

ORDINANCE NO. 1

Series 2011

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES POLICY 22 (ABSOLUTE) AND POLICY 22 (RELATIVE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING LANDSCAPING

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

Section 1. The definition of "Firewise Landscaping" in Section 9-1-5 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

**FIREWISE LANDSCAPING:** Trees, shrubs, and other landscaping that: a) meet the criteria for fire resistant landscaping as established from time to time by the Colorado State University cooperative extension service; b) are suited to the Town's subalpine environment in accordance with the development code; and c) are located in conformance with requirements of this Chapter.

Section 2. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of a new definition of "Landscaping Guidelines", which shall read in its entirety as follows:

**LANDSCAPING GUIDELINES:** The most current edition of the "Landscaping Guidelines" promulgated by the Director in accordance with Chapter 18 of Title 1 of this Code.

Section 3. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of a new definition of "Nursery Stock Standards", which shall read in its entirety as follows:

**NURSERY STOCK STANDARDS:** The most current edition of the "American Standard For Nursery Stock", published by the American Nursery & Landscape Association, 1000 Vermont Avenue, NW, Suite 300, Washington, DC, 20005.

Section 4. Policy 22 (Absolute) of Section 9-1-19 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

**22. (ABSOLUTE) LANDSCAPING:**

A. General Statement: The Town finds that it is in the public interest for all developments to maintain healthy trees and to provide landscape improvements for the purposes of: complementing the natural landscape and retaining the sense of a mountain environment; improving the general appearance of the community and enhancing its aesthetic appeal; preserving the economic base; improving the quality of life; delineating and separating use areas; increasing the safety, efficiency, and aesthetics of use areas and open space; screening and enhancing privacy; mitigating the adverse effects of climate, aspect, and elevations; conserving energy; abating erosion and stabilizing slopes; deadening sound; and preserving air and water quality.

To ensure that landscaping is provided and maintained, the following requirements for the installation, maintenance, and protection of landscaped areas must be met for every project for which a development permit is issued under this Chapter.

**B. Landscaping Requirements:**

- (1) Each property shall provide a separation of uses, enhancement of privacy, and the protection of view sheds from public rights of way as appropriate for each

neighborhood. These requirements shall be met through existing vegetation, or with new landscaping providing adequate screening of the property as provided in this Policy. The individual character of each neighborhood shall be considered by the Planning Commission in determining compliance with this requirement.

- (2) An unscreened industrial or commercial storage area shall be screened from view from adjacent public rights of way and adjacent properties by use of landscaping, berms, or a combination of landscaping and other features. Required screening shall be a minimum height of six feet (6').
- (3) When a parking lot and a public right of way are contiguous, a landscaped area a minimum of five feet (5') in width separating the parking lot from the right of way shall be provided to effectively screen the parking lot.
- (4) All planting materials proposed in areas also designated as snow stacking areas or anticipated snow shedding areas shall be of a size and type that will not be adversely affected by the proposed snow storage. To the extent possible, newly planted trees shall not be located in areas that will be used for snow storage or snow shedding.
- (5) Any site contiguous to or facing any existing or future residential use shall screen its parking lot, loading dock, and similar uses from view from adjacent properties through the use of landscaping elements. Required screening shall be a minimum height of four feet (4').
- (6) All surface areas of the approved landscaping plan that will not be a hard surface shall be planted with adequate native or high altitude ground cover as approved by the Town, and shall be top-dressed with a minimum of two inches (2") of top soil prior to planting. In addition, irrigation shall be provided when determined by the Town to be necessary to assure the proper growth and maintenance of the landscaping being provided. A required irrigation system shall be maintained on an annual basis.
- (7) Revegetation measures, including, but not limited to, seeding with native or high altitude seed mixtures, biodegradable netting, straw, mulching, and irrigation to establish plantings on cut/fill slopes, are required. Cut and fill slopes intended for plantings shall not exceed a 2:1 gradient. Retaining walls shall be required for all gradients greater than 2:1.
- (8) Not less than six percent (6%) of the interior area of a parking lots shall be landscaped.
- (9) Not less than six percent (6%) of a site containing a business with a drive-through facility shall be landscaped.
- (10) Site plans shall be designed to avoid conflicts with parking areas and landscaping materials. Wheel retention devices shall be utilized for parking areas to protect landscaping where possible. The design of wheel retention devices will be reviewed on a case by case basis to allow for positive drainage and so as not to interfere with snow removal operations.
- (11) At least fifty percent (50%) of all tree stock shall be of a size equal to or greater than six feet (6') in height for evergreen trees and one and one-half inches (1-1/2") caliper for deciduous trees, measured six inches (6") above ground level. Such trees shall be in a minimum of: (a) five (5) gallon containers, if container stock; (b) twelve inch (12") root spread, if bare root stock; or (c) fourteen inch (14") ball diameter if balled and burlapped with the ball depth not less than seventy five percent (75%) of diameter or three-quarters ( $\frac{3}{4}$ ) of width. Size adjustments reflecting the growth habits of particular species may be made if approved by the Planning Commission. (Refer to *Landscaping Guidelines* for further details.)
- (12) At least fifty percent (50%) of all shrub stock shall be of a size equal to or greater than Type 2, four (4) cans or more, two feet (2') and up, if deciduous; Type 1, twelve inch (12") spread, if creeping or prostrate evergreens; or Type 2, twelve inch (12") spread and height, if semi-spreading evergreens. Size adjustments reflecting the growth habits of a particular species may be made if

