

ORDINANCE NO. 11

SERIES 2024

A BILL FOR AN ORDINANCE AMENDING THE DEVELOPMENT CODE TO
CREATE DEFENSIBLE SPACE FOR MITIGATION OF WILDFIRE.

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

Section 1. That a new definition be added to section 9-1-5, underlined to read as follows:

DOWNTOWN CORE: A delineated land area of the Town established by the Downtown Core Map located in Policy 22A and Policy 48A used to distinguish properties that require additional consideration of the site in regard to the implementation of Defensible Space.

Section 2. That beginning at subsection C., entitled Required Wildfire Mitigation, of section 9-1-19-22A: Policy 22 (Absolute) Landscaping, the section be amended by deleting the language stricken and adding the language underlined to read as follows:

C. Required Wildfire Mitigation:

1. The creation of defensible space around structures is required for all new construction and for major remodels¹ that affect the exterior of a structure and/or a structures footprint.
2. Properties that are located within the ~~conservation district~~, Downtown Core, and those master planned properties with approved setbacks smaller than the setbacks described in section 9-1-19-9A, "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, and protected 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)~~ four (4) zones shown in the table below. The zones shall measure from the eaves of the building or structure including attached structures or protrusions, such as a deck on the property. ~~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.~~

<u>Zone</u>	<u>Distance</u>
<u>Immediate Zone</u>	<u>0' to 5'</u>
<u>Intermediate Zone</u>	<u>5' to 30'</u>
<u>Extended Zone 1</u>	<u>30' to 60'</u>

<u>Extended Zone 2</u>	<u>60' and greater</u>
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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. Immediate Zone: The following specific standards apply to the creation of defensible space within the immediate zone ~~and~~ (0-5'):

a. All dead and diseased trees, shrubs, and other landscaping materials shall be removed.

b. All vegetation and combustible and flammable material shall be removed from under all eaves, decks, and other architectural features. This includes, but is not limited to, mulch, combustible ground debris, flammable plants, leaf and needle clutter, and firewood piles.

c. All grasses and ground cover shall be kept under six inches (6") in height; provided, however, plantings in irrigated planting beds, wildflowers or native grasses may exceed six inches (6") during the time the irrigation system is operable only. All plantings in irrigated planting beds must be cut when the irrigation system is no longer operable.

d. All flammable vegetation, such as trees and shrubs, shall be removed from the first five feet (5') extending from the edge of the structure, eaves, decks, and other architectural features, however, properties defined by 9-1-19-22A(C)(2) shall be given special consideration to allow for site buffers and screening to be created, maintained, and protected while still meeting the intent of reducing wildfire fuels.

e. Additional Firewise landscaping material is encouraged and may be authorized by the development permit.

5. Intermediate Zone: The following specific standards apply to the creation of defensible space within the intermediate zone (5' -30'):

- 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.
- hg. ~~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. All grasses and ground cover shall be kept under six inches (6") in height; provided, however, plantings in irrigated planting beds, wildflowers or native grasses may exceed six inches (6") during the time the irrigation system is operable only. All plantings in irrigated planting beds must be cut when the irrigation system is no longer operable.~~

- ih. 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").
- ji. All firewood shall be removed unless covered by a canvas tarp, or as approved by the fire district.

56. Extended Zone One: The following specific standards apply to the creation of defensible space within ~~the extended zone two one~~ (30'-60'):

- 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~~ twelve feet (102') between the widest portion of individual crowns of the trees.
- g. Groups of trees with a minimum of ~~ten~~ twelve feet (102') 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.

67. Extended Zone Two: The following specific standards apply to the creation of defensible space within the extended zone ~~three~~ two (60' and greater):

- 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.

78. New landscaping installed on a property shall comply with the requirements of subsections C(4), C(5) ~~and~~, C(6), and C(7) of this section.

9. The director has the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as necessary for the proper administration of this policy. Such regulations shall be adopted in accordance with the procedures established by title 1, chapter 18 of this code. The director's administrative rules may include, without limitation, spacing guidelines for trees, shrubs, and other vegetation and, if adopted, shall provide that the allowed distances between vegetation will depend on slopes, vegetation size, vegetation type (trees, shrubs, grass), and other fuel characteristics (including, but not limited to, fuel compaction and chemical content). In the event there is a conflict between these rules and regulations and the ordinance, the ordinance shall control.

