

ORDINANCE NO. 5

SERIES 1992

AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE CHARTER OF THE TOWN OF BRECKENRIDGE, COLORADO; AND PROVIDING FOR THE SUBMISSION OF SUCH AMENDMENTS TO THE REGISTERED ELECTORS OF THE TOWN AT THE REGULAR MUNICIPAL ELECTION ON APRIL 7, 1992

WHEREAS, the Charter of the Town of Breckenridge, Colorado was approved by the electors of the Town on April 1, 1980; and

WHEREAS, Section 15.10 of the Charter provides that the Charter may be amended at any time in the manner provided by the Colorado Constitution; and

WHEREAS, Article XX, Section 9, of the Colorado Constitution provides that the General Assembly is to establish procedures for amending home rule charters; and

WHEREAS, "The Municipal Home Rule Act Of 1971", Section 31-2-201, et seq., C.R.S., provides that proceedings to amend a home rule charter may be initiated by the adoption of an ordinance by the governing body of the municipality submitting the proposed amendment(s) to a vote of the registered electors of the municipality; and

WHEREAS, Article XX, Section 9, of the Colorado Constitution further provides that no amendment to a home rule charter shall become effective until approved by a majority of the registered electors of such municipality voting thereon; and

WHEREAS, the Town Council of the Town of Breckenridge has determined that the Charter of the Town of Breckenridge should be amended as hereafter provided and that the question of the adoption of the proposed amendments should be submitted to the registered electors of the Town at the regular municipal election to be held on April 7, 1992.

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

Section 1. Subparagraph (c) of Section 4.8 of the Town Charter, said Section being entitled "Vacancies", is hereby amended so as to read in its entirety as follows:

(c) Within sixty (60) days after a vacancy occurs, the remaining members of the Council shall choose, by majority vote, a duly qualified person to fill such vacancy. He shall serve only until the next regular municipal election at which time the electors shall elect a Councilman to serve the remainder of the unexpired term. The Councilman candidates receiving the fourth, fifth and sixth highest number of votes, depending on the number of vacancies to be filled, shall serve the remainder of any unexpired terms. If three (3) or more vacancies exist simultaneously, the remaining councilmembers shall, at the next regular meeting of the Council, call a special election to fill such vacancies, provided there will not be a regular municipal election within ninety (90) days and provided that their successors have not previously been elected.

Section 2. Section 5.1 of the Town Charter, entitled "Regular Meetings", shall be amended so as to read in its entirety as follows:

Section 5.1 REGULAR MEETINGS:  
The Council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of the Council; provided, however, that the Council, by majority consent, may dispense with the holding of the second regular meeting in the month of December in any year. The Council shall determine the rules of procedure

governing meetings. The first meeting following each regular municipal election shall be the organizational meeting.

Section 3. Section 5.3 of the Town Charter, entitled "Business At Special Meetings", shall be amended so as to read in its entirety as follows:

Section 5.3 BUSINESS AT SPECIAL MEETINGS:  
No business shall be conducted at a special meeting of the Council unless the same has been stated in the notice of such meeting; except that any business which may lawfully come before a regular meeting of the Council may be transacted at a special meeting if all members of the Council present consent thereto and all the members absent file their written consent, either before or after such special meeting. Any ordinance approved or adopted at such meeting shall require five (5) affirmative votes.

Section 4 Section 5.4 of the Town Charter, entitled "Quorum Adjournment Of Meeting", shall be amended so as to read in its entirety as follows:

Section 5.4 QUORUM; ADJOURNMENT OF MEETING:  
A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings, and a quorum shall be required to be present for the Council to take any action. Councilmembers disqualified from acting upon a particular matter due to a conflict of interest shall not be counted in determining whether a quorum exists with respect to that matter. In the absence of a quorum, a lesser number may continue any matter to the next regular meeting of the Council or adjourn any meeting to a later date or time. In the absence of all members, the Town Clerk may adjourn any meeting for not longer than one (1) week. In the event any meeting is adjourned to a later date, the Clerk shall prepare and cause to be delivered to each member of the Council timely written notice setting forth the date and hour to which such meeting has been adjourned.

