by the Town Council of the Town of Snowmass Village on the First Reading on August 4, 2008 upon a motion by Mayor Mercatoris second of Council Member Sparhawk, and upon a vote of 3 in favor and 0 opposed. Council Members Mordkin and Wilkinson were absent.

**READ, APPROVED AND ADOPTED,** by the Town Council of the town of Snowmass Village on Second Reading on September 8, 2008 upon a motion by Council Member Sparhawk, the second of Council Member Wilkinson, and upon a vote of 4 in favor and 0 opposed. Council Member Lewis was absent.

**TOWN OF SNOWMASS VILLAGE**  
  
Douglas Mercatoris, Mayor

**ATTEST:**

  
Rhonda Coxon, Town Clerk

**APPROVED AS TO FORM:**

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John Dresser, Town Attorney