

ORDINANCE NO. 20

Series 2008

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", BY ADOPTING POLICY 47(ABSOLUTE) CONCERNING FENCES, GATES AND GATEWAY ENTRANCE MONUMENTS

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 amended by the addition of the following definitions:

| | |
|----------------------------|---|
| BUCK-AND-RAIL FENCE: | A fence constructed with log posts in an upside down "v" shape with rails spanning from post to post. |
| CONSTRUCTION FENCE: | A temporary fence used to define the limits of construction, prohibit trespassers, and control access to an active construction site for which a building permit has been issued. |
| GATEWAY ENTRANCE MONUMENT: | A manmade structure, usually at the vehicular or pedestrian entrance to the site, which defines the entrance, and includes vertical structures at the access point. |
| FENCE: | A manmade barrier erected primarily to prevent escape or entry, or to mark a boundary. |
| LANDSCAPE WALL: | A vertical structure extending from the ground, constructed of rock, wood, stone, brick or other solid material, which is used to mark a boundary, provide screening, or separate outdoor uses. |
| LOG FENCE: | A fence constructed of natural, whole logs, which may or may not have the bark removed. |
| PET FENCE: | A fence the primary purpose of which is to control a pet (such as a dog run). |
| PRIVACY FENCE: | A solid or mostly solid fence, the primary purpose of which is to provide privacy or to screen visibility. |
| PRIVACY GATE: | A gate across the entrance to a road, driveway or parking area, which blocks, or appears to block, access. Also known as a driveway gate. |
| SOLID TO VOID RATIO: | A measurement of the amount of solid material in relation to the amount of empty space, |

usually expressed as a ratio. A solid to void ratio of 1:3 contains one unit of solid material for every three units of opening. (Example: One-inch of solid fence with three inches of spacing.) The solid to void ratio is measured at every section of fence, and is not merely an average over the length of the fence.

SPLIT RAIL:

A fence rail split from a whole log.

Section 2. Section 9-1-19 of the Breckenridge Town Code is hereby amended by the addition of a new Policy 47 (Absolute)(Fences and Gates), which shall read in its entirety as follows:

47. (ABSOLUTE) FENCES, GATES AND GATEWAY ENTRANCE MONUMENTS:

A. General Statement: The welfare of the Town is based to a great extent on the character of the community, which includes natural terrain, open spaces, wildlife corridors and wooded hillsides. The installation of fences and privacy gates can erode this character by impeding views, hindering wildlife movement and creating the image of a closed, unwelcoming community. It is the intent of the Town to prohibit fences in areas outside of the Conservation District in order to maintain the open, natural and wooded alpine character of the community; to establish mandatory requirements for the erection of allowed fences in other parts of the Town; to allow for fences on small lots in master planned communities; to regulate the design of gateway entrance monuments; and to prohibit privacy gates anywhere within the Town.

B. Within the Conservation District: Fences within the Conservation District shall be reviewed under the criteria of the "Handbook of Design Standards for the Historic and Conservation District".

C. Outside the Conservation District: Fences and landscape walls are prohibited outside the Conservation District, except the following fences are permitted when constructed in accordance with the design standards described in section D of this policy:

1. pet fences;
2. fences around children's play areas;
3. fences around ball fields, tennis courts, swimming pools or other outdoor recreation areas;
4. construction fences;
5. temporary fences used for crowd control or to limit access or egress to or from a short-term special event;
6. fencing required by law;
7. privacy fencing to screen hot tubs;
8. fencing around cemeteries; and
9. fences specifically authorized in a vested master plan containing specific fence design standards;
10. Town fences to delineate public trails or protect open space values;
11. fencing at public improvement projects proposed by the town.
12. private fences to delineate the boundary between private land and a public trail or public open space, but only if authorized by a variance granted pursuant to section K of this policy.