10. Trees, shrubs, and other landscaping authorized by the director to be removed by the landowner in order to achieve the required defensible space shall be clearly identified in the field and photographed or located by global positioning satellite software by the director.

11. Prior to issuing a development permit authorizing the creation of defensible space Town staff shall conduct a physical inspection of each building, structure, or property that is the subject of the application.

12. Downtown Core Map

Properties that have been identified within the Downtown Core Map feature different fire risk characteristics compared to areas outside of the commercial core. Due to the existing tight urban development pattern and character defining aesthetics encompassed by the National Register Historic District, further consideration must be given to best comply with the intent of the standards outlined above. For example, a limited number of plantings within the Immediate Zone would be able to be installed, maintained, and preserved within this delineated area.

Section 3. That beginning at subsection C. of section 9-1-19-48A: Policy 48 (Absolute) Voluntary Defensible Space, the code be amended by deleting the language stricken and adding the language underlined to read as follows:

C. Properties that are located within the Downtown Core, and those master planned properties with approved setbacks smaller than the setbacks described in section 9-1-19-9A, "Policy 9 (Absolute) Placement Of Structures", of this chapter, shall be given special consideration to allow for site buffers and screening to be created, maintained, and protected while still meeting the intent of reducing wildfire fuels.

D. The following standards shall apply to an application for the voluntary creation of defensible space:

1. The property shall be divided into ~~three~~ four (34) zones shown in the table below. The zones shall measure from the eaves of the building or structure including attached structures or protrusions, such as a deck on the property. 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.

<u>Zone</u>	<u>Distance</u>
<u>Immediate Zone</u>	<u>0' to 5'</u>
<u>Intermediate Zone</u>	<u>5' to 30'</u>
<u>Extended Zone 1</u>	<u>30' to 60'</u>
<u>Extended Zone 2</u>	<u>60' and greater</u>

2. 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.
3. 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.
4. In reviewing an application for the voluntary creation of defensible space the director shall consider 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.
5. Each property that is the subject of an application for the voluntary creation of defensible space 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 director 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.

DE. Immediate Zone: The following specific standards apply to the creation of defensible space within the Immediate zone one (0'-5'):

1. All dead and diseased trees, shrubs, and other landscaping materials shall be removed.
2. All vegetation and combustible and flammable material shall be removed from under all eaves, decks, and other architectural features. This includes, but is not limited to, mulch, combustible ground debris, flammable plants, leaf and needle clutter, and firewood piles.
3. All grasses and ground cover shall be kept under six inches (6") in height; provided, however, plantings in irrigated planting beds, wildflowers or native grasses may exceed six inches (6") during the time the irrigation system is operable only. All plantings in irrigated planting beds must be cut when the irrigation system is no longer operable.
4. All flammable vegetation, such as trees and shrubs, shall be removed from the first five feet (5') extending from the edge of the structure, eaves, decks, and other architectural features, however, properties defined by 9-1-19-22A(C)(2) shall be given special consideration to allow for site buffers and screening to be created, maintained, and protected while still meeting the intent of reducing wildfire fuels.
5. Additional firewise landscaping material is encouraged and may be authorized by the development permit.
6. To prevent fire spreading by coming in direct contact with structures, a non-combustible, horizontal layer, known as a rock dripline, may be implemented. The following specific standards apply:
 - a. Properties located within the Downtown Core:
 - A. It is encouraged that structures implement a horizontal clearance area starting at the structure's siding and extending the distance of the eave overhang, or a maximum of three feet (3') to reduce structural ignitability.

The clearance area should utilize non-combustible material, such as rock, gravel, sand, cement, or stone/concrete pavers.

b. Properties located outside of the Downtown Core

A. It is encouraged that structures implement a horizontal clearance area starting at the structure's siding and extending the distance of the eave overhang, or a maximum of five feet (5') to reduce structural ignitability. The clearance area should utilize non-combustible material, such as rock, gravel, sand, cement, or stone/concrete pavers.

