

1 ORDINANCE NO. 16

2
3 Series 2024

4
5 **A BILL FOR AN ORDINANCE ESTABLISHING CRITERIA FOR**
6 **DETERIORATION OF LANDMARKS AND HISTORIC STRUCTURES**
7 **IN A MANNER THAT CONSTITUTES DEMOLITION BY NEGLIGENCE.**

8
9 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**
10 **TOWN OF BRECKENRIDGE, COLORADO:**

11
12 **Section 1.** That section 9-11-2 entitled "Definitions" be amended by deleting the
13 language stricken and adding the language underlined maintaining alphabetical order to read
14 as follows:

15 **9-11-2: DEFINITIONS:**

16 DEMOLITION: Any act or process which destroys, in whole or in part, any landmark or historic
17 structure.

18 DEMOLITION BY NEGLIGENCE: Failure to provide ordinary and necessary maintenance and
19 repairs to a degree that compromises the structural integrity of any landmark or historic
20 structure.

21 DIRECTOR: The director of the department of community development of the town or their
22 designee.

23 LANDMARK: A designated individual building, structure, object, site or an integrated group of
24 buildings, structures or objects having a special historical or architectural value. Unless
25 otherwise indicated in this chapter, the term "landmark" shall include both federally designated
26 landmarks and town designated landmarks.

27 STABILIZATION OR STABILIZE: Providing weather protection; ~~or repair or preservation of a~~
28 ~~roofing structure, roof rafter, load bearing wall or foundation,~~ shoring and/or bracing to ensure
29 structural integrity and longevity of the structure and its historic fabric to a reasonable level
30 defined by the use of the structure and as approved by the Town. Items contributing to the
31 structural integrity that should be considered for stabilization, depending on the intensity of use
32 (e.g. habitable space) or natural hazards on site (e.g. drainage or snow load impacts), may

1 include roofing, siding, roof structure, roof rafters, load bearing walls, drainage/grading and
2 foundation. The goal of stabilization is to keep the structure standing and prevent further
3 deterioration but it is not to achieve a complete restoration of the structure.
4

5 **Section 2.** That section 9-11-3 entitled “Designation of Landmarks, Landmark Sites,
6 Historic Districts, and Cultural Landscape Districts” be amended by deleting the language
7 stricken and adding the language underlined maintaining alphabetical order to read as follows:
8

9 **9-11-3: DESIGNATION OF LANDMARKS, LANDMARK SITES, HISTORIC**
10 **DISTRICTS AND CULTURAL LANDSCAPE DISTRICTS:**

11 A. Designation Authorized: Pursuant to the procedures hereinafter set forth in this section, and
12 subject to section [9-11-4](#) of this chapter, the town council may, by ordinance, designate a
13 landmark, landmark site, historic district or a cultural landscape district. The property included in
14 any such designation shall be subject to the controls and standards set forth in this chapter, and
15 eligible for such incentive programs as may be developed by the town.

16 B. Designation Procedures: The town shall follow the following procedures in connection with
17 any proposal to designate a landmark, landmark site, historic district or a cultural landscape
18 district:

19 1. Property Owner Consent:

20 a. Landmarks And Landmark Sites: No proposal for the designation of a landmark or a
21 landmark site shall be accepted by the director as complete and ready for town action
22 unless the property owner of the landmark or landmark site has consented to such
23 designation.

24 b. Historic Districts And Cultural Landscape Districts: No proposal for the designation
25 of a historic district or a cultural landscape district site shall be accepted by the director
26 as complete and ready for town action unless at least fifty one percent (51%) of the
27 property owners of the land within the proposed historic district or cultural landscape
28 district have consented to such designation.

