

ORDINANCE NO. 20

Series 2000

AN ORDINANCE AMENDING THE BRECKENRIDGE DEVELOPMENT CODE CONCERNING DENSITY AND DENSITY TRANSFERS

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

Section 1. Section 9-1-17-12 of the Breckenridge Town Code, entitled "Transfers of Density", is hereby amended so as to read in its entirety as follows:

9-1-17-12: TRANSFER OF DENSITY:

A. **Town to Town Transfers:** A transfer of density from one lot or parcel within the Town to another lot or parcel within the Town may be approved by the Town Council only in connection with the approval of a development agreement, or an approved original or amended master plan. If a density transfer is approved, the transfer shall be evidenced by a written covenant which shall be in a form and substance acceptable to the Town Attorney. Such covenant shall provide: a) the amount of density transferred; b) the total amount of density remaining on the sending parcel; c) the new total amount of density on the receiving parcel; and d) an acknowledgment by the owner of the receiving parcel that the density which has been transferred may be used on the receiving parcel only in accordance with a separate development permit obtained in accordance with the requirements of this Chapter. The covenant shall be recorded with the Clerk and Recorder of Summit County, and shall conclusively establish the amount of density on both the sending and receiving parcels as of the date of such covenant. Upon the execution of the density transfer covenant described above, the owners of both the sending and receiving parcels shall execute such documents as may be required by the Director in order to assure that the records of the Town correctly reflect the current amount of allowed density for both parcels.

B. **Other Transfers:** A transfer of density to a lot or parcel within the Town from either one lot or parcel located outside of the Town, but within the Upper Blue River Basin, or pursuant to a Certificate of Development Rights issued pursuant to that certain "Intergovernmental Agreement Concerning Transferred Development Rights between the Town and Summit County, Colorado", as amended from time to time, may be approved by the Town only in compliance with this Chapter. If such density transfer is approved, the transfer shall be evidenced by a written covenant which shall be in a form and substance acceptable to the Town Attorney. Such covenant shall provide: a) the amount of density transferred; b) the new total amount of density on the receiving parcel; and c) an acknowledgment by the owner of the receiving parcel that the density which has been transferred may be used on the receiving parcel only in accordance with this Chapter. The covenant shall be recorded with the Clerk and Recorder of Summit County, and shall conclusively establish the amount of density on the receiving parcel as of the date of such covenant. Upon the execution of the density transfer covenant described above, the owner of the receiving parcel shall execute such documents as may be required by the Director in order to assure that the records of the Town correctly reflect the current amount of allowed density on the receiving parcel.

C. The applicant shall reimburse the Town for its reasonable attorney fees incurred in connection with the preparation of any covenant that is prepared pursuant to this Section.

D. Density may be transferred only in accordance with the provisions of this Section. Any attempt to transfer density except in compliance with the provisions of this Section shall be null, void and of no effect whatsoever. The Town shall not recognize any density transfer except pursuant to this Section.

Section 2. Policy 3(Absolute), entitled "Density/Intensity", as set forth in Section 9-1-19 of the Breckenridge Town Code, is hereby amended so as to read in its entirety as follows:

3. **(ABSOLUTE) DENSITY/INTENSITY:** It is the intention of the Town to limit the total intensity of development by limiting the maximum allowed square footage of each project. To accomplish this Policy, the allowed base square footage for any specific project shall be based on the following methods for calculating square footages.

A. **Commercial:** Commercial, office, and certain residential uses' densities are designated within the land use guidelines in terms of a floor area ratio (FAR). All developments which lie in a district where the density is designated in the terms of floor area ratio shall continue to utilize the allowed density as calculated through the particular FAR as the basis for determining compliance with this policy.

B. **Residential:** Residential uses whose allowed densities are calculated in terms of

units within the land use guidelines shall utilize the following square footage conversion tables to determine the maximum dwelling area allowed within a specific project. (The Town requires dwelling units to be converted to square footage rather than units because the Town has determined that the impacts of a development are more closely related to the total square footage of the project than the number of units). Furthermore, it is the intention of the Town to encourage uses which have been determined to be needed and desirable for the general benefit of the Town, and to discourage those uses which it determines provide little or no benefit or are a detriment to the community.

