

ORDINANCE NO. 22

Series 1994

AN ORDINANCE AMENDING THE BRECKENRIDGE DEVELOPMENT CODE
CONCERNING MASTER PLANS

Whereas, it is the policy of the Town of Breckenridge to require the submission and approval of a Master Plan for certain real estate developments which will be built in phases; and

Whereas, the Town Council of the Town of Breckenridge desires to amend that portion of the Breckenridge Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code) which pertains to the preparation, approval, duration and implementation of a Master Plan for certain phased developments occurring within the Town.

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

Section 1. Policy No. 39 set forth in Section 9-1-19 of the Breckenridge Town Code, entitled "(ABSOLUTE) MASTER PLAN", is hereby amended so as to read in its entirety as follows:

39. (ABSOLUTE) MASTER PLAN:

- A. Purpose: The purposes of requiring the preparation of a Master Plan for certain phased developments are (i) to provide an opportunity for the Town and the developer to review the type and intensity of uses being proposed; (ii) to establish the general character of the proposed development; (iii) to plan the general configuration of common elements and necessary roads, easements and utilities; (iv) to accommodate multiple transfers of density; (v) to provide an opportunity for the parties to review other relevant aspects of the proposed development in advance of the commencement of development activities on the site; (vi) to allow the Town and the developer to further define and clarify the land use and development policies which will govern the development of the property beyond those express policies provided in the applicable Town development policies, including, but not limited to, the Land Use District Guidelines, and (vii) to require coordinated development of the property which will meet all applicable Town development policies. A Master Plan shall be considered to be a site specific plan for the development of property. However, following approval of a Master Plan, the developer must still obtain further site specific approval by obtaining a separate site-plan level development permit for the development of the property.
- B. Master Plan Required: Except as provided in Subparagraph (C) of this Policy, an approved Master Plan shall be required when land under common ownership is proposed to be developed in phases. When an approved Master Plan is required, it shall be unlawful for any person to develop or subdivide such property without first having obtained an approved Master Plan in accordance with this Policy.
- C. Exceptions: An approved Master Plan shall not be required for the development of (i) a single family detached subdivision, even if constructed in phases, (ii) a duplex residential subdivision, even if constructed in phases, (iii) a triplex residential subdivision, even if constructed in phases, (iv) a phased development included within an approved subdivision plan for all land under common ownership, and (v) a phased development which will occur on a single subdivision lot or tract, if such development is subject to an approved site-plan level development permit showing the phasing of the project, or an approved subdivision plan for all land under common ownership. At the election of the developer, a Master Plan may be obtained for any development for which a Master Plan is not required pursuant to this Subparagraph C.
- D. Pre-Application Conference: Prior to the submission of an application for approval of a Master Plan, the applicant shall participate in a Pre-Application Conference as provided in Section 9-1-18-1(A) of this Chapter.

E. Application: An application for approval of a Master Plan shall be classified as a Class A Development Permit application, and shall be submitted on a form provided by the Director. Such application shall be signed by all of the record owners of the property proposed to be included within the Master Plan; provided that an agent having a valid power of attorney may sign such application for any such owner. The application shall include the following information:

1. A boundary survey and legal description;
2. Proposed use(s), such as office, commercial, residential, lodging, or service commercial;
3. Proposed ranges of density and intensity of use(s);
4. Proposed locations of major transportation and pedestrian circulation elements and facilities;
5. Proposed amenities, such as parks, trails, open space, recreational facilities and common elements;
6. Proposed locations for major public and quasi-public facilities;
7. Required major extensions of utilities;
8. A statement of the desired development concept, and design and architectural intent for the proposed development, including:
 - a. a description of the location of the property; and an identification of the primary development(s), sensitive area(s) and other geographic features in the immediate vicinity of the property.
 - b. description of the community need the proposed use(s) would fulfill;
 - c. a listing of major design elements needed to accommodate the primary site functions;
 - d. a description of anticipated off-site mitigation impacts proposed by the developer;
 - e. a statement describing how the proposed use(s) for the property are appropriate for the location based upon Town policies and other relevant factors;
 - f. a description of how the proposed design of the development is appropriate for the area of the Town in which the proposed development is located;
 - g. a description of the architectural style and exterior building materials and finishes sufficient to demonstrate that the development will be compatible with the surrounding neighborhood and consistent with other applicable development policies.
9. Proposed development standards to achieve the site design and architectural intent described in subparagraph 8, above;
10. A map showing existing topography of the site at two foot (2') intervals, which shall include significant views; natural features and vegetation, including environmentally sensitive areas; names of adjacent subdivisions; departing lot lines of adjacent subdivisions; and footprints of existing and approved buildings adjacent to the property;
11. A vicinity map;
12. A fee in the amount of one hundred and ninety dollars (\$190.00), plus fifteen dollars (\$15.00) per dwelling unit for proposed residential use; or one hundred ninety dollars (\$190.00), plus five cents (\$0.05) per gross square foot for a proposed commercial use;
13. Proof of applicant's ownership of the property to be included within the Master Plan current to within one hundred twenty (120) days of submittal; and
14. A list of property owners whose property lies within three hundred feet (300') of the property to be included within the Master Plan, and such owners' last known addresses as shown on the most recent County Assessor's records.