Section 5. Section 5.5 of the Town Charter, entitled "Meetings To Be Public", shall be amended so as to read in its entirety as follows:

Section 5.5 MEETINGS TO BE PUBLIC:  
All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe; provided, however, that the Council, by consent of 2/3 of the quorum present, may go into executive session for the purpose of considering any of the following matters: (1) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the Council has a personal interest in such purchase, acquisition, lease, transfer, or sale; (2) Conferences with an attorney for the Town for the purposes of receiving legal advice on a specific legal question. Mere presence or participation of an attorney at an executive session of the Council is not sufficient to satisfy the requirements of this Subsection (2); (3) Matters required to be kept confidential by federal or state law or rules and regulations; (4) Specialized details of security arrangements or investigations; (5)

Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators; (6) Personnel matters, unless the employee who is subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, and all of the employees have requested an open meeting. (7) Consideration of any documents protected by the mandatory nondisclosure provisions of Part 2 of Article 72 of Title 24, C.R.S., commonly known as the "Open Records Act". No adoption of any proposed policy, position, resolution, rule, regulation, ordinance or formal action shall occur at any executive session which is not open to the public. Prior to the Council going into executive session the Mayor shall announce the general topic of the executive session.

Section 6. Subparagraph (a), ("Initiative") of Section 6.1 of the Town Charter, said Section being entitled "General Authority", is hereby amended so as to read in its entirety as follows: (a) Initiative. The electors of the Town shall have the power to propose any ordinance to the Council. In the event Council fails to adopt the proposed ordinance without any change in substance, such ordinance shall be submitted to the electors at a Town election for their acceptance or rejection.

Section 7. Subparagraph (b), ("Referendum") of Section 6.1 of the Town Charter, said Section being entitled "General Authority", is hereby amended so as to read in its entirety as follows: (b) Referendum. The electors of the Town shall have the power to require reconsideration by the Council of any ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a Town election, in accordance with the provisions of this Article. However, this power of referendum shall not extend to ordinances appropriating any revenues or calling a special election, ordinances necessary for the immediate preservation of public peace, health or safety, or ordinances which authorize any municipal borrowing requiring an election pursuant to Article XI of this Charter.

Section 8. Section 6.5 of the Town Charter, entitled "Referendum Petitions; Suspension Of Effect Of Ordinance; Emergency Ordinance:", is hereby amended so as to read in its entirety as follows:

Section 6.5 REFERENDUM PETITIONS; SUSPENSION OF EFFECT:

When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. There is final determination of insufficiency of the petition, or
2. The petitioners' committee withdraws the petition, or
3. The Council repeals the ordinance, or
4. Certification of a favorable vote of the electors on the ordinance.

Section 9. Section 7.3 of the Town Charter, entitled "Powers And Duties Of Manager", is hereby amended so as to read in its entirety as follows:

Section 7.3 POWERS AND DUTIES OF MANAGER:

The Town Manager shall be responsible to the Council for the proper administration of all affairs of the Town placed in his charge, and to that end he shall have the power and duties and be required to:

- (a) Be responsible for the enforcement of the laws and ordinances of the Town;
- (b) Hire, discipline, transfer and remove Town

employees consistent with their status as at-will employees of the Town;

- (c) Make appointments on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform;
- (d) Cause a proposed budget to be prepared annually and submitted to the Council and be responsible for the administration of the budget after its adoption;
- (e) Prepare and submit to the Council as of the end of the fiscal year a complete report on finances and administrative activities of the Town for the preceding year and, upon request of the Council, make written or verbal reports at any time concerning the affairs of the Town under his supervision;
- (f) Keep the Council advised of the financial condition and future needs of the Town and make such recommendations to the Council for adoption as he may deem necessary or expedient;
- (g) Exercise supervision and control over all executive and administrative departments, and recommend to the Council any proposal he thinks advisable to establish, consolidate or abolish administrative departments;
- (h) Be responsible for the enforcement of all terms and conditions imposed in favor of the Town in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to Council for such action and proceedings as may be necessary to enforce the same;
- (i) Attend Council meetings and participate in discussions with the Council in an advisory capacity;
- (j) Establish a system of accounting and auditing for the Town which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town;
- (k) Provide for engineering, architectural, maintenance and construction services required by the Town;
- (l) Perform other such duties as may be prescribed by this Charter or by ordinance or by other applicable law or required of him by Council which are not inconsistent with this Charter.