1 c. Director To Give Notice: Within thirty (30) days following receipt of a historic district
2 or cultural landscape district designation proposal, and prior to accepting such proposal
3 as being complete and ready for town action, the director shall send written notice of
4 the submission of such designation proposal to the owner(s) of the land which is the
5 subject of the designation proposal as shown on the records of the Summit County
6 assessor. The notice provided by the director shall outline the reasons for and the
7 effects of the proposed designation. (Ord. [24](#), Series 2001)

8 2. Process To Be Followed: A proposal to designate a historic district or cultural landscape
9 district shall be processed by the town using the Class A development permit process as
10 set forth in the development code, except as otherwise expressly provided in this section. A
11 proposal to designate a landmark or landmark site shall be processed by the town using the
12 Class ~~BC~~ minor development permit process as set forth in the development code, except
13 as otherwise expressly provided in subsections [B3](#) and [B4](#) of this section. Any application
14 submitted under this chapter may be processed concurrently with a development permit
15 application for the same property. In the event of the submission of an application under this
16 chapter and a concurrent development permit application for the same property, the
17 applications shall be processed jointly as a Class A and the applicant shall only be required
18 to pay one application fee which shall be calculated based on the higher development
19 permit classification of the two (2) applications as a Class A fee.

20 **Section 3.** That section 9-11-7 be retitled and amended to delete the language stricken
21 and add the language underlined to read as follows:

22 **9-11-7: ~~PROPERTY STABILIZATION REQUIRED~~ CRITERIA FOR ESTABLISHING**
23 **LACK OF MAINTENANCE AND REPAIRS CONSTITUTING DEMOLITION BY**
24 **NEGLECT:**

25 A. The town intends to preserve from deliberate or inadvertent neglect of any landmark or
26 historic structure whose stabilization is necessary to prevent the landmark's or historic
27 structure's deterioration that constitutes demolition without a permit.

28 B. No owner, lessee, or occupant of any landmark or historic structure shall neglect or fail to
29 prevent stabilization of the landmark or any historic structure.

1 C. No owner, lessee or occupant of any landmark or any historic structure shall neglect or fail
2 to comply with all applicable provisions of this chapter and other ordinances of the town
3 regulating property maintenance of the landmark or any historic structure.

4 D. ~~Before the town attorney files a complaint for failure to stabilize a property as required by~~
5 ~~this section, Where~~ the director identifies a case of demolition by neglect, they shall notify the
6 property owner, lessee, or occupant of the need to stabilize the property, shall endeavor to
7 assist the owner, lessee, or occupant in determining how to stabilize the property, and shall give
8 the owner a reasonable time, not less than thirty (30) days, to perform the required stabilization.

9 E. Stabilization of a secondary structure shall be processed under a Class D Minor permit with a
10 waived permit fee. The required documents shall be reduced to the following: description of
11 work, basic site plan, altered photos or drawings on graph paper to show proposed changes,
12 and before and after photos of the structure. As part of the permit a pre-construction meeting is
13 required.

14 **Section 4.** . That section 9-11-9 be amended to delete the language stricken and add
15 the language underlined to read as follows:

16

17 **9-11-9:DEMOLITION CRITERIA:**

18 No "historic structure" as defined in section 9-1-5 of this title, or landmark shall be demolished
19 without the owner first having obtained a demolition permit from the town. A demolition permit
20 shall not be approved by the town until a replacement/reuse plan for the property has been
21 approved by the town. An application for a demolition permit pursuant to this section shall be
22 processed as a Class B major development permit application in accordance with the
23 development code, but shall be evaluated only under the following criteria. As part of the
24 development permit application, the town may require that a cultural survey be prepared by a
25 qualified person at the applicant's cost.

26 A. Review Criteria For Total Demolition: A permit for demolition shall only be approved if all of
27 the following criteria are met:

28 1. The building, structure or object proposed for demolition is not structurally sound
29 despite evidence of the owner's efforts to properly maintain it;

1 2. The building, structure or object cannot be rehabilitated or reused on site to provide for
2 any reasonable economical use of the property;

3 3. The building or structure that has been relocated from the historic site and ~~The building,~~
4 ~~structure or object~~ cannot be practically moved to another site in the town;

5 4. The applicant demonstrates that the demolition proposal mitigates to the greatest extent
6 practical the following:

7 a. Any impact(s) that will occur to the visual character of the neighborhood where
8 demolition is proposed to occur.

9 b. Any impact(s) that will occur to the historic importance of the buildings, structures or
10 objects located on the property and adjacent properties.

11 c. Any impact that will occur to the architectural integrity of the buildings, structures or
12 objects located on the property and adjacent properties.

13 Consideration will be given to whether materials can be recycled for use as part of
14 another building, structure or object.

15 In the case of archaeological sites, consideration will be given to whether information
16 can be recovered as part of the demolition process.

