

1 COUNCIL BILL NO. 7

2
3 Series 2023

4 **A BILL FOR AN ORDINANCE FOR POLICY 3A PERTAINING TO DENSITY**
5 **AND MAKING CONFORMING AMENDMENTS.**

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

8 **Section 1.** That Section 9-1-5, Definitions, of the Breckenridge Development Code
9 shall be amended by deleting the language stricken and adding the language underlined, to
10 read as follows:

11 9-1-5:DEFINITIONS:

12 CLASS D DEVELOPMENT: Any development which includes any of the following activities and
13 elements:

14 Class D – Major:

15 A. New single-family, duplex structure, or major remodel outside of the historic district, with or
16 without an accessory dwelling unit, including, without limitation, master planned property with
17 multiple single-family and duplex structures, except where the proposed development either:

18 1. Warrants the assessment of any negative points based upon the director's preliminary
19 assessment at the time the application is initially filed; or

20 2. Is located on a lot, tract, or parcel without a platted building or disturbance envelope outside
21 of the conservation district as defined in section ~~9-1-19-4A~~ 9-1-19-3A of this chapter

22 (~~massdensity~~).

23 A Class D – major permit application that meets the conditions described in subsection A(1) or
24 (2) of this definition shall be reclassified as a Class C development permit application.

25 B. Those wireless communication facilities permit applications described in section 9-1-19-
26 50A(D)(2) of this chapter.

27 C. Accessory dwelling units except when the permit application meets the conditions described
28 in subsection A(1) or (2) of this definition, in which case the application shall be reclassified as a
29 Class C development permit application.

1 DENSITY: ~~The preparation of drawings and other documents illustrating the scale and~~
2 ~~relationship of the components of a development; or the preparation of drawings and other~~
3 ~~documents to fix and describe the size and character of the development as to structural,~~
4 ~~mechanical and electrical systems, materials and such other essentials as may be appropriate.~~
5 The computation of units per acre for residential development or floor area ratio for commercial
6 development based on a fully enclosed space within the surrounding exterior walls (including
7 the exterior wall itself) that extend to a roof of a building or portion thereof including dwelling
8 areas of the building, closets, bathrooms, living room, garage space of single family, duplexes,
9 and townhomes, interior hallways, interior common spaces and areas of the building that are
10 unfinished but have a floor to ceiling height of five feet (5') or greater. Building areas that are not
11 fully enclosed and feature portions of open or mesh wall that exceeds 12" vertically and are
12 entirely permeable across at least one façade such as trash dumpster enclosures, parking
13 garages, porches and similar areas shall not be counted as density.

14 RECREATION AND LEISURE AMENITY CLUB OR AMENITY CLUB: The meaning of Amenity
15 Club depends upon the type of residential property in which the property's amenity components
16 (as defined below) are located:

17 In a hotel/lodge/inn or a condominium that does not include one or more timeshare estates an
18 Amenity Club:

- 19 1. Allows admission to the property's amenity components by a person who is not a registered
20 overnight guest at the property; and
- 21 2. Requires payment of a fee, a club membership, or other consideration given by the user of
22 the property's amenity components.

23 In a condominium that includes one or more timeshare estates an Amenity Club permits
24 admission to the property's amenity components by a person who is not an overnight guest at
25 the property.

26 No residential property other than a hotel/lodge /inn or a condominium may contain an Amenity
27 Club.

28 An Amenity Club is classified as a commercial use and requires commercial density ~~above the~~
29 ~~allowed mass.~~

30 An Amenity Club may include, but shall not be limited to, the following amenity components:

- 1 1. Personal lockers;
- 2 2. Boot dryers;
- 3 3. Ski storage racks;
- 4 4. Ski tuning;
- 5 5. Areas for congregation and/or socializing;
- 6 6. Restrooms and/or shower facilities;
- 7 7. Movie theaters;
- 8 8. Game rooms;
- 9 9. Clubhouse food amenities;
- 10 10. Concierge ski services;
- 11 11. Access to an aquatics facility or other recreational facilities; and/or
- 12 12. Parking.

13 **Section 2.** That Section 9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY
14 be amended by deleting the language stricken and adding the language underlined to read as
15 follows:

16 **9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY:**

17 C. General Provisions:

18 2. Square footage shall be calculated by counting the following floor areas against the density
19 calculations:

20 Residential:

21 "Single-family" - the total square footage of the building from the outside of the exterior walls
22 shall constitute the proposed density. This shall include any basement areas (finished or
23 unfinished) and entryways, ~~but shall not include the garage nor other unfinished areas that~~
24 ~~could not constitute living area under the Building Code without substantial physical renovation~~
25 (i.e., crawl spaces, attic) and all unfinished areas that have greater than 5 ft. of ceiling height,
26 including garages but excluding crawl spaces and attics; provided, however, if a deed restricted

1 or market rate single-family or duplex structure located within the Wellington, Wellington II or
2 Lincoln Park Subdivisions contains or proposes a garage, the measurement of above ground
3 density defined above in this section applies only to that portion of the garage that exceeds five
4 hundred (500) square feet when a bonus room or carriage house is proposed or existing.

