

ORDINANCE NO. 16

Series 2000

AN ORDINANCE DECRIMINALIZING CERTAIN MUNICIPAL OFFENSES; ELIMINATING THE AVAILABILITY OF JURY TRIALS AND JAIL SENTENCES FOR SUCH VIOLATIONS; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE AND THE TOWN OF BRECKENRIDGE TRAFFIC CODE

WHEREAS, state law no longer requires that municipalities afford defendants jury trials for noncriminal traffic infractions; and

WHEREAS, the Town has the lawful power and authority to decriminalize other non-traffic municipal offenses; and

WHEREAS, the Town Council of the Town of Breckenridge finds and determines that it would be in the public interest for the Town to decriminalize certain non-aggravated municipal offenses, including, but not limited to, certain non-aggravated municipal traffic infractions; and

WHEREAS, it is the express purpose and intent of this Ordinance to create a civil system, as opposed to a criminal system, for the adjudication of those non-aggravated municipal and code offenses which are decriminalized by this Ordinance.

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

Section 1. The definition of "misdemeanor" set forth in Section 1-3-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

MISDEMEANOR: Any criminal violation of this Code. The term "misdemeanor" shall not include any noncriminal (civil) infraction as defined in this Code.

Section 2. The following definitions are hereby added to Section 1-3-2 of the Breckenridge Town Code:

CODE

INFRACTION Any violation of the following Chapters of this Code: (i) the Town's building and technical codes (Chapter 1 of Title 8); (ii) the Town's Sign Code (Chapter 2 of Title 8); (iii) the Town's Land Use and Development Regulations (Chapters 1, 2, 3 and 7 of Title 9); (iv) the Town's Adult Oriented Business Ordinance (Chapter 8 of Title 9); and (v) the Town's Business and Occupational Licenses and Tax Ordinance (Chapter 1 of Title 4), except civil actions related to such ordinances commenced by the Town pursuant to Section 1-8-10 of this Code. A code infraction is a civil (noncriminal) matter. Any violation of this Code which is neither a code infraction or a traffic infraction is a misdemeanor (criminal) violation.

INFRACTION Any noncriminal (civil) violation of this Code, or any code adopted by reference in this Code. The term "infraction" includes both noncriminal (civil) traffic infractions, as well as any noncriminal (civil) code infractions.

TRAFFIC

INFRACTION Any violation of the Town of Breckenridge Traffic Code adopted by reference in Chapter 1 of Title 7 of this Code; except for those specific misdemeanor (criminal) traffic offenses enumerated in Section 7-1-6 of this Code. A traffic infraction is a civil (noncriminal) matter.

Section 3. Chapter 4 of Title 1 of the Breckenridge Town Code, entitled "General Penalty", is hereby amended so as to read in its entirety as follows:

CHAPTER 4

GENERAL PENALTY

SECTION:

1-4-1: General Penalty--Misdemeanor Offenses

- 1-4-1-1: General Penalty--Infractions
- 1-4-2: Probation
- 1-4-3: Restitution
- 1-4-4: Commitment For Failure To Pay Fine
- 1-4-5: Imprisonment Of Minor
- 1-4-6: Additional Civil Remedies

1-4-1: GENERAL PENALTY--MISDEMEANOR OFFENSE:

A. It shall be unlawful for any person to violate any of the misdemeanor provisions of the ordinances of the Town, this Code, any code adopted by reference, or any regulation adopted pursuant to this Code or Town ordinance. Except in cases where a different punishment is prescribed by an ordinance of the Town or this Code, any person convicted of a misdemeanor violation of this Code, any ordinance of the Town, any code adopted by reference, or any regulation adopted pursuant to this Code or Town ordinance shall be punished by a fine of not more than nine hundred ninety nine dollars (\$999.00), or by imprisonment not to exceed one day less than one year, or by both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years as of the date of the offense for which he is convicted shall be subject to a jail sentence, except in the case of a conviction of a traffic offense under Title 7 of this Code.

B. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any misdemeanor provision of the ordinances of the Town, this Code, any code adopted by reference or any regulation adopted pursuant to this Code or Town ordinance is committed, continued or permitted by any such persons, and he shall be punished accordingly.

1-4-1-1: GENERAL PENALTY--INFRACTIONS: It shall be unlawful and a violation for any person to violate any of the provisions of the ordinances of the Town, this Code, any code adopted by reference, or any regulations adopted pursuant to this Code or Town ordinance which is classified as an infraction. Any person found to be in violation of, or against whom a default judgment has been entered for any infraction (other than a traffic infraction) shall be fined in an amount not to exceed five hundred dollars (\$500.00), unless a greater or lesser amount is specified in any specific penalty provision. The Municipal Judge shall establish a schedule of the fines to be paid for each infraction. Any person found to be in violation of, or against whom a default judgment has been entered for any traffic infraction shall be punished as provided in Section 7-1-6 of this Code. No person found to be in violation of, or against whom a default judgment has been entered for, any infraction shall be subject to imprisonment. Each day that an infraction occurs shall constitute a separate offense.

1-4-2: PROBATION:

The Municipal Judge may suspend the sentence or fine of any violator of a misdemeanor offense and place him on probation for a period not to exceed one year upon such terms and conditions as the Municipal Judge may determine. Probation shall not be imposed or granted to any defendant against whom a judgment has been entered for a violation of any infraction.

1-4-3: RESTITUTION:

A defendant who has been adjudged guilty or against whom a judgment has entered for violating any ordinance of the Town may be required, so far as possible and upon such reasonable terms as the Municipal Court may impose, to make restitution or reparation to any aggrieved person for any actual damage or loss caused by the offense or infraction for which the conviction or judgment of liability was had.

1-4-4: COMMITMENT FOR FAILURE TO PAY FINE:

Every person against whom any fine or penalty shall be assessed for a misdemeanor violation of the ordinances of the Town, who shall refuse or neglect to pay the same when demanded, upon execution ordered by the Municipal Judge, may be committed in default thereof to the Summit County jail or such other suitable place as shall be provided by said Town under the direction of the proper officer until said fine or penalty is fully paid and satisfied. Such satisfaction shall be made at the rate of six dollars (\$6.00) per twenty four (24) hour day. Any such person may be required to do any reasonable work; provided, however, that in the discretion of the Municipal Judge, a stay of

execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installment payments. In case the defendant shall refuse or neglect to comply with the terms of the stay of execution, then execution may issue and the defendant may be committed to the Summit County jail, as hereinabove provided, until such fine, penalty or judgment is fully paid or otherwise satisfied. Imprisonment shall not be allowed in connection with the entry of a judgment of liability for an infraction.

1-4-5: IMPRISONMENT OF MINOR:

Any imprisonment of a child, as defined by the Colorado Children's Code, shall be subject to the limitations of section 13-10-113, C.R.S., and the Colorado Children's Code.

1-4-6: ADDITIONAL CIVIL REMEDIES:

In addition to the penalties herein provided, any conditions caused or permitted to exist in violation of any provision of this Code, any code adopted by reference, any ordinance of the Town or any regulation adopted pursuant to this Code or Town ordinance shall be deemed a public nuisance and may be summarily abated as such, and each day that such condition continues shall be regarded as a new and separate violation. In addition, in any case of a failure to comply with any requirement of this Code, any code adopted by reference, any ordinance of the Town, or any regulation adopted pursuant to this Code or Town ordinance, the Town may, in addition to the penalties provided by law, initiate a civil action for injunction, mandamus, abatement or any other appropriate relief to prevent, enjoin, abate, remove or eliminate such violation.