17 B. Review Criteria For Partial Demolition: A permit for partial demolition shall only be approved
18 if all of the following criteria are met:

19 1. The partial demolition is required for the renovation, restoration or rehabilitation of the
20 building, structure or object;

21 2. The applicant has mitigated, to the greatest extent possible:

22 a. Impacts on the historic importance of the buildings, structures or objects located on
23 the property.

24 b. Impacts on the architectural integrity of the buildings, structures or objects located
25 on the property; and

26 Consideration will be given to whether materials can be recycled for use as part of another
27 building, structure or object.

1 **Section 5.** That section 9-11-12 is hereby repealed and replaced with the following
2 language underlined to read as follows:

3 **9-11-12: ENFORCEMENT AND PENALTIES; APPEALS:**

4 A. Anyone who is found to have violated this chapter is subject to criminal and civil
5 penalties as set forth below and in the Town code.

6 1. Criminal penalties. Failure to comply with the requirements of this chapter may
7 result in a summons and complaint and subject to the general penalty under section 1-4-1
8 and/or an infraction under 1-4-1-1 of the municipal code.

9 2. Civil penalties. Failure to comply with the requirements of this chapter may result
10 in the imposition of a fine not to exceed one hundred dollars (\$100.00) for each day of
11 continuing violation.

12 3. In addition to the civil and criminal penalties provided above, neglect of a
13 landmark, landmark site, or building in the historic district may result in up to a one-year
14 moratorium on all building and development permits being issued for the subject property or
15 imposed on the same owner or same developer on other properties as provided under section
16 9-1-6 of the development code.

17 B. Continuing Violations: A person shall be guilty of a separate offense for each and
18 every day during any portion of which any violation of this chapter is committed, continued or
19 permitted by such person, and such person shall be punished accordingly.

20 1. An alteration which is made to a landmark or historic structure without an approved
21 development permit issued under the development code may result in up to a one-year
22 moratorium on all building and development permits for the subject property.

23 2. The relocating or demolition of a landmark or historic structure without an approved
24 permit issued under this chapter may result in up to a five (5) year moratorium on all relocation,
25 demolition, or building permits for the structure and for the property at the structure's original
26 location.

27 C. Fines and penalties under this section may be imposed separately or
28 cumulatively.

29 D. Warnings and Notice.

1 1. Prior to imposing any fines or administrative penalties under this chapter,
2 community development will issue a first warning and an opportunity to cure the violation.

3 2. If the violation is not cured within thirty (30) days of the date of the notice, which
4 time period may be extended in writing by the director or their designee for good cause shown,
5 the director shall send written notice of an administrative penalty by first class United States
6 mail to such person at such person's last known address.

7 E. Appeals.

8 1. Any party found in violation of this chapter or who disputes the demand for
9 stabilization has a right to appeal to the planning commission by submitting a complaint to the
10 director within thirty (30) days of the notice of violation. A complaint shall be in writing and set
11 forth both the grounds for the appeal and supporting facts next regularly scheduled planning
12 commission meeting, or as soon thereafter as reasonably practical.

13 2. The burden of proof shall be on the proponent of a claim or issue to prove such
14 claim or issue by a preponderance of the evidence, and on the party raising any affirmative
15 defense or matter of mitigation to prove such affirmative defense or matter of mitigation by a
16 preponderance of the evidence. "Preponderance of the evidence" means to prove that
17 something is more probably true than not.

18 3. The finding or decision of planning commission in connection with any appeal
19 shall be delivered in writing within thirty (30) days following the hearing on the matter. The
20 decision of the planning commission shall be final, subject to the right of any aggrieved party to
21 contest the matter in an appropriate court action commenced under rule 106(a)(4) of the
22 Colorado Rules of Civil Procedure. For purposes of determining the time limit for the
23 commencement of an action under rule 106(a)(4) of the Colorado Rules of Civil Procedure, the
24 decision of the planning commission shall be deemed to be final upon the issuance of the
25 written finding or decision.