Conversion Table - Residential Uses

Within Conservation District:

Single-family	One unit = 1,600 sq. ft.
Duplexes and townhouses	One unit = 1,600 sq. ft.
Condominiums or boarding houses	One unit = 900 sq. ft.
All other residential (including bed and breakfast, apartment, and condo -hotel)	One unit = 1,200 sq. ft.

Outside Conservation District:

Single-family	One unit = Unlimited square footage
Duplex included within site plan level development permit with net density of less than 5 units per acre	One unit = Unlimited square footage
Duplex include within site plan level development permit with net density of 5 units per acre or more	One unit = 1,600 sq. ft.
Townhouse	One unit = 1,600 sq. ft.
Hotel, inn, motel, bed and breakfast	One unit = 1,380 sq. ft.
Condominiums or boarding houses	One unit = 900 sq. ft.
All other residential (including apartment and condo-hotel)	One unit = 1,200 sq. ft.

For purposes of this policy, the term "net density" shall mean the total number of approved residential dwelling units per acre contained within the land area covered by a site plan level development permit.

C. General Provisions:

(1) Nonresidential uses such as churches, schools, office, commercial, or industrial uses, etc., proposed in residential districts shall utilize a conversion factor of one unit = one thousand (1,000) square feet of allowed floor area. Residential uses proposed in non-residential districts shall utilize a conversion factor of one thousand (1,000) square feet of allowed floor area = one unit. These conversion factors shall hold true for remodels, conversions, and new construction.

(2) Square footage shall be calculated by counting the following floor areas against the density calculations: (Ord. 19, Series 1988)

Commercial: Density shall be calculated by adding the total square footage of each floor of the building. Except as provided below, this shall include any basement areas or storage areas, no matter what the proposed use shall be, and shall be measured from the outside of the exterior walls. Exceptions: a) Any portion of a basement area of a "landmark structure", "contribution building", or "contributing building with qualifications" (as those terms are defined in the Town of Breckenridge Handbook of Design Standards for the Historic and Conservation Districts) which is: 1) located directly underneath the existing building, 2) completely or partially buried below grade, and 3) properly restricted to use as storage for tenants or occupants of the building, shall not be counted toward allowed density for such building so long as the historic USGS floor elevation of the building is maintained; and b) any underground portion of a building which is used to

provide required or approved parking for the project. (Ord. 27, Series 1999)

Residential:

"Single-family" - the total square footage of the building from the outside of the exterior walls shall constitute the proposed density. This shall include any basement areas (finished or unfinished and entryways, but shall not include the garage nor other unfinished areas that could not constitute living area under the Uniform Building Code without substantial physical renovation (i.e., crawlspaces, attic).

"Townhouses and duplexes" - same as for single-family.

"Multi-family" - the total square footage of the residential portions of the building from the outside of the exterior wall to the outside of the interior wall, if adjacent to a common area, or to the outside of the other exterior wall if not. Common areas such as lobbies, hallways, and amenity areas shall not be counted against the density.

"Hotels, lodges, etc." - same as for multi-family.

*In those instances where commercial uses are being proposed within a multi-family building, hotel, etc., the density of those uses shall be counted against the allowed density; and, where the allowed density is calculated in units rather than floor area ratio, the one thousand (1,000) square foot equals one unit calculation shall be utilized.

(3) Within land use districts where duplexes are allowed at an unlimited square footage, duplexes proposed on lots designated on an approved plat as being a single-family lot shall be assessed as being one hundred percent (100%) over density; while duplexes proposed on lots designated on an approved plat as being a duplex lot shall be assessed as being within density.

(4) Within land use districts where the allowed density is designated in terms of floor area ratio for commercial uses and units per acre for residential uses, the allowed density for a project containing both residential and commercial uses shall be calculated on a pro rata basis determined by the allowed percentages of the residential and commercial densities. For purposes of this Section, commercial uses shall mean all nonresidential uses.

(5) Density transferred from the Upper Blue River Basin into the Town shall use a conversion factor of one development right = one SFE or unit according to the Conversion Table under subsection 3.B. Fractions of a development right shall be converted to an equal fraction of a unit.