Section 4. Section 1-8-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

1-8-2: JURISDICTION AND POWERS:

The Municipal Court shall have original jurisdiction of all cases arising under the ordinances of the Town, both misdemeanor violations and infractions, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed by law, ordinance or court rule. It shall have power to compel attendance at sessions of court and to punish for contempt of court by fine or by jail sentence, or both such fine and jail sentence; provided, however, that no defendant found to have committed a infraction shall be subject to imprisonment. The Municipal Court shall additionally have civil jurisdiction with respect to alleged violations of the Town's "Nuisance Ordinance" (Chapter 1 of Title 5), the Town's building and technical codes (Chapter 1 of Title 8), the Town's "Sign Code" (Chapter 2 of Title 8), and the Town's "Land Use and Development Regulations" (Title 9) and the powers as set forth in Section 1-8-10 of this Code. The Municipal Court shall also have the jurisdiction and authority to issue search warrants and inspection warrants as provided in this Code.

Section 5. Paragraph a of Section 1-8-5 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

a. Except as otherwise expressly provided in this Code, the procedures of the Court shall be in accordance with the Colorado Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. The presiding Municipal Judge shall have authority to issue local rules of procedure not inconsistent with any rules of procedure adopted by the Colorado Supreme Court.

Section 6. Paragraph B of Section 1-8-8 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

B. In all cases where a person is summoned to appear at the Municipal Court for a misdemeanor violation or ordered to appear by the Municipal Judge, it is unlawful for such person to fail to appear at the time and place so ordered, and a warrant for arrest may issue for any such failure to appear. No warrant shall issue for the arrest of any defendant who fails to appear at or fails to satisfy a judgment for any infraction.

Section 7. Section 1-8-11 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

1-8-11: COSTS:

The Municipal Judge shall assess court costs of fifteen dollars (\$15.00) against any defendant who pleads guilty or nolo contendere, or who enters into a plea agreement or who, after trial by the Court without a jury, is found guilty of a misdemeanor ordinance violation. Costs of fifty dollars (\$50.00) shall be assessed against any defendant who is found guilty of a misdemeanor ordinance violation following a trial by jury. The Municipal Judge shall assess court costs of fifteen dollars (\$15.00) against any defendant who, after a Municipal Court appearance, admits liability for or is found to have committed a violation of any infraction.

Section 8. Section 1-8-12 of the Breckenridge Town Code is hereby repealed and replaced so as to read in its entirety as follows:

1-8-12: Noncriminal Traffic and Code Infractions: The following shall apply to Municipal Court proceedings related to both traffic and code infractions as defined in Section 1-3-2 of this Code:

A. The Municipal Court shall have jurisdiction over all traffic and code infractions arising under this Code, or any code adopted by reference herein, with the power to assess and collect civil penalties, costs, and judgments for violations thereof.

B. Traffic and code infractions shall be tried in conformance with the Colorado Municipal Court Rules of Procedure in all cases, unless any of the Rules is clearly inapplicable. Whenever a conflict exists between any provision of this Code and the Colorado Municipal Court Rules of Procedure, then the provision of this Code shall apply.

C. Infractions shall be tried in accordance with the Colorado Rules of Evidence. However, in the discretion of the Court, strict adherence to said rules shall not be required when a defendant appears without benefit of counsel.

D. Notwithstanding the noncriminal nature of infractions, no negative inferences may be drawn by the Court if a Defendant at trial fails to testify.

E. The burden of proof for infractions shall be upon the Town, and the Court shall enter judgment in favor of the Defendant unless the Town proves the liability of the Defendant beyond a reasonable doubt. However, the Court may find the defendant guilty or liable for a less infraction based on the evidence offered at trial, and may enter an appropriate judgment.

F. An appeal from any final judgment from an infraction shall be taken to the District Court in accordance with Rule 237(b) of the Colorado Municipal Court Rules of Procedure.

G. Collateral Attacks:

1. Except as otherwise provided in this Paragraph G, no person against whom a judgment has been entered for an infraction shall collaterally attack the validity of that judgment unless such attack is commenced within six months after the date of the entry of judgment.