The Director may require such further information as is reasonably required in order to properly evaluate a Master Plan application.

- F. **Approval of Master Plan:** Approval of an application for a Master Plan shall be by Development Permit as otherwise provided in this Chapter. Such approval may be made subject to conditions as otherwise provided in this Chapter. At the time of initial approval, each Master Plan proposal shall (i) comply with all absolute policies set forth in this Chapter, (ii) obtain a score of zero or more with respect to all relative policies set forth in this Chapter, and (iii) comply with all other applicable development policies of the Town as of the date of such approval. Approval of a Master Plan shall not be construed to be evidence of the Town's determination of the engineering feasibility of the proposed development.
- G. **Scope of Master Plan:** A Master Plan shall provide (i) the types of use(s) being proposed; (ii) the general character of the proposed development; (iii) the density proposed for the development; (iv) access to and from the property proposed to be developed; (v) major internal circulation elements (both pedestrian and vehicular); (vi) the general configuration of necessary roads, easements and utilities; (vii) the sequence of the proposed development; (viii) the development concept and design and architectural intent on the proposed development; and (ix) other factors necessary to determine the general conformance of the proposal with the Town's development policies. Generally, issues pertaining to planning details normally addressed at the site planning level should not be included in a Master Plan. Such issues will be subsequently addressed through the review of applications for individual development permits to develop the property which is the subject of the Master Plan. At the election of the developer, further detail may be proposed to be included within the scope of the Master Plan. The Director may require concept level planning in order to determine the feasibility of the phasing schedule proposed by the applicant.
- H. **Duration of Master Plan Permit; Vested Property Rights; Effect of Master Plan on Future Development; Duration of Site-Plan Level Permits:**
1. The duration of a development permit for an approved Master Plan is different from the length of the vested property rights period for such permit. A development permit for an approved Master Plan is vested for three years as provided in Section 9-1-17-11 of this Code. A development permit for an approved Master Plan is valid until the development permit is abandoned or until the development is completed, whichever shall first occur.
 2. The abandonment of a development permit for an approved Master Plan shall be accomplished by the delivery to the Director of a properly signed and acknowledged statement evidencing the property owner's decision to abandon the Master Plan. The abandonment of the Master Plan shall become effective and irrevocable upon the Director's receipt of the property owner's statement of abandonment.
 3. The terms and conditions of an approved Master Plan shall serve as relative policies under Policy No. 2 (Relative) of Section 9-1-19 of this Chapter for any future site-plan level development of the property which is the subject of the Master Plan. Non-compliance with any of the provisions of an approved Master Plan shall result in the assessment of negative points as provided in Policy No. 2 (Relative). To the extent an approved Master Plan fails to address a specific issue which is provided for in the Land Use District Guidelines at the time the Master Plan is approved, the unaddressed provisions of the Land Use District Guidelines shall control in connection with the issuance of any site-plan level development permit within the Master Planned area.
 4. During the vested property rights period of an approved Master Plan, the terms of the Master Plan shall control in the event of a conflict between the Master Plan and the Land Use District Guidelines or other development policy of the Town which was adopted or amended subsequent to the approval of the Master Plan.
 5. After the vested property rights period of an approved Master Plan has expired, the terms of the Master Plan shall not control in the event of a conflict between the Master Plan and the Land Use District Guidelines or other development policy of the Town which was

adopted or amended subsequent to the approval of the Master Plan. At such time all aspects of a site-plan level development permit for property which is the subject of an approved Master Plan shall comply with the requirements of the Town's Development Code, Subdivision Ordinance, the Land Use District Guidelines, those portions of the approved Master Plan not in conflict with the Town's then-current development policies, and other applicable development policies which are in effect at the time of the issuance of the site-plan level development permit.