26 **Section 6.** That chapter 1 of the Breckenridge Development Code be amended to
27 delete the language stricken and add the language underlined to read as follows:

28 **9-1-5: DEFINITIONS:**

29 CLASS A DEVELOPMENT: Any development which includes any of the following activities or
30 elements:

- 1 A. Residential uses which include three (3) units or more.
- 2 B. Lodging and hotel uses.
- 3 C. Any site work or landscaping which is in excess of two hundred thousand dollars
4 (\$200,000.00) in value, to include ski lifts and parking lots.
- 5 D. Commercial and industrial uses, additions and remodels thereto which are one
6 thousand (1,000) square feet in size or greater.
- 7 E. Approval of a master plan on a site five (5) acres or more in size.
- 8 F. Major amendment to a master plan pursuant to section [9-1-19-39A](#), "Policy 39
9 (Absolute) Master Plan", subsection L, of this chapter.
- 10 G. Those wireless communication facilities permit applications described in section [9-1-19-
11 50A](#), subsection D(1), of this chapter.
- 12 H. Remodel or addition to any historic residential structure within the Historic District or the
13 Conservation District.
- 14 I. Demolition or moving of a landmark or historic structure or any portion of the same.

15 CLASS B DEVELOPMENT: Any development which includes any of the following activities or
16 elements:

17 Class B - Major:

- 18 A. New single-family nonhistoric residential within the Historic District or the
19 Conservation District.
- 20 B. New duplex residential within the Historic District or Conservation District.
- 21 C. Bed and breakfasts, and boarding houses.
- 22 D. Commercial and industrial uses and additions which are less than one thousand
23 (1,000) square feet in size or ten percent (10%) of the existing square footage (unless
24 classified as a Class A development).
- 25 E. Approval of a master plan on a site of less than five (5) acres.

1 ~~F. Demolition or moving of a landmark or historic structure (including any portion of~~
2 ~~the structure).~~

3 Class B - Minor:

4 A. Change of use within a Residential District.

5 B. Site work, landscaping, grading, and utility installations on steep slopes (greater
6 than 15 percent) or within environmentally sensitive areas.

7 C. Operation of a home childcare business.

8 D. Vendor carts, large.

9 E. Application for exempt large vendor cart designation.

10 Class B development is divided into major and minor categories for purposes of payment of
11 application fees¹ only. The procedures set forth in this chapter for the processing of Class B
12 development permit applications apply to both major and minor categories.

13 CLASS C DEVELOPMENT: Any development which includes any of the following activities or
14 elements:

15 A. Change of use outside of a Residential District.

16 B. Master sign plans.

17 C. Temporary structures to be used for longer than three (3) days.

18 D. Additions to commercial, office or industrial structures of less than ten percent (10%) of
19 the existing square footage.

20 E. Matters relating to nonconforming uses.

21 F. Minor amendment to a master plan pursuant to section 9-1-19-39A, subsection L, of this
22 chapter.

23 G. Installation of solar device within the Conservation District.

24 H. *Vendor Carts, Small*: A small vendor cart shall be processed as a Class C development
25 permit with public notice requirements per a Class B development permit.

- 1 I. Major remodel to residential condominium, lodging, or hotel structure.
- 2 J. Temporary tents meeting the special requirements set forth in section [9-1-19-36A](#),
- 3 subsection F(2), of this chapter.
- 4 K. Exterior loudspeakers associated with a commercial use.
- 5 L. Any exterior food and beverage area.
- 6 M. A proposal to designate a landmark or landmark site pursuant to section 9-11-3(B)(2)
- 7 except when processed concurrently with a rehabilitation development permit.

8 CLASS D DEVELOPMENT: Any development which includes any of the following activities and
 9 elements:

10 *Class D - Major:*

11 1. New single-family, duplex structure, or major remodel outside of the Historic
 12 District, with or without an accessory dwelling unit, including, without limitation, master
 13 planned property with multiple single-family and duplex structures, except where the
 14 proposed development either:

- 15 a. Warrants the assessment of any negative points based upon the director's
- 16 preliminary assessment at the time the application is initially filed; or
- 17 b. Is located on a lot, tract, or parcel without a platted building or disturbance
- 18 envelope outside of the conservation district as defined in section [9-1-19-3A](#) of this
- 19 chapter (density).

20 A Class D - Major permit application that meets the conditions described in subsection
 21 1(a) or 1(b) of this definition shall be reclassified as a Class C development permit
 22 application.

23 2. Those wireless communication facilities permit applications described in section [9-](#)
 24 [1-19-50A\(D\)\(2\)](#) of this chapter.

