



ORDINANCE NO. 21-002

AN ORDINANCE REPEALING AND AMENDING BRIAN HEAD TOWN CODE, TITLE 9, LAND MANAGEMENT CODE, CHAPTER 10 (OTHER REQUIRED PERMITS) 9-10-5-2-H (6) GRADING AND TRENCHING PERMITS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Brian Head Town has identified a need to repeal and amend the Brian Head Land Management Code in order to regulate land use within the Town limits of Brian Head, Utah; and,

WHEREAS, the Brian Head Planning Commission held a public hearing on March 2, 2021, giving at least fourteen (14) days' notice prior to the public hearing to receive public comment. The Planning Commission hereby forward their recommendation of approval with modifications of the Brian Head Land Management Code, Chapter 10, Other Permits, to the Brian Head Town Council for their consideration and adoption; and

WHEREAS, the Brian Head Town Council held a public hearing on March 9, 2021, giving at least fourteen (14) days' notice to receive public comment on the proposed amendments Brian Head Land Management Code; and

WHEREAS, it is in the best interests of Brian Head Town and the health, safety, and general welfare of its citizens to adopt this Ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF BRIAN HEAD, UTAH, COUNTY OF IRON, STATE OF UTAH, AS FOLLOWS:

Section 1. The Brian Head Land Management Code is hereby repealed and amended and incorporated herein by reference as Title 9, Chapter 10 (Other Required Permits): 9-10-2 Grading and Trenching Permits, of the Brian Head Town Code regulating land use within the Town of Brian Head, Utah as follows:

9 -10-2: GRADING & EXCAVATING PERMIT:

- A. Purpose: The purpose of a grading and trenching permit is to eliminate unsafe slopes and soil instability, to avoid detrimental alteration of drainage patterns, to provide for safe and standardized utility location and installation practices, and to preserve the natural aesthetics of a mountain town consistent with the Town's General Plan.
- B. Permit Required: No person shall commence or perform any excavation, grading, filling, trenching, or clearing of land and/or vegetation (grubbing) without first obtaining a grading and trenching permit. If the preceding activities are being proposed in preparation for

development other than single-family residential use, a building permit must be approved prior to granting a grading and excavating permit.

1. No permit is required for a soils test or perc test **up to ten feet (10') in depth which disturbs 200 square feet or small and is filled in upon completion of the test.** Any person undertaking utility location shall comply with the applicable Blue Stakes regulations and standards.
2. If trees are being removed concurrent with grading and excavating operations, a separate tree removal permit must be obtained.

C. Application & Review Process:

1. Application Packet: The applicant shall submit a permit packet, which includes:
 - a. Town-approved application form (available from Building Department)
 - b. Appropriate fee (as outlined in the consolidated fee schedule)
 - c. Professionally engineered site plans showing the following:
 - i. Existing conditions, including:
 - a. Existing topography and vegetation
 - b. Previously disturbed areas
 - c. Areas showing signs of a history of landslide or erosion
 - ii. Proposed areas of disturbance
 - iii. Existing and proposed surface drainage flow patterns
 - iv. Location of existing and proposed utilities
 - v. Proposed cuts with slopes measurements and heights
 - vi. Proposed retaining walls.
 - vii. Proposed storm drainage infrastructure
 - d. Written description of the work being proposed, including:
 - i. Timeframe in which work will be completed.
 - ii. Equipment which will be used to conduct the operation.
 - iii. Quantities to be removed from or brought to the site.
 - iv. Plan for storage and disposal of materials
 - v. Measures the applicant will take to mitigate erosion, noise, dust, smell, safety concerns and other potential nuisances during construction.
 - e. Site restoration and landscaping plan
 - f. A report of subsurface investigation if it appears that there is a history of landslide or erosion that may be exacerbated by the proposed grading or filling.
 - g. Insurance and bond information (if work is to be undertaken in the public right of way)
2. Town Staff Review:
 - a. The Building Department shall determine the adequacy of the application and may require the submission of further information where necessary to determine if all the Standards for Review have been met.
 - b. The Building Department may waive application requirements which are deemed unnecessary to determine if all the Standards for Review have been met.
 - c. The Town Engineer will review applications against the Standards for Review and furnish a report detailing findings and determinations.