Section 10. Section 7.7 of the Town Charter, entitled "Bonding Of Employees:", is hereby amended so as to read in its entirety as follows:

**Section 7.7 BONDING OF EMPLOYEES:**

The Town Council and Town Manager may require from such officers and employees as they determine, a bond, at the expense of the Town, with proper penalty and surety, for the care and disposition of municipal funds in their hands and the faithful discharge of the duties of their offices.

Section 11. Subparagraph (a), ("Supplemental Appropriations") of Section 10.12 of the Town Charter, said Section being entitled "Amendments After Adoption", is hereby amended so as to read in its entirety as follows: (a) Supplemental Appropriations. If, during the fiscal year, the Town Manager certifies there are available for appropriation revenues in excess of those estimated in the budget or revenues not previously appropriated, the Council by Resolution following a public hearing may make supplemental appropriations for the year up to the amount of such excess or unappropriated revenues.

Section 12. Section 10.13 of the Town Charter, entitled "Independent Audit", is hereby amended so as to read in its entirety as follows:

Section 10.13 INDEPENDENT AUDIT:  
An independent audit shall be made of all Town accounts at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountants selected by the Town Manager. The audit shall be completed with four (4) months of the close of the fiscal year. Copies of such audit shall be made available for public inspection at the municipal building.

Section 13. Section 13.2 of the Town Charter, entitled "Water Rights", is hereby amended so as to read in its entirety as follows:

Section 13.2 WATER RIGHTS: The Town shall have the power to buy, sell, exchange, lease, own and control water rights.

Section 14. Section 15.2 of the Town Charter, entitled "Liability Of Town", is hereby repealed in its entirety.

Section 15. Section 15.7 of the Town Charter, entitled "Emergency Powers", is hereby amended so as to read in its entirety as follows:

Section 15.7 EMERGENCY POWERS:  
In case of riot, insurrection, or extraordinary emergency, the Mayor, or in his absence, the Town Manager, shall assume the authority to execute any action necessary for the protection of life and property. Such authority may include but not be limited to establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency situation continues, the Mayor, or in his absence, the Town Manager, shall convene the Council who may take such action as it deems necessary. In the event it becomes necessary, the line of succession provided in Section 15.8 shall be followed.

Section 16. Subparagraph (d), ("Elector") of Section 15.12 of the Town Charter, said Section being entitled "Definitions", is hereby amended so as to read in its entirety as follows: (d) Elector. A person registered to vote under the Constitution and Statutes of the State of Colorado.

Section 17. The Town Council shall, within thirty (30) days of the date of the adoption of this Ordinance, publish notice of an election upon the proposed amendments as set forth above. Such notice shall contain the full text of the proposed amendments, and shall be published once in a newspaper of general circulation with the Town.


Section 18. The question of whether the Town Charter should be amended as provided in this Ordinance shall be submitted to the registered electors of the Town at the regular municipal election to be held on April 7, 1992. If a majority of the registered electors voting thereon vote for the proposed amendments, the amendments shall be deemed approved and the Town Charter shall be amended accordingly.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 28th day of January, 1992. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 11th day of February, 1992 at 7:30 P.M. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, Town Clerk

  
Stephen C. West, Mayor

This Ordinance was published in full in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge on February 6th, 1992.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 11th day of February, 1992.

A copy of this Ordinance is available for inspection in the office of the Town Clerk.

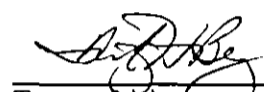
ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, Town Clerk

  
Stephen C. West, Mayor

APPROVED IN FORM

  
Town Attorney

2/11/92  
Date

This Ordinance was published by title in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge, on February 20, 1992.