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

1 *Class D - Minor:*

- 2 1. Banners and sponsor banners (all).
- 3 2. Individual signs (all).
- 4 3. Demolition or moving of any structure outside of the historic or conservation district.
- 5 4. Demolition of nonhistoric structure within the historic or conservation district.
- 6 5. Fencing (all).
- 7 6. Home occupation.
- 8 7. Minor remodel² of any residential structure.
- 9 8. Temporary structures to be used for three (3) days or less.
- 10 9. Operation of a chalet house.
- 11 10. Any painting of a structure within the historic or conservation district, except for
- 12 paint maintenance.
- 13 11. Any painting of a structure with a commercial or lodging use outside of the historic
- 14 district in land use districts 3, 4, 5, 6, 9, 13, 20, 23, 25, 28, 31, 32, 33, 35 or 39; except
- 15 for paint maintenance.
- 16 12. The painting of a contemporary landmark as provided in section [9-1-19-5A](#), "Policy
- 17 5 (Absolute) Architectural Compatibility," subsection A(2), of this chapter.
- 18 13. The placement of a commercial handbill dispenser outside of a fully enclosed
- 19 building as provided in section [11-5-6](#) of this Code.
- 20 14. Construction of approved private trash enclosure or conversion of nonconforming
- 21 private trash enclosure to approved private trash enclosure.
- 22 15. Placement of public art.
- 23 16. Substitution of employee housing unit or modification to unit floor plan.
- 24 17. Summer seasonal occupancy of employee housing unit as provided in section [9-](#)
- 25 [1-19-24R](#), "Policy 24 (Relative) Social Community," subsection A(5), of this chapter.

- 1 18. Placement of a satellite earth station larger than 2 meters in diameter in land use
2 districts where industrial or commercial uses are recommended, or larger than 1 meter
3 in diameter in land use districts where any other use is recommended.
- 4 19. Site work, landscaping, grading, and utility installations unless done on steep
5 slopes or within environmentally sensitive areas.
- 6 20. The outdoor display or storage of bicycles as provided in section [9-7-6C](#) of this
7 Code.
- 8 21. Any other development described as a Class D minor development in any town
9 ordinance.
- 10 22. Installation of swimming pool, spa or hot tub.
- 11 23. Seasonal noncommercial greenhouse.
- 12 24. Installation of solar device outside the Conservation District.
- 13 25. Creation of voluntary defensible space around a building or structure, or on a
14 parcel of land.
- 15 26. Application for a renewable energy mechanical system.
- 16 27. Master sign plan modification.
- 17 28. Radio broadcast.
- 18 29. Temporary tents to be used for five (5) days or less.
- 19 30. Those small cell facilities applications described in section [9-1-19-50A\(D\)\(3\)](#) of
20 this chapter.
- 21 31. Stabilization of a historic secondary structure.

22 Class D development is divided into major and minor categories for purposes of payment of
23 application fees only. The procedures set forth in this chapter for the processing of Class D
24 development permit applications apply to both major and minor categories.

25 * Major remodel - Additional residential square footage of more than ten percent (10%) of
26 existing structure square footage and/or change of character to the exterior of the structure.

1 * Minor remodel - Additional residential square footage of ten percent (10%) or less of the
2 existing structure's square footage.

3
4 **Section 7.** This ordinance shall be published and become effective as provided by
5 Section 5.9 of the Breckenridge Town Charter.

6
7
8 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN
9 FULL this 9th day of April, 2024.

10 This ordinance was published in full on the Town of Breckenridge website on April 12, April 13,
11 April 14, April 15 and April 16, 2024.

12 A public hearing on this ordinance was held on April 23, 2024.

13
14 READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE
15 TOWN'S WEBSITE this 23th day of April, 2024. A copy of this Ordinance is available for
16 inspection in the office of the Town Clerk.

17
18 ATTEST: TOWN OF BRECKENRIDGE

19
20
21
22
23 _____
24 Helen Cospolich, CMC, Town Clerk Kelly Owens, Mayor

25
26 APPROVED IN FORM

27
28
29
30 _____
31 Town Attorney Date

32 This Ordinance was published on the Town of Breckenridge website on April 29, April
30, May 1, May 2 and May 3, 2024. This ordinance shall become effective on June 2, 2024.