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

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

10 "Hotels, lodges, etc." - same as for multifamily.

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

15 Exception: Any portion of a basement area of a "Town designated landmark" as defined in
16 chapter 11 of this title, which is: a) located directly underneath the landmark building, and b)
17 completely or partially buried below grade, shall not be counted toward allowed density for such
18 building under this policy so long as the historic USGS floor elevation of the building is
19 maintained. This exception shall not apply to any other provision of this code.

20 ~~2.5. Space that is utilized for a recreation and leisure amenity club may be included in the~~
21 ~~additional twenty five percent (25%) of aboveground floor area allowed under subsection A4 of~~
22 ~~section 9-1-19-4R, "Policy 4 (Relative) Mass," of this chapter, provided there is any remaining~~
23 ~~space after all common areas have been counted. Any additional common area space above~~
24 ~~this additional twenty five percent (25%) shall be counted as commercial density.~~

25 **Section 3.** That subsection H of section 9-1-19-3A be amended by deleting the
26 language stricken and adding the language underlined to read as follows:

27 H. Aboveground Density In Historic District:

28 1. Within the Main Street residential/commercial, south end residential, and South Main
29 Street character areas a maximum of 12.0 units per acre for aboveground density for new

1 construction is allowed. Projects within such areas which contain 12.01 units per acre, or more,
2 of aboveground density shall be deemed to have failed this policy for failing to meet a priority
3 policy.

4 a. Within the Main Street residential/commercial character area only, density and mass
5 will not be assessed against a project for the construction of a "connector" element which
6 complies with priority policy 80C of the "Handbook of Design Standards for the Historic and
7 Conservation Districts".

8 2. a. Within the eastside residential, north end residential, and the North Main Street
9 residential character areas, a maximum of 9.0 units per acre for aboveground density for new
10 construction is allowed, except for those developments described in subsection H(2)b of this
11 section. Projects within such areas which contain 9.01 units per acre, or more, of aboveground
12 density shall be deemed to have failed this policy for failing to meet a priority policy.

13 b. In connection with permit applications for projects which involve "preserving",
14 "restoring", or "rehabilitating" a "landmark structure", "contributing building", or "contributing
15 building with qualifications" (as those terms are defined in the "Handbook of Design Standards
16 for the Historic and Conservation Districts") anywhere within the eastside residential, north end
17 residential, and the North Main Street residential character areas, a maximum of 10.0 units per
18 acre for aboveground density is allowed. Projects of such types which contain 10.01 units per
19 acre, or more, of aboveground density shall be deemed to have failed this policy for failing to
20 meet a priority policy.

21 3. For the purposes of this chapter, "aboveground density" shall mean that portion of
22 the density of a structure that is above finished grade. If a structure has a foundation wall that is
23 exposed more than two feet (2') above finished grade, a portion of the allowable above grade
24 density for such structure shall be assessed to the floor which is partially below grade in
25 accordance with priority policy 80B of the "Handbook of Design Standards" adopted by section
26 9-5-3 of this title.

27 Within the Historic District a one thousand six hundred (1,600) square foot multiplier is
28 used to calculate the allowed aboveground density for any use. For example, a typical fifty foot
29 by one hundred twenty five foot (50' x 125') aboveground density for any use (0.143 acre x
30 1,600 x 9 UPA).

1 If a single-family or duplex structure located within the Historic District contains a historic
 2 garage, barn or shed that does not qualify as dwelling area, the measurement of the density
 3 shall be excluded. All non-historic garage, barn and shed square footage shall count as density;
 4 provided, however, that where residences within the historic district either propose or have an
 5 existing garage and/or shed with no livable (finished) space, up to 500 sq. ft. of that area may
 6 be exempted from the density calculations.