D. Design Standards for fences: All fencing outside the Conservation District shall comply with the following design standards:

1. Fences in residential areas shall be constructed of natural materials, and shall be either a split rail, buck-and-rail, or log fence design because such designs have a natural appearance, blend well into the natural terrain, and have an open character. Fences of other materials or designs are

prohibited. (Exception: Where an applicant can demonstrate to the satisfaction of the Town that an alternative material would be indistinguishable from natural materials, the Town may authorize such materials.) Fences in residential areas shall have a maximum solid to void ratio of 1:3 (example: one inch of solid material for every four inches of opening.) Solid privacy fences are prohibited, except for short lengths of fencing used to screen hot tubs, if they comply with Section D7 of this policy.

2. Smooth, cut timbers are prohibited. PVC, vinyl and plastic fences are prohibited. Rough sawn timbers or natural logs are allowed.
3. Pet fences shall be located in a rear or side yard or where the fence is not visible from a public right-of-way. Pet fences shall be located to minimize their visibility to the greatest extent possible, which in most instances will require the fence to be located behind or to the side of a structure. Pet fences may incorporate a wire mesh material to control pets. The wire mesh may be on the vertical portions of the fence, or may extend horizontally over the top of the enclosed pet area, or both. The maximum area of a fenced pet enclosure shall be 400 square feet. Pet fences are limited to fifty-four (54) inches in height, and shall have a maximum solid to void ratio of 1:3.
4. Fences around children's play areas shall be located in a rear or side yard where possible, or where the fence is not visible from a public right-of-way, which in most instances will require the fence to be located behind or to the side of a structure. The fence may incorporate a wire mesh material to enclose the yard. The maximum area of a fenced children's play area on private property shall be 400 square feet. Fences around children's play areas are limited to fifty-four (54) inches in height, and shall have a maximum solid to void ratio of 1:3.
5. Fences around ball fields, tennis courts, swimming pools or other outdoor recreation areas shall use black or dark green vinyl coated chain link fencing. Uncoated or galvanized chain link fencing is prohibited. This standard applies to fencing of both public and private recreation areas. Wind privacy screens may be incorporated into the fence.
6. Construction fencing may be constructed of plastic, chain link or other material, as approved by the Town. Wind privacy screens may be incorporated into the construction fence. Temporary construction fencing shall be removed upon completion of the project or upon issuance of a Certificate of Occupancy or Certificate of Compliance, where applicable.
7. Privacy fencing around hot tubs may only be used where the fence will not be nearer than fifty (50) feet from a public right of way. Privacy fences shall not exceed six feet (6') in height and not exceed fifteen feet (15') in length.
8. Fencing around cemeteries is exempt from this ordinance. The design of cemetery fencing is encouraged to emulate historic fencing from local cemeteries and follow the fence policy in the "Handbook of Design Standards for the Historic and Conservations Districts". These fences were generally constructed of wrought iron, cast iron, or wood pickets, and were generally about three feet (3') tall.
9. Where fences are specifically authorized in a vested master plan containing specific fence design standards, the design standards of the master plan shall govern the fence design.
10. Fences approved by the Town to delineate public trails or protect open spaces shall be constructed of natural materials, and shall be either a split rail, buck-and-rail, or log fence design because such designs have a natural appearance, blend well into the natural terrain, and have an open character. These fences should be designed to accommodate wildlife, and may be substantially different from fences on residential or commercial properties, due to the unique needs and goals of public trails and open spaces.
11. Fences at public improvement projects proposed by the town are exempt from these regulations. However, every attempt shall be made to incorporate the criteria listed above, where practical.

