

ORDINANCE NO. 9

Series 2023

A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE RELATING TO NONCONFORMING STRUCTURES.

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

Section 1. That section 9-1-12 of the code is hereby amended to add the language underlined and delete the language stricken to read 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 nonconforming 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~~ shall be repaired or reconstructed to the same degree or area of nonconformity as existed immediately prior to the occurrence of 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 in a manner which does not fully comply with the requirements of this chapter, except pursuant to a development permit obtained in accordance with the special requirements of this subsection. Such development permit shall be subject to the following special requirements:~~

~~1. A development permit shall not be issued pursuant to this subsection E if the damage to the nonconforming structure was caused by the intentional act or criminal conduct of the owner of the nonconforming structure, or the owner's agent or representative.~~

~~2. Before granting an application for a development permit to repair or reconstruct a damaged nonconforming structure, the planning commission shall find and determine that:~~

~~a. The repair or reconstruction of the damaged nonconforming structure as proposed by the applicant will not result in a greater degree of nonconformity than existed immediately prior to the structure being damaged;~~

~~b. The repair or reconstruction of the damaged nonconforming structure as proposed by the applicant will be compatible and consistent with the existing development character in the immediate vicinity of the damaged structure; and~~

~~c. The application complies with those absolute and relative policies deemed to be applicable to such application by the planning commission.~~

~~3. In recognition of the fact that compliance with all of the then current requirements of this chapter would result in a hardship or burden to the owner of the damaged nonconforming structure, the planning commission shall identify those absolute and relative policies of this chapter which shall apply to its review of an application to repair or reconstruct the structure. In making such determination, the planning commission shall be guided by the principles that: a) the repair or reconstruction of a damaged nonconforming structure shall not result in a greater degree of nonconformity than existed immediately prior to the structure being damaged, and b) a damaged nonconforming structure should be brought into compliance with the then current requirements of this chapter to the extent possible. Only those absolute and relative policies of this chapter which are deemed applicable by the planning commission shall be used in preparing the point analysis for an application for a development permit to repair or reconstruct a damaged nonconforming structure.~~

~~41. A building permit for the repair or reconstruction of a damaged nonconforming structure shall be obtained from the building official. The repair or reconstruction of a damaged nonconforming structure shall be done in accordance with the requirements of the then current town building codes as adopted by title 8, chapter 1 of this code.~~

A development permit to repair or reconstruct a damaged nonconforming structure shall be classified according to the normal development permit classification requirements of this chapter, or as a class B development permit application, whichever classification is higher.

~~Except where inconsistent with the provisions of this subsection E, a~~ An application for a development permit to repair or reconstruct a damaged nonconforming structure shall be processed in accordance with the applicable requirements for a development permit application of such classification as provided in this chapter. To the extent the provisions of this subsection E are inconsistent with such requirements, the provisions of this subsection E shall control.

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

~~GE.~~ 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 nonconforming 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.

~~HG.~~ 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 2. 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 3. 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 28th day of February, 2023.

This ordinance was published in full on the Town of Breckenridge website on March 2, March 3, March 4, March 5 and March 6, 2023.

A public hearing on this ordinance was held on March 14, 2023.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON
THE TOWN'S WEBSITE this 14th day of March, 2023. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor

APPROVED IN FORM

Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on March 16, March 17, March 18, March 19 and March 20, 2023. This ordinance shall become effective on April 19, 2023.