6. Any individual site-plan level development permit for the development of property within a Master Planned area, and all vested property rights associated with such permit, shall expire concurrently with the expiration of the vested property rights for the Master Plan, unless such individual development permit was in full compliance with all then-current development policies of the Town when such permit was issued. If an individual site-level development permit for property within a Master Planned area was in full compliance with all then-current development policies of the Town when such permit was issued, such permit shall be valid for a period of three years as provided in Section 9-1-17-8 of this Chapter, and the vested property rights for such permit shall expire as is provided in Section 9-1-17-11 of this Chapter.

I. Density:

1. Where property which is proposed to be included within a Master Plan is located in a single Land Use District, the gross density for such property shall be limited by the recommended density for such Land Use District in the Land Use District Guidelines. Such density may be allocated in such a way that some portions of the development will exceed the density recommendations contained in the Land Use District Guidelines as long as such allocation complies with all applicable Town development policies.
2. Where property proposed to be included within a Master Plan is located in two or more Land Use Districts, a Master Plan may reallocate the density recommended by the Land Use District Guidelines, notwithstanding the requirements of Section 9-1-17-12 of this Chapter. However, the gross density recommended by the Land Use District Guidelines shall not be exceeded without approval of the Town.

- J. Open Space: A Master Plan shall provide for inclusion of common open space in accordance with the provisions of this Chapter and the Town's Subdivision Ordinance. The Master Plan may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space or that adequate arrangements for the ownership and maintenance of such common open space be made. In the event that the organization established to own and maintain common open space, or any successor organization, fails at any time after the adoption of the Master Plan to maintain the common open space in reasonable order and condition in accordance with the Master Plan and the applicable Town ordinances and policies, the Town may proceed as is provided by Section 24-67-105, C.R.S.

- K. Binding Effect of Master Plan: The provisions of an approved Master Plan shall be binding upon the applicant who obtained approval of the Master Plan, and all subsequent owners of the property which is the subject of the Master Plan.

L. Modification or Amendment of Master Plan:

1. At the request of the owner of any portion of property which is subject to an approved Master Plan, such Master Plan may be amended or modified at any time. Any such amendment or modification shall apply only to the property of the owner who requested such amendment or modification. Such owner may request an amendment or modification to an approved Master Plan

without being required to join in such application all of the other owners of the property which is subject to the Master Plan.

2. The same procedures and standards which are applicable to the initial approval of a Master Plan shall be followed in considering a request to amend or modify an approved Master Plan.
 3. At the time of any amendment or modification, a Master Plan shall be brought into compliance with the then-current development policies of the Town and the Town's Master Plan.
 4. A development permit which approves an amendment or modification to a Master Plan shall not be deemed to extend the duration of the original Master Plan, but such new permit shall itself be subject to the vested property rights provisions of Section 9-1-17-11 of this Code.
- M. Master Plan Document: An approved Master Plan shall be evidenced by a mylar document. Such document shall include all approved maps and the text of all approved agreements relating to the Master Plan. The size of such document shall be twenty four (24) inches by thirty six (36) inches, or eighteen (18) inches by twenty four (24) inches, as determined by the Director.
- N. Recording: The Town shall cause to be recorded in the records of the Clerk and Recorder of Summit County, Colorado a written notice of the approval of a Master Plan or any amendment thereto in order to give notice thereof to all interested parties; however, the failure of such instrument to be recorded shall not affect its enforceability.
- O. Intent to Supersede State Statute: The provisions of this policy are intended to supersede the provisions of the "Planned Unit Development Act of 1972", Article 67 of Title 24, C.R.S.
- P. Applicability: This amended Policy shall apply to all Master Plans, whether adopted before or after the date of the Ordinance which adopted this amended policy.

Section 2. The fifth item under the definition of "Class A Development" as set forth in Section 9-1-5 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

- * Application for approval of a Master Plan; or an application to amend or modify an approved Master Plan.