approved by the Planning Commission. (Refer to Landscaping Guidelines for further details.)

- (13) All plant materials shall be specified and provided according to the Nursery Stock Standards and adapted to a high altitude environment, or an elevation appropriate for the site. Applicants are encouraged to provide additional information to the Town beyond the minimum information stated in the Nursery Stock Standards including, but not limited to, a more definitive indication of size, quality, shape, confirmation, condition, and/or the method of transplanting the plant materials.
- (14) Large trees shall be staked in compliance with the Nursery Stock Standards.

C. Required Wildfire Mitigation:

- (1) The creation of defensible space around structures is required for all new construction and for major remodels<sup>1</sup> that affect the exterior of a structure and/or a structure's footprint.
- (2) Properties within the Conservation District, and those master-planned properties with approved setbacks smaller than the setbacks described in Policy 9 (Absolute), "Placement of Structures" of this Chapter, shall be given special consideration to allow for site buffers and screening to be created and maintained while still meeting the intent of reducing wildfire fuels.
- (3) The following standards shall apply to the creation of defensible space around a structure:
  - a. The property shall be divided into three (3) zones. Zone one shall be measured thirty feet (30') from the eaves of the building or structure including attached structures or protrusions, such as a deck on the property. Zone two shall be measured seventy five feet (75') or greater from the eaves of the building or structure including attached structures or protrusions, such as a deck on the property, depending on slope from the eaves of the building or structure on the property, and shall exclude the portion of the property located within zone one. Zone three shall extend beyond zone two to the property boundary.
  - b. Except as may be required to comply with the requirements of Title 5, Chapter 11 of this Code concerning mountain pine beetle infested trees, no portion of any property may be "clear cut" in order to achieve defensible space.
  - c. Except as may be required to comply with the requirements of Title 5, Chapter 11 of this Code concerning mountain pine beetle infested trees, no more trees shall be allowed to be removed than are necessary in order for the landowner to create defensible space around his or her property.
  - d. Both the horizontal clearance between aerial fuels, such as the outside edge of the tree crowns or high brush, as well as the vertical clearance between lower limbs of aerial fuels and the nearest surface fuels and grass/weeds, shall be considered when determining compliance with the defensible space requirements of this policy.
  - e. Each property shall be reviewed individually, and the location and other physical characteristics of the property shall be considered. Without limiting the generality of the preceding provisions, the Planning Commission shall consider the property's proximity to a roadway, parking lot, and other similar areas that create fuel firebreaks. Similarly, large tracts of open space and forest service land that may require larger buffers shall be considered.
- (4) The following specific standards apply to the creation of defensible space within zone one:

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<sup>1</sup> See definition of "major remodel" contained within the definition of "Class D Development" in Section 9-1-5 of this Chapter.

- a. Healthy trees, shrubs, and other landscaping materials that provide visual buffers shall be preserved if they are well spaced so as to reduce the risk of a fire spreading to other vegetation or structures, but shall be pruned to remove dead branches.
- b. Healthy trees, shrubs, and other landscaping material required by an existing approved landscape plan shall be preserved if they are well spaced so as to reduce the risk of a fire spreading to other vegetation or structures, but shall be pruned to remove dead branches.
- c. Other healthy firewise trees, shrubs, and other landscaping material shall be preserved if they are well spaced so as to reduce the risk of a fire spreading to other vegetation or structures, but shall be pruned to remove dead branches.
- d. Irrigated trees, shrubs, and other landscaping material may be preserved if they are pruned to remove dead branches and well spaced to reduce the risk of a fire spreading to other vegetation or structures.
- e. All dead and diseased trees, shrubs, and other landscaping material shall be removed.
- f. All vegetation and combustible material shall be removed from under all eaves and decks.
- g. All leaf clutter, dead branches, and dead standing trees shall be removed from the property. Dead branches on living trees shall be trimmed to a minimum height of six feet (6') and a maximum height of ten feet (10') above the ground.
- h. All grasses and ground cover shall be kept under six inches (6") in height.

