

ORDINANCE NO. 41

Series 2002

AN ORDINANCE CONCERNING NONCONFORMITIES UNDER CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", AND CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION ORDINANCE"

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

Section 1. Section 9-1-5 of the Breckenridge Town Code is hereby amended by the addition of a new definition of "Nonconformity", which shall read in its entirety as follows:

NONCONFORMING STRUCTURE: A structure which was lawful when constructed, but which does not comply with the absolute policies of this Chapter.

Section 2. Section 9-1-12 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

9-1-12: NONCONFORMING STRUCTURE:

A. The Town Council finds and determines that nonconforming structures are disfavored because they reduce the effectiveness of land use regulations and depress property values. The purpose of this section is to require that nonconforming structures be made conforming with the absolute policies of this Chapter as rapidly as possible. Accordingly, it is the intent of this section to allow for the continuation of nonconforming structures only so long as they meet the requirements of this Section. To that end, this section shall be interpreted and construed to restrict, rather than increase, nonconforming structures. Additionally, the provisions of this section that allow for the continuation of nonconforming structures shall be strictly construed, and the provisions of this section that restrict nonconforming structures shall be liberally construed.

B. If a nonconforming structure is discontinued from active and continuous use for a period of six (6) months, the structure shall not be occupied or used again until it has been brought into compliance with the absolute policies of this Chapter.

C. A nonconforming structure which is once brought into compliance with the absolute policies of this Chapter shall not be changed back to a non-conforming state.

D. A nonconforming structure which is damaged by fire or other calamity to the extent of fifty percent (50%) or less of its replacement value at the time of the damage may be repaired or reconstructed to the same degree or area of nonconformity as existed immediately prior to the occurrence such damage.

Exceptions:

1. Neither the density nor the mass of the nonconforming structure shall be increased in connection with the repair or reconstruction of the structure.
2. The nonconforming structure shall be brought into conformance with the absolute policies of this Chapter to the extent possible. Any absolute policy with which the structure was not in compliance immediately prior to the structure being damaged shall not be deemed to be applicable to an application for a development permit to repair or reconstruct the nonconforming structure.
3. A development permit authorizing the repair or reconstruction of the nonconforming structure shall be obtained in accordance with the requirements of this Chapter. All applicable absolute and relative policies of this Chapter shall apply to any such development permit application.

E. A nonconforming structure which is damaged by fire or other calamity to the extent of more than fifty percent (50%) of its replacement cost at the time of the damage may not be repaired or reconstructed except pursuant to a development permit obtained in accordance with the requirements of this Chapter. All applicable absolute and relative policies of this Chapter shall apply to any such development permit application.

F. No nonconforming structure shall be structurally altered or expanded in any way that would increase the degree or area of nonconformance.

G. Any addition to or alteration of a nonconforming structure shall be done only pursuant to a development permit obtained in accordance with the requirements of this Chapter. All applicable absolute and relative policies of this Chapter shall apply to any such development permit application. Exception: An existing non-conforming structure shall not be required to be brought into compliance with the absolute policies of this Chapter in connection with an addition to or alteration of such structure.

H. A building or structure which is erected or altered without a development permit from the Town, or in a manner which does not comply with a development permit issued by the Town, shall not be considered to be a nonconforming structure under this section.

Section 3. Section 9-2-2 of the Breckenridge Town Code is hereby amended by the addition of a new definition of "Nonconformity", which shall read in its entirety as follows:

NONCONFORMING LOT: Any lot that lawfully existed before the adoption of this Chapter, but which is not in compliance with the provisions of this Chapter.

Section 4. There is hereby added to the Breckenridge Town Code a new Section 9-2-1-10-1, to be entitled "Nonconforming Lots", which shall read in its entirety as follows:

9-2-1-10-1: NONCONFORMING LOTS

A. It is the intent of this Chapter to allow for a nonconforming lot to be built upon or used provided that the lot meets the requirements of this Section.

B. A nonconforming lot may be built upon or used only if:

(1) the nonconforming lot was not created in violation of the Town's subdivision regulations which were in effect at the time the lot was created; and

(2) a development permit for the proposed development of the lot is obtained pursuant to the Development Code.

C. If a nonconforming lot is resubdivided, it shall be brought into compliance with the requirements of this Chapter to the extent possible.

D. A lot which is created in violation of this Chapter, or which was created in violation of earlier Town subdivision regulations, shall not be considered to be a nonconforming lot. No such lot shall be built upon or used unless the lot is brought into compliance with the requirements of this Chapter.

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.

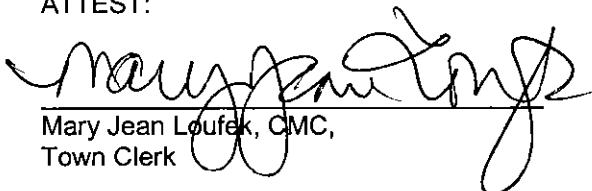
Section 5. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

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.

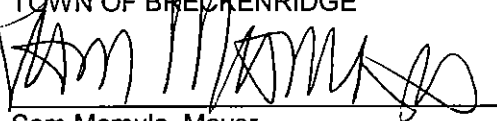
Section 7. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 12th day of November, 2002. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 26th day of November, 2002, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:


Mary Jean Loufek, CMC,
Town Clerk

TOWN OF BRECKENRIDGE


Sam Mamula, Mayor

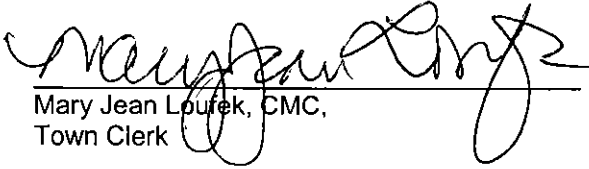
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on November 22, 2002.

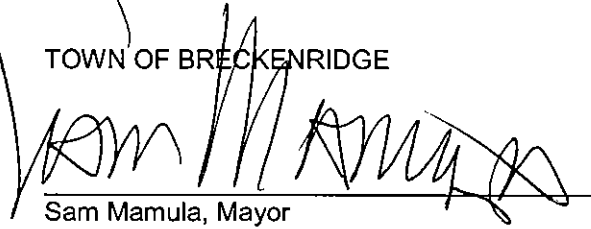
The public hearing on this Ordinance was held on November 26, 2002.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN BY TITLE ONLY, this 26th day of November, 2002. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

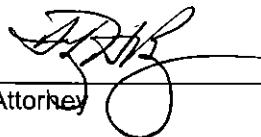
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC,
Town Clerk


Sam Mamula, Mayor

APPROVED IN FORM:

 11/26/02
Town Attorney Date

This Ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on December 6, 2002.