F. Intermediate Zone: The following specific standards apply to the create of defensible space within the Intermediate zone (5'-30'):

1. 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.
 2. Healthy trees, shrubs, and other landscaping material required by a town 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.
 3. 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.
 4. 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.
 5. All dead and diseased trees, shrubs, and other landscaping material shall be removed.
 6. ~~All vegetation and combustible material shall be removed from under all eaves and decks.~~
 7. 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.
 - ~~87. 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. All grasses and ground cover shall be kept under six inches (6") in height; provided, however, plantings in irrigated planting beds, wildflowers or native grasses may exceed six inches (6") during the time the irrigation system is operable only. All plantings in irrigated planting beds must be cut when the irrigation system in no longer operable.~~
- ~~98. 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").~~
 - ~~100. All firewood shall be removed unless covered by a canvas tarp, or as approved by the fire district.~~

140. Additional firewise landscaping material is encouraged and may be authorized by the development permit.

EG. Extended Zone One: The following specific standards apply to the creation of defensible space within the extended zone two one (0'-5'-30'-60'):

1. Healthy trees, shrubs, and other landscaping material required by a town approved landscape plan shall be preserved.
2. 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.
3. 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.
4. 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.
5. 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.
6. Trees shall be thinned to open up crown spacing to a minimum of ~~ten~~ twelve feet (~~10~~12') between the widest portion of individual crowns of the trees.
7. Groups of trees with a minimum of ~~ten~~ twelve feet (~~10~~12') 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.
8. Firewood may be maintained if an adequate buffer around the firewood is determined to exist by the fire district.
9. Additional firewise landscaping material is encouraged and may be authorized by the development permit.

FH. Extended Zone Two: The following specific standards apply to the creation of defensible space within the Extended zone three two (60' and greater):

1. 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.
2. Additional firewise landscaping material is encouraged and may be authorized by the development permit.

GI. The director has the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as necessary for the proper administration of this policy. Such regulations shall be adopted in accordance with the procedures established by title 1, chapter 18 of this code. The director's administrative rules may include, without limitation, spacing guidelines for trees, shrubs, and other vegetation and, if adopted, shall provide that the allowed distances between vegetation will depend on slopes, vegetation size, vegetation type (trees, shrubs, grass), and other fuel characteristics (including, but not limited to, fuel compaction and chemical content). In the event there is a conflict between these rules and regulations and the ordinance, the ordinance shall control.

~~H. For the purpose of attempting to make certain that tree removal contractors working within the town are familiar with the goals of this policy, but not to regulate the means, methods, training, equipment, or business practices of tree removal contractors, the director shall maintain a list of town approved tree removal contractors. The town makes no guarantees or representations whatsoever concerning the qualifications, experience, ability, competence, or business practices of any town approved tree removal contractor. The town has no liability to any person with respect to the work or business practices of a town approved tree removal contractor, and no action at law or in equity shall lie against the town as a result of a person being placed on or removed from the director's list of town approved tree removal contractors. The director may provide in his rules and regulations for the removal of a contractor from the list of town approved contractors.~~

~~I. Trees, shrubs, and other landscaping authorized by the director to be voluntarily removed by the landowner in order to achieve the required defensible space shall be clearly identified in the field and photographed or located by global positioning satellite software by the director.~~

~~J. The fire district may assist the director in administering this policy if authorized by an intergovernmental agreement with the town. The intergovernmental agreement shall be consistent with the provisions of this policy Development Code. All personnel involved in the enforcement of this policy shall be trained by the director to make sure that they are aware of the town's goals of preserving buffers and required landscape materials while creating defensible space.~~

L. Downtown Core Map

Properties that have been identified within the Downtown Core Map feature different fire risk characteristics compared to areas outside of the commercial core. Due to the existing tight urban development pattern and character defining aesthetics encompassed by the National Register Historic District, further consideration must be given to best comply with the intent of the standards outlined above. For example, a limited number of plantings within the Immediate Zone would be able to be installed, maintained, and preserved within this delineated area.

Section 4. 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 26th day of March, 2024.

This ordinance was published in full on the Town of Breckenridge website on March 28, March 29, March 30, March 31 and April 1, 2024.

A public hearing on this ordinance was held on April 9, 2024.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE
TOWN'S WEBSITE this 9th day of April, 2024. 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

Kelly Owens, Mayor Pro Tem

APPROVED IN FORM

Town Attorney

Date

This Ordinance was published on the Town of Breckenridge website on April 12, April 13, April 14, April 15 and April 16, 2024. This ordinance shall become effective on May 16, 2024.