Exception: Plantings located in an irrigated planting bed, and wildflowers or native grasses; however, wildflowers and native grasses shall be cut back to under six inches (6") in height in the fall of each year once they go to seed.

- i. All leaf and needle clutter and combustible ground debris shall be removed. Mulch within landscape beds that are irrigated may be maintained at a maximum depth of three inches (3").
- j. All firewood shall be removed unless covered by a canvas tarp, or as approved by the fire district.

(5) The following specific standards apply to the creation of defensible space within zone two:

- a. Healthy trees, shrubs, and other landscaping material required by an approved landscape plan shall be preserved.
- b. Healthy trees, shrubs, and other landscaping material that provide visual buffers shall be preserved if they are well spaced so as to reduce the risk of a fire spreading to other vegetation or structures, but shall be pruned to remove dead branches.
- c. Other healthy firewise trees, shrubs, and other landscaping material shall be preserved if they are well spaced so as to reduce the risk of a fire spreading to other vegetation or structures, but shall be pruned to remove dead branches.
- d. Irrigated trees, shrubs and other landscaping material may be preserved if they are pruned to remove dead branches and are well spaced to reduce the risk of a fire spreading to other vegetation or structures.
- e. All dead and diseased trees, shrubs, and other landscaping material shall be removed. However, one snag per acre may be preserved for wildlife habitat if it is well spaced to avoid the spread of fire to other vegetation or

structures.

- f. Trees shall be thinned to open up crown spacing to a minimum of ten feet (10') between the widest portion of individual crowns of the trees.
- g. Groups of trees with a minimum of ten feet (10') between the edges of the widest portions of crowns of each grouping shall be preserved to allow buffers to remain and to prevent wind throw.
- h. Firewood may be maintained if an adequate buffer around the firewood is determined to exist by the fire district.

(6) The following specific standards apply to the creation of defensible space within zone three:

- a. All dead and diseased trees, shrubs, and other landscaping material shall be removed. However, one snag per acre may be preserved for wildlife habitat if it is well spaced to avoid the spread of fire to other vegetation or structures.

(7) New landscaping installed on a property shall comply with the requirements of subsections (5), (6) and (7), above.

#### D. Water Features

- (1) A water features shall meet all required setbacks for structures. A water feature shall not be located on a site outside of a disturbance envelopes. A water feature shall not be permitted if the construction of the water feature would result in the removal of an existing specimen tree, or a tree that provides required site; provided, however, that: (a) if a tree that provides site buffering must be removed to allow for the installation of a water feature, a replacement tree comparable in type, height, and caliper shall be placed in a location designated by the Planning Commission so as to provide equal site buffering from adjoining properties; or (b) if a specimen tree must be removed to allow for the installation of a water feature, a replacement specimen tree comparable in type, height and caliper shall be placed in a location designated by the Planning Commission.
- (2) The use of Glycol or other anti-freezing additives within a water feature is prohibited.
- (3) A application for a water feature that is proposed for year round use may be assessed negative points under Policy 33 (Relative), "Energy Conservation", of this Chapter.

#### E. Required Maintenance of Landscaping:

- (1) The following maintenance is required of all landscaping contained within an approved landscape plan:
  - a. All plantings on the property shall be maintained in a healthy and attractive condition. Maintenance shall include, but not be limited to, watering, fertilizing, weeding, cleaning, pruning, trimming, spraying, and cultivating.
  - b. The property shall be kept free of noxious weeds as designated in the Town's Noxious Weed Management Plan adopted in Title 5, Chapter 10 of this Code, as amended from time to time.
  - c. Structural features installed on the property in connection with an approved landscape plan, such as fencing and planter boxes, shall be maintained in a sound structural and attractive condition.
  - d. Whenever plants that are part of an approved landscape plan are removed or die, they shall be replaced by planting materials as soon as possible. This includes existing vegetation and/or specimen trees that are important to the intent of the overall landscape plan. Replacement plantings shall meet the original intent of the approved landscape design

as appropriate for the character of the neighborhood.