- d. The Applicant may revise and resubmit their application, if necessary, to meet the Standards for Review.
 3. Security for Completion:
 - a. The Town may require a security for completion (in a form consistent with §9-13-7) to assure the work will be corrected to eliminate hazardous conditions and to ensure the cleanup and restoration of the permitted area.
 - b. If grading or clearing is being done in preparation for development prior to obtaining a building permit, a performance bond shall be required sufficient to ensure that any scars on the land may be remedied.
- D. Standards for Review: All grading, excavating, filling and clearing operations which are performed under this chapter shall be consistent with section 9-12 of this title (Design Standards), and shall be designed to:
 1. Prevent significant erosion and soil stability issues by:
 - a. Minimizing cuts and fills on steep or hazardous terrain.
 - b. Limit clearing of vegetation or disturbances of the soil to areas of proven stability, taking into consideration geologic hazards and soil conditions.
 - c. Ensuring landscaping and restoration within one year of completing the grading work.
 - d. Properly retaining any potentially unsafe slopes.
 2. Ensure that the natural runoff capacity of streams, natural or historic runoff drainages, and improved storm drainage ditches or infrastructure shall not be exceeded causing flooding, erosion or silting.
 3. Comply with Standards & Specifications for Public Works Construction for utility construction and trench backfilling as well as the construction requirements and standards set forth in 9-10-2(E).
 4. Preserve the natural aesthetics of a mountain town consistent with the General Plan by:
 - a. Avoiding unnecessary clearing or burying of vegetation
 - b. Ensuring that all excavation work, including spoil piles, do not create an attractive nuisance or hazard to the general public.
 - c. Eliminating scars from cuts and fills, and preserve the natural scenic beauty of the area, such as rounding off sharp angles at the top, toe and sides of cut and fill slopes and matching or blending the natural contours and undulation of the land.
 - d. Preserving trees and other native vegetation where possible and in accordance with fire-safe principles.
 - e. Carefully removing, storing, and replacing a layer of fertile topsoil in disturbed areas for re-vegetation where feasible.
- E. Construction Requirements and Standards:
 1. Discharge Prohibitions: No solid or liquid materials shall be discharged into any creeks or streams, onto lands below the high-water level of the same, or onto adjoining property. In order to prevent such discharges from occurring, town-approved erosion and silt control devices may be required.
 2. Dust Control: Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to

eliminate dust arising from the exposed material. The Building Department must approve dust control methods.

3. Disposal of Cleared Vegetation: Vegetation removed during grading or clearing operations shall be disposed of in a manner approved by the Building Department.
 4. Water Flow Diverters: The Building Department may require diverters, as necessary, at the top of all cut and filled slopes where there is a potential surface runoff.
 5. Protection of Non-disturbed Areas: Construction equipment shall be limited to the disturbance areas identified in the approved plans. No vehicle of any kind shall pass over areas to be left in their natural state according to the approved plans. Fill dirt from cuts and excavation shall not be spread over non-disturbed areas as a disposal method. Failure to comply with this provision may result in the forfeiture of security and fines.
 6. Protection of Any Existing Underground Public Utilities: The contractor shall ascertain and verify the location of any public underground utilities that may be on the property by contacting Blue Stakes, or other applicable agency, before doing any grading excavation. Once such are located, the permittee shall take reasonable care to protect and avoid damage to any such underground utilities. Any and all damage caused to public utilities by any act or negligence of the contractor's employees shall be repaired at the contractor's expense to the satisfaction of the utility company and the Town.
 7. No Grading Near Historic Or Prehistoric Ruins:
 - a. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic, prehistoric ruins, monuments or objects of antiquity are present.
 - b. The grading plan shall indicate all such historic or prehistoric areas on the site and shall indicate the measures that will be taken to protect such areas. Should excavation uncover or discover any historic or prehistoric ruins or monuments or object of antiquity which were not known at the time of the submittal of the grading plan, all work in the immediate area shall cease until the Town Manager, or designee, shall determine what precautions should be taken to preserve the historic artifacts.
- F. Inspections: All construction or work for which a permit is required shall be subject to inspection at all reasonable times deemed necessary by the Building Department or the Town Engineer to ascertain compliance with the provisions of this chapter and other ordinances which are applicable. The permittee shall notify the Building Department at least twenty-four (24) hours in advance of both commencing and completing grading/excavating work as well as prior to infrastructure being covered or concealed by additional work. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Building Department may require, through written notice, that such work be exposed for examination. The work of exposing and recovering shall be an expense of the permittee requiring the inspection.
- G. As built drawings: Drawings showing the final location of utilities installed shall be furnished to the Building Department for record purposes within thirty (30) days after the work is completed or forfeit any outstanding bonds. An extension period may be granted for a sufficient reason.

Section 2. Effective Date. This Ordinance shall take effect upon its passage by a majority vote of the Brian Head Town Council and following notice and publication as required by law. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this Ordinance shall be incorporated into Title 9 of the Brian Head Town Code.

Section 3. Conflict. To the extent of any conflict between other Town, County, State, or Federal laws, ordinances or regulations and this Ordinance, the more restrictive is deemed to be controlling.

Section 4. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer. All provisions of the Brian Head Town Code that are inconsistent with the expressed terms of this Ordinance shall be repealed.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF IRON COUNTY, UTAH this 9th day of March 2021 with the following vote.

Mayor Clayton Calloway	Aye
Council Member Larry Freeberg	Aye
Council Member Kelly Marshall	Aye
Council Member Shaun Kelly	Aye
Council Member Lynn Mulder	Absent

BRIAN HEAD TOWN COUNCIL

By: 
Clayton Calloway, Mayor

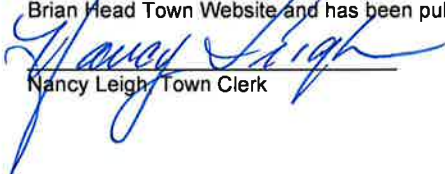
ATTEST:


Nancy Leigh, Town Clerk



CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance, passed by the Town Council on the 9th day of March 2021 and have posted a summary of the adopted ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office, and the Mall and a complete copy of the adopted ordinance on the Brian Head Town Website and has been published in a newspaper of general circulation.


Nancy Leigh, Town Clerk