- E. Site Plan; Survey: A site plan showing the location of existing structures, property lines, and the location of the proposed fence may be required by the Director as part of the submittal requirements for a fence. A survey from a Colorado licensed surveyor may also be required by the Director to verify property lines.
- F. Architectural Specifications: Architectural elevations showing the design, material, color, and size of the proposed fence may be required by the Director as part of the submittal requirements for a fence.
- G. Fences on Easements: If a fence crosses an easement, the fence shall not interfere with the use of the easement.
- H. Privacy gates: Privacy gates are prohibited anywhere within the Town.
- I. This policy shall not apply to any fence to be constructed upon land that is subject to a vested master plan containing specific fence design standards and criteria. The construction of such fence shall be governed by the applicable design standards and criteria contained in the master plan.
- J. Gateway Entrance Monuments: Gateway entrance monuments within the Conservation District are prohibited. Outside the Conservation District, gateway entrance monuments may be allowed only when they meet the following criteria:
 - a. Gateway entrance monuments shall be permitted only for residential subdivisions of five (5) or more lots, and for hotels and condominiums located outside of the Conservation District. Such gateway entrance monuments shall not exceed eight feet (8') in height, and shall not exceed twenty feet (20') in length. One (1) monument is allowed to either side of the road at the entrance to the subdivision, with up to two (2) monuments total at each entrance to the subdivision. Entry monuments shall not be constructed in the public right-of-way. Such entrance monuments shall be constructed of natural materials, such as stone and/or wood, and may incorporate the subdivision entrance sign, under a separate permit. Gateway entrance monuments shall not incorporate an arch or other structure over the road. Privacy gates shall not be incorporated into the gateway entrance monument.
 - b. Gateway entrance monuments at private residences shall not exceed five feet (5') in height, and shall not exceed a footprint of ten (10) square feet in ground area. One (1) monument is allowed on either side of the driveway at the entrance to the property, with up to two (2) monuments total at the entrance. Entry monuments shall not be constructed in the public right-of-way. Such entrance monuments shall be constructed of natural materials, such as stone and/or wood, and may incorporate the residence name or street address. Gateway entrance monuments shall not incorporate an arch or other structure over the road. Privacy gates shall not be incorporated into the gateway entrance monument.
- K. The planning commission or town council may authorize the erection of a private fence to delineate the boundary between private land and a public trail or public open space by granting a variance from the limitations of this policy. A variance shall be granted under this subsection J only upon the written request of the applicant, and a finding that the applicant has satisfactorily demonstrated that: 1) the fence is needed in order to reduce public confusion as to the location of the boundary between the applicant's land and the public trail or public open space; 2) the applicant's inability to erect the fence would present a hardship; and 3) the purposes of this policy will be adequately served by the granting of the variance. No variance shall have the effect of nullifying the intent and purpose of this policy. Section 9-1-11 of this chapter is not applicable to

the granting of a variance to erect a private fence to delineate the boundary between private land and a public trail under this section.

Section 3. 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 4. 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 5. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the Breckenridge Town Charter.

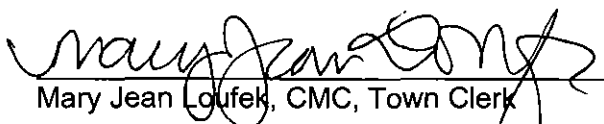
Section 6. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

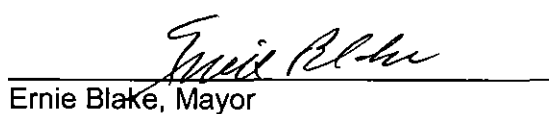
Section 7. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 11th day of March, 2008. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 25th day of March, 2008, 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


Ernie Blake, Mayor

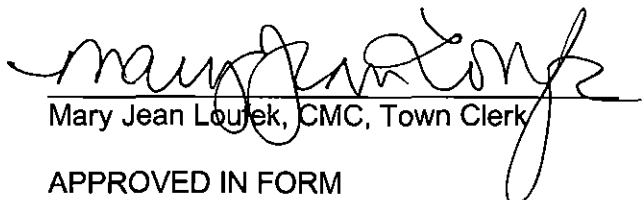
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on March 21, 2008.

The public hearing on this ordinance was held on March 25, 2008.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS, this 25th day of March, 2008. This ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney

3/25/08
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 April 4, 2008.