- (2) The following maintenance is required of all landscaping located on a property, regardless of whether such landscaping is described in an approved landscaping plan:
  - a. Selective tree cutting/thinning to maintain the health of the tree stand and to allow for greater species diversity is appropriate; provided that effective screening is maintained to protect view sheds, blend the development into the site, and provide privacy between properties.
  - b. Dead and terminally diseased trees shall annually be: (i) cut as close to the ground as possible; (ii) removed from the property; and (iii) disposed of properly. (Refer to the Landscaping Guidelines for references on common diseases and infestations that affect vegetation at a high altitude.)

Section 5. Policy 22 (Relative) of Section 9-1-19 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

## **22. (RELATIVE) LANDSCAPING:**

2 x (-1/+3) A. All developments are strongly encouraged to include landscaping improvements that exceed the requirements of Policy 22 (Absolute), "Landscaping", of this Chapter. New landscaping installed as part of an approved landscape plan should enhance forest health, preserve the natural landscape and wildlife habitat and support fire-wise practices. A layered landscape consistent with the Town's mountain character, achieved through the use of ground covers, shrubs, and trees that utilize diverse species and larger sizes where structures are screened from view sheds, public rights of way and other structures, is strongly encouraged. The resulting landscape plan should contribute to a more beautiful, safe, and environmentally sound community.

B. To meet the goals described in Section A of this Policy compliance with the following relative landscape standards is encouraged. An application shall be evaluated on how well it implements the following:

- (1) At least one tree a minimum of eight-feet (8') in height, or three inch (3") caliper, should be planted at least every fifteen feet (15') along all public rights of way adjacent to the property to be developed.
- (2) All landscaping areas should have a minimum dimension of ten feet (10').
- (3) *Development applications should identify and preserve specimen trees, significant tree stands, tree clusters and other existing vegetation that contribute to wildlife habitat. Trees considered as highest priority for preservation are those that are disease-free, have a full form, and are effective in softening building heights and creating natural buffers between structures and public rights of way. Buildings should be placed in locations on the property that result in adequate setbacks to preserve specimen trees and existing vegetation. Appropriate measures should be taken to prevent site work around these areas. Applicants should seek professional advice on these issues from experts in the field.*
- (4) *Landscaping materials should consist of those species that are native to the Town, or are appropriate for use in the Town's high altitude environment. The Landscaping Guidelines shall be used to evaluate those particular criteria.*
- (5) *Landscaping materials should consist of those species that need little additional water (over and above natural precipitation) to survive, or the applicant should provide an irrigation system on the property that complies with subsection (6), below. In general, native species are the most drought tolerant after establishment. Xeriscaping with native species is encouraged.*
- (6) *Installation, use, and maintenance of irrigation systems to ensure survival of landscaping in the long-term is strongly encouraged until plant material is established. Irrigation utilizing low flow systems and the recycling of water are strongly encouraged. All approved irrigation systems should be maintained on*

an annual basis.

- (7) The use of bioswales planted with native vegetation that can filter and absorb surface water runoff from impervious surfaces is encouraged to promote water quality.
- (8) In low traffic areas the use of permeable paving allowing precipitation to percolate through areas that would traditionally be impervious is encouraged.
- (9) Plant materials should be provided in sufficient quantity; be of acceptable species; and be placed in such arrangement so as to create a landscape that is appropriate to the Town's setting and that complies with the Historic District Guidelines, if applicable.
- (10) Not less than fifty percent (50%) of the tree stock installed on a property should include a variety of larger sizes, ranging up to the largest sizes (at maturity) for each species that are possible according to accepted landscaping practices. Such tree stock should recognize the Town's high altitude environment, transplant feasibility, and plant material availability. The interrelationships of height, caliper, container size and shape must be in general compliance with the Nursery Stock Standards.
- (11) Not less than fifty percent (50%) of all deciduous trees described in the landscape plan should be multi-stem.
- (12) Landscaping should be provided in a sufficient variety of species to ensure the continued aesthetic appeal of the project if a particular species is killed through disease. Native species are preferred.
- (13) Not less than fifty percent (50%) of that portion of the area of a project that is not being utilized for buildings or other impervious surfaces should be kept in a natural/undisturbed state. Native grasses, wild flowers, and native shrubs are desirable features to maintain.
- (14) In all areas where grading and tree removal is a concern, planting of new landscaping materials beyond the requirements of Policy 22 (Absolute), "Landscaping", of this Chapter is strongly encouraged. New trees and landscaping should be concentrated where they will have the greatest effect on softening disturbed areas and buffering off site views of the property.

B. Negative points shall be assessed against an application according to the following point schedule:

-2: Proposals that provide no public benefit. Examples include: providing no landscaping to create screening from adjacent properties, public right of way and view sheds; the use of large areas of sod or other non-native grasses that require excessive irrigation and do not fit the character of the neighborhood; the use of excessive amounts of exotic landscape species; and the removal of specimen trees that could be avoided with an alternative design layout.