D. Employee Housing Density Calculations:

(1) A maximum of ten percent (10%) of the density of a project which is located outside of the Conservation District shall be excluded from the calculated density of the project if such density is used to construct "employee housing" as defined in Section 9-1-5 of this Chapter. An employee housing unit which is located within the Conservation District shall count against the density and mass of the project for which such unit was provided. Employee housing units that are condominiums shall be calculated as 1,200 sq. ft. under subsection (B).

(2) There shall be no density bonus or adjustment allowed for employee housing constructed as part of a project located within the Conservation District.

(3) Notwithstanding subsection (1) of this subsection E, a project located outside of the Conservation District which consists of all employee housing units as herein defined, shall be allowed one hundred fifteen percent (115%) of its otherwise permitted density under the controlling development policy or document, including, but not limited to, the Land Use Guidelines, Master Plan, Planned Unit Development Agreement or other controlling site-specific rule, regulation or court order.

(4) In connection with the annexation to the Town of real property, the Town shall establish the density for the property in accordance with the Summit County zoning density for residential uses or the Town Land Use Guideline recommended density, whichever is less. Density recommended for non-residential uses under Summit County zoning shall not be recognized by the Town. If upon such property there is to be constructed a project which includes one or more employee housing units as herein defined, the Town may establish a density that exceeds the lesser of the County or Town density, for the portion of the property devoted to employee housing without requiring a density transfer. However, in no event shall density on such a site exceed the density recommended in the Land Use Guidelines as further interpreted by this Code, unless density is transferred onto the site.

(5) Any employee housing which is excluded from a project's density calculation or which is part of a project for which additional density is allowed pursuant to this subsection D shall be subject to the provisions and requirements of Policy No. 3 (Absolute) and Policy No. 24 (Relative) of this Section.

Section 3. Policy 3(Relative), entitled "Compliance With Density/Intensity Guidelines", as set forth in Section 9-1-19 of the Breckenridge Town Code, is hereby amended so as to read in its entirety as follows:

3. (RELATIVE) COMPLIANCE WITH DENSITY/INTENSITY GUIDELINES: Compliance with the maximum allowed intensity/density as calculated in Policy No. 3 (Absolute), and with regard to commercial from the Land Use Guidelines is strongly encouraged. Deviations in excess of the maximum allowed total square footage shall only be allowed through density transfers pursuant to Section 9-1-17-12 and shall be assessed negative points according to the following schedule:

<u>% Deviation Up From Guidelines</u>	<u>Point Deductions</u>
5 x (point deduction)	
0.1 - 5%	2*
5.01 - 10%	3
10.01 - 15%	4
15.01 - 20%	5
20.01 - 30%	6
30.01 - 40%	7
40.01 - 50%	8
50.01% and above	20

*Excess density is exempt from a 2 point deduction if the density is transferred pursuant to Section 9-1-17-12-B and if the total excess density for the project does not exceed 5% of the maximum density allowed. This exemption does not apply to any transfers of density into the Historic District.

Section 4. 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 5. 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 6. 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 Charter.

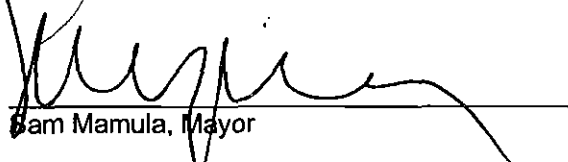
Section 7. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 22nd day of August, 2000. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 12th day of September, 2000, 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


Sam Mamula, Mayor

This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on September 1, 2000.

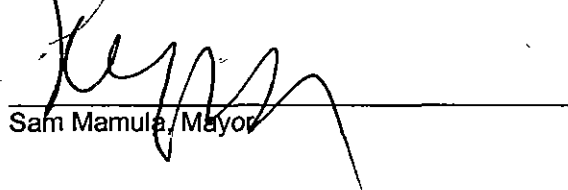
The public hearing on this Ordinance was held on September 12, 2000.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS, this 12th day of September, 2000. 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


Sam Mamula, Mayor

APPROVED IN FORM:

 9/12/00
Town Attorney Date

This Ordinance was published by title with amendments in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on September 22, 2000.