7 I. Maximum Above Ground Density Outside of the Historic District:

8 1. For any development permit application submitted on or after November 11,
 9 2009, the maximum aboveground square footage of a single-family or duplex structure located
 10 on a lot, tract or parcel without a platted building or disturbance envelope shall be the lesser of:

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>	
<u>Breckenridge South</u>	<u>1:5.00</u>	<u>Or</u>	<u>6,000</u>
<u>Brooks Hill</u>	<u>1:5.00</u>	<u>Or</u>	<u>7,000</u>
<u>Christie Heights</u>	<u>1:3.50</u>	<u>Or</u>	<u>6,500</u>
<u>Gold Flake</u>	<u>1:4.50</u>	<u>Or</u>	<u>9,000</u>
<u>Gold King</u>	<u>1:8.50</u>	<u>Or</u>	<u>7,000</u>
<u>Highlands, filing 1</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>
<u>Highlands, filing 2</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>
<u>Highlands, filing 3</u>	<u>1:8.50</u>	<u>Or</u> <u>9,000</u>
<u>Highlands, filing 4</u>	<u>1:8.50</u>	<u>Or</u> <u>9,000</u>
<u>Peaks</u>	<u>1:1.75</u>	<u>Or</u> <u>6,500</u>
<u>Penn Lode</u>	<u>1:3.00</u>	<u>Or</u> <u>6,000</u>
<u>Sunbeam Estates</u>	<u>1:3</u>	<u>Or</u> <u>7,000</u>
<u>Sunrise Point</u>	<u>1:2.00</u>	<u>Or</u> <u>6,500</u>
<u>Trafalgar</u>	<u>1:2.00</u>	<u>Or</u> <u>7,500</u>
<u>Tyra</u>	<u>1:2.00</u>	<u>Or</u> <u>6,000</u>
<u>Warrior's Mark</u>	<u>1:2.00</u>	<u>Or</u> <u>4,000</u>
<u>Warrior's Mark West</u>	<u>1:2.00</u>	<u>Or</u> <u>4,500</u>
<u>Weisshorn</u>	<u>1:4.00</u>	<u>Or</u> <u>8,000</u>
<u>Yingling & Mickles</u>	<u>1:1.30</u>	<u>Or</u> <u>5,600</u>

- 1 Real property that has a platted building or disturbance envelope, or with a density or mass
- 2 determined by an active master plan or planned unit development or is within the Conservation
- 3 District, is not subject to this policy.

1 The floor area ratio and maximum aboveground square footage of any lot, tract or parcel of land
2 without a platted building or disturbance envelope located outside of the Conservation District
3 that is not listed in the table above shall be determined by the Director. In making such
4 determination, the Director shall consider the applicable floor area ratio and maximum
5 aboveground square footage of adjacent subdivisions or geographic areas, and shall establish
6 the applicable floor area ratio and maximum aboveground square footage so that it will be
7 compatible with the character of the area in which the lot, tract or parcel of land is located.

8 2. Damage Or Destruction: If a single-family or duplex structure that was lawfully
9 constructed before the date described in subsection I.1 of this section is damaged or destroyed
10 by fire or other calamity it shall be able to be rebuilt to the same size that existed immediately
11 prior to the fire or other calamity. However, except as provided in the preceding sentence, the
12 provisions of section 9-1-12 of this chapter shall apply to the repair or reconstruction of such
13 single-family or duplex structure.

14 3. Additional Square Footage: For any development permit submitted for a single-
15 family or duplex structure after November 11, 2009, where the applicant has not already taken
16 advantage of the below additional square footage described in subsections a. and b. below on
17 an existing structure, the below allowances shall apply:

18 a. An additional five hundred (500) square feet of aboveground square footage is
19 permitted for a single- family or duplex structure if such square footage is not allowed by
20 subsection I.1 of this section; and,

21 b. An interior addition is permitted without violating this policy if the addition does not
22 result in any change to the exterior of the single-family or duplex structure.

23 4. Alternative Allocation Of Additional Square Footage: For any duplex structure
24 that is subject to the provisions of subsection 3 (a) of this section. If each duplex unit has the
25 same aboveground square footage, each duplex unit shall be allocated an additional two
26 hundred fifty (250) square feet of allowed aboveground square footage. If either of the duplex
27 units has a greater amount of aboveground square footage than the other duplex unit, the
28 smaller duplex unit shall receive so much of the additional aboveground square footage as is
29 required to make it equal to the aboveground square footage of the larger duplex unit, and the
30 remaining additional aboveground square footage shall be divided equally between the two (2)
31 duplex units. If both duplex owners agree to an alternative allocation of the duplex's additional
32 five hundred (500) square feet of allowed aboveground square footage, the town may approve

1 such alternative allocation if both owners submit an agreement in a form acceptable to the town
2 attorney prior to the submission of any application for a development permit that involves the
3 use of any of the duplex's additional five hundred (500) square feet of aboveground square
4 footage. The duplex owners' agreement for an alternative allocation of the additional
5 aboveground square footage must be recorded in the real property records of the Clerk and
6 Recorder of Summit County prior to the issuance of a development permit for the use of such
7 additional square footage, and must run with the land and be binding upon all subsequent
8 owners of the two (2) duplex units.