C. Positive points will be awarded to an application according to the following point schedule:

+2: Proposals that provide some public benefit. Examples include: the preservation of a specimen trees as a result of a new building footprint configuration to preserve the trees; preservation of groupings of existing healthy trees that provide wildlife habitat; preservation of native ground covers and shrubs significant to the size of the site; xeriscape planting beds; the planting of trees that are of larger sizes (a minimum of 2.5" caliper for deciduous trees and eight feet (8') for evergreen trees); utilizing a variety of species; and the layering of ground covers, shrubs, and trees that enhances screening and assists in breaking up use areas and creating privacy. In general, plantings are located within zone one.

+4: Proposals that provide above average landscaping plans. Examples include: all those noted under +2 points, in addition to the planting of trees that are of larger sizes (a minimum of 3" caliper for deciduous trees and ten feet (10') for evergreen trees); utilizing a variety of species and the layering of

ground covers, shrubs, and trees that enhances screening and assists in breaking up use areas and creating privacy. 50% of all new planting should be native to the Town and the remaining 50% should be adapted to a high altitude environment. In general, plantings are located within zone one and zone two.

+6: Proposals that that provide significant public benefit through exceptional landscape plans. Examples include: all those noted under +2 and +4 points, and the planting of deciduous and evergreen trees that are a combination of the minimum sizes noted under positive four points (+4) and the largest possible for their species; the planting of the most landscaping possible on the site at maturity; utilizing a variety of species and the layering of ground covers, shrubs, and trees to break up use areas, create privacy, and provide a substantial screening of the site. 75% of all new plantings should be native to the Town and the remaining 25% should be adapted to a high altitude environment. Plantings are located in zone one, zone two, and zone three.

<sup>2</sup>Examples of positive point awards are for purpose of illustration only, and are not binding upon the Planning Commission. The ultimate allocation of points shall be made by the Planning Commission pursuant to section 9-1-17-3 of this Chapter.

Section 6. 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.

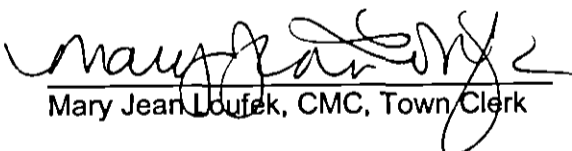
Section 7. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) 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 8. 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 14<sup>th</sup> day of Decmeber, 2010. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 11<sup>th</sup> day of January, 2011, 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

  
John G. Warner, Mayor

This Ordinance was published in full on the Town of Breckenridge website, on December 16, December 17, December 18, December 19, and December 20, 2010.

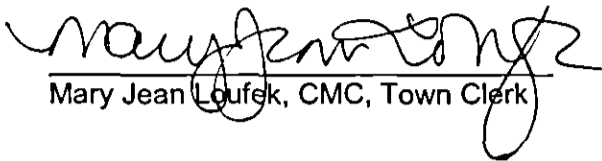
The public hearing on this ordinance was held on January 11, 2011.

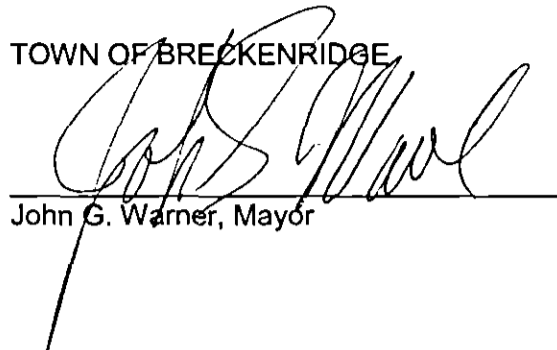


READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 11<sup>th</sup> day of January, 2011. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

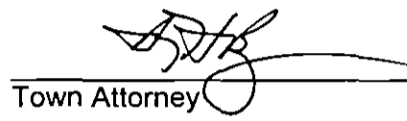
ATTEST:

TOWN OF BRECKENRIDGE

  
\_\_\_\_\_  
Mary Jean Loufek, CMC, Town Clerk

  
\_\_\_\_\_  
John G. Warner, Mayor

APPROVED IN FORM

  
\_\_\_\_\_  
Town Attorney

1/11/11  
Date

This Ordinance was published on the Town of Breckenridge website on January 12, January 13, January 14, January 15, and January 16, 2011. This ordinance shall become effective on January 19, 2011.