Section 3. The definition of "Master Plan" set forth in Section 9-1-5 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

MASTER PLAN	A land use and development plan as described in Policy 39 of Section 9-1-19 of this Chapter.
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Section 4. There is hereby added to Section 9-1-5 of the Breckenridge Town Code a new definition of "Phased Development", which shall read in its entirety as follows:

PHASED DEVELOPMENT	A development in which distinct sections of clusters (phases) are planned to be constructed at different times, such that each such section or cluster can, upon completion, be occupied and generally function as intended without being reliant upon subsequent sections or clusters of the development. In the context of a Master Plan, each phase requires a separate site plan level development permit as provided in Policy No. 39 (Absolute) of Section 9-1-19.
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Section 5. The first sentence of Paragraph D of Section 9-1-17-11 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

- D. Duration of Vested Right: Subject to the provisions of Subsection F of this Section, and Policy 39 (Absolute) of Section 9-1-19 of this Chapter, all vested rights with respect to any Class A or B development permit shall terminate and expire at the end of three (3) years from the date of the approval by the Town

Council of such development permit, and all vested rights with respect to a Class C development permit shall expire eighteen (18) months from the date of the approval by the Town Council of such permit, unless substantial construction pursuant to such permit has been completed.

Section 6. The introductory portion of the first sentence of Subparagraph (A) of Section 9-1-17-8 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

- A. Except as expressly provided in Policy 39 (absolute) of Section 9-1-19 of this Chapter with respect to a development permit which approves a Master Plan, development permits issued pursuant to this Chapter are valid only for the following time periods:

Section 7. Policy No. 2 set forth in Section 9-1-19 of the Breckenridge Town Code, entitled "(ABSOLUTE) LAND USE GUIDELINES", is hereby amended so as to read in its entirety as follows:

2. (ABSOLUTE) LAND USE GUIDELINES: Land Use Guidelines have been adopted for the Town of Breckenridge and surrounding areas by the Breckenridge Town Council. To promote the health, safety, and general welfare of the community, all developments shall be reviewed against the Land Use Guidelines and, where applicable, an approved Master Plan for the development of the property.

Section 8. The introductory paragraph of Policy No. 2 set forth in Section 9-1-19 of the Breckenridge Town Code, entitled "(RELATIVE) LAND USE GUIDELINES", is hereby amended so as to read in its entirety as follows:

2. (RELATIVE) LAND USE GUIDELINES: The Town strongly encourages all developments to meet the Guidelines established within the adopted Land Use Guidelines document for the district in which they lie, and, where applicable, the guidelines established by an approved Master Plan.

Section 9. Subparagraph A of Policy No. 2 (RELATIVE) set forth in Section 9-1-19 of the Breckenridge Town Code, entitled "Uses", is hereby amended so as to read in its entirety as follows:

- 4 x (-3/+2) A. Uses: Proposed uses which will not conflict with the existing uses, but will conform to the desired character and function of the district in which they lie, and where applicable, with an approved Master Plan, are encouraged. Uses which are in conflict with existing uses and/or with the desired character and function of the district in which they lie, or, where applicable, with an approved Master Plan, are discouraged.

Section 10. 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 11. The Town Council hereby 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 12. 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 Chapter.

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

Section 14. Notwithstanding the provisions of Subparagraph P of Policy No. 39 (Absolute) as set forth in Section 1 of this Ordinance, any application to adopt or update a Master Plan which was pending before the Planning Commission at the time of the adoption of this Ordinance shall be reviewed under the form of Policy No. 39 (Absolute) which was in effect at the time that such application was made, unless the applicant affirmatively elects to have such application reviewed under the provisions of this Ordinance.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 23rd day of August, 1994. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 13th day of September, 1994, at 7:30 P.M. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC
Town Clerk


Stephen C. West, Mayor

This Ordinance was published in full in the *Breckenridge Journal*, a newspaper of general circulation within the Town of Breckenridge, on August 31, 1994.

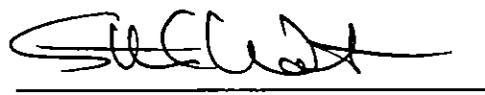
READ, ADOPTED ON SECOND READING, AND ORDERED PUBLISHED BY TITLE ONLY, this 13th day of September, 1994.

A copy of this ordinance is available for inspection in the office of the Town Clerk.

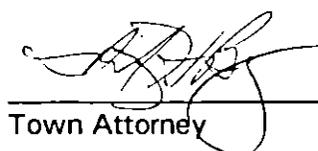
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC
Town Clerk


Stephen C. West, Mayor

APPROVED IN FORM:

 9/13/94
Town Attorney Date

This ordinance was published by title with amendments in the *Breckenridge Journal*, a newspaper of general circulation within the Town of Breckenridge, on September 21, 1994.

This ordinance was republished by title with amendments in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge, on October 12, 1994.