9 5. Density Allowance For On Site Renewable Energy Mechanical System In Multifamily
10 And Commercial Uses: The goal of this subsection is to encourage renewable energy
11 production in existing multifamily and commercial structures. This subsection is not applicable to
12 new construction. This subsection seeks to improve energy efficiency by permitting existing
13 nonconforming structures to install appropriate on site renewable energy mechanical systems to
14 help protect the health, safety, and welfare of the community.

15 A. Additional Square Footage: Any existing multifamily residential or commercial
16 structure constructed pursuant to a development permit issued prior to May 8, 2012, may be
17 permitted additional aboveground density square footage for the installation of a renewable
18 energy mechanical system, even if the structure already exceeds applicable density limitations.
19 The additional square footage shall be the lesser of the following:

- 20 i. The space necessary for an efficiently designed mechanical room; or
21 ii. Three hundred fifty (350) square feet, or two percent (2%) of the existing density
22 square footage, whichever is less.

23 B. Design Standards:

24 i. An on site renewable energy mechanical system shall be located based upon the
25 following order of preference. Preference 1 is the highest and most preferred; preference 4 is
26 the lowest and least preferred. An on site renewable energy mechanical system shall be located
27 as follows: 1) within the existing building footprint; 2) out of view from the public right-of-way and
28 adjacent properties and screened; 3) partly visible from the public right-of-way or adjacent
29 property and screened; and 4) highly visible from the public right- of-way or adjacent properties.
30 An application for a system to be located in a least preferred location must adequately
31 demonstrate why the system cannot be located in a more preferred location.

1 ii. Any structural modifications or additions made for a renewable energy mechanical
2 system shall meet the intent of policy 5 (absolute) architectural compatibility and policy 5
3 (relative) architectural compatibility, in addition to all other applicable policies of this code.

4 **Section 4.** That section 9-1-19-4A: POLICY 4 (ABSOLUTE) MASS is hereby
5 repealed.

6 **Section 5.** That section 9-1-19-4R: POLICY 4 (RELATIVE) MASS is hereby
7 repealed.

8 **Section 6.** That subsection A of section 9-1-19-24A: POLICY 24 (ABSOLUTE) THE
9 SOCIAL COMMUNITY is hereby stricken and that section 9-1-19-24A is renumbered
10 accordingly.

11 **Section 7.** That subsection D of section 9-1-19-24R entitled "POLICY 24
12 (RELATIVE) SOCIAL COMMUNITY" is hereby repealed and replaced with the following
13 language underlined to read as follows:

14 D. Meeting and Conference Rooms, and Amenity Space: The provision of legally
15 guaranteed meeting and conference facilities in condominium/hotels, hotels, lodges, and inns,
16 over and above the ratio of one square foot of meeting area for every thirty five (35) square feet
17 of gross dwelling area is strongly encouraged. The conversion of space that had previously
18 received positive points as meeting and conference facilities or recreational and leisure
19 amenities is strongly discouraged.

20 The square footage of any portion of previously approved Recreation and Leisure
21 Amenity space that is proposed to be converted into an Amenity Club shall be treated as
22 commercial density.

23 **Section 8.** That section 9-1-19-51A entitled "POLICY 51 (ABSOLUTE)
24 ACCESSORY DWELLING UNIT" be amended by adding the language underlined to read as
25 follows:

26 An accessory dwelling unit shall meet each of the following criteria:

27 A. Be no greater in size than the lesser of:

28 1. One-third (1/3) of the total density of the primary unit; or

29 2. One thousand two hundred (1,200) square feet;

1 B. Conform with sections 9-1-19-3A, Policy 3 (absolute) density/intensity, and ~~9-1-19-4A, Policy~~
2 ~~4 (absolute) mass,~~ of this chapter;

3 **Section 9.** This ordinance shall be published and become effective as provided by
4 Section 5.9 of the Breckenridge Town Charter.

5 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
6 PUBLISHED IN FULL this 28th day of February, 2023. A Public Hearing shall be held at the
7 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 14th day of
8 March, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
9 Town.

10

11 TOWN OF BRECKENRIDGE, a Colorado

12 municipal corporation

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14

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16 By: _____

17 Eric S. Mamula, Mayor

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19 ATTEST:

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23 _____

24 Helen Cospolich, CMC,

25 Town Clerk

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