2. In recognition of the difficulties arising from stale claims and the potential for frustrating various ordained provisions and statutes directed at repeat offenders, former offenders and habitual offenders, the only exceptions to the time limitations specified in Subparagraph 1 of this Paragraph G shall be:

i. a case in which the Municipal Court did not have jurisdiction over the subject matter of the alleged infraction;

ii. a case in which the Municipal Court did not have jurisdiction over the person of the alleged violator;

iii. where the Municipal Court, after hearing the collateral attack, finds by a preponderance of the evidence that the failure to seek relief within the applicable period was caused by an adjudication of incompetence or by commitment of the violator to

an institution for treatment as a mentally ill person;
or

iv. Where the Municipal Court, after hearing the collateral attack, finds that the failure to seek relief within the applicable time period was a result of circumstances amounting to justifiable excuse or excusable neglect.

H. The Town Attorney or designee may appear in any infraction proceeding for the purpose of attempting a negotiated plea or prosecuting the infraction before the Municipal Court.

I. No warrant for arrest shall be issued, nor shall an arrest be made, when the only violation alleged would constitute an infraction as defined in this Code. Instead, the court may enter a judgment of liability by default against the defendant; assess any penalty and costs established by law; and report the judgment to the State Motor Vehicle Division which may assess points against the Defendant's driving privileges and may deny an application or renewal of a defendant's driver's license until the judgment and all other lawful costs are satisfied. Further, no writ of mittimus shall issue where the only basis for the fine and costs imposed was the finding of guilt or liability of an infraction.

J. Members of the Town's Police Department shall have the power to stop all persons believed to be committing an act declared to be an infraction by this Code; to detain such persons as reasonably necessary to obtain proper identification, vehicle registration or proof of insurance, and to determine whether an infraction or other violation has occurred; and to issue and serve or tender service of a summons and complaint or a penalty assessment notice to such persons.

K. Penalty assessment and Municipal Court procedures:

1. At the time a person is charged with any infraction, the police officer shall issue or tender the Defendant a penalty assessment notice.

2. A penalty assessment notice shall be signed and served on or tendered to the defendant by a police officer and shall contain the name and address of the defendant; the license number of the vehicle involved, if any; the number of the defendant's driver's license, if any; a citation of the Town of Breckenridge Traffic Code or Breckenridge Town Code section alleged to have been violated; a brief description of the infraction; the date and approximate location thereof; the amount of the penalty prescribed; the number of points, if any, prescribed for such infraction pursuant to Section 42-2-123, C.R.S.; and the date the penalty assessment notice is served on the defendant. The notice shall direct the defendant to appear in the Municipal Court on a specified date, time and place in the event the prescribed penalty is not paid, and shall contain a place for the defendant to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty or before the appearance date. The notice shall also contain any additional information which shall be required to convert the penalty assessment notice into a summons and complaint, should the penalty not be paid within the time allowed.

3. The time specified in the penalty assessment notice for an appearance if the defendant fails to pay the penalty shall be at least thirty days and not more than ninety days after the date the penalty assessment notice is issued.

4. One copy of the penalty assessment notice shall be served upon the defendant by the police officer, and the remaining copy shall be filed with the clerk of the Municipal Court.

5. The fine or penalties specified in the penalty assessment notice may be paid at the office of the clerk of the Municipal Court in person on or before the appearance date; or by postmarking such payment not less than ten days before the appearance date.

6. If the defendant fails to pay the penalty on the penalty assessment notice on or before the appearance date, then he shall appear at the Municipal Court on the date and time specified in the notice and answer the complaint against him. If the defendant answers that he is liable or if he fails to appear for the hearing, judgment shall be entered against him.

7. If the defendant denies the allegations in the notice or complaint, a final hearing shall be held subject to the provisions of Rule 248(B) of the Colorado Municipal Court Rules of Procedure, regarding a speedy trial. If the defendant is found guilty or liable or if he fails to appear at such final hearing, judgment shall be entered against him.

8. If judgment is entered against a defendant, he shall be assessed an appropriate penalty plus court costs, warrant fees, and witness fees.

9. Penalty assessment procedures shall not apply to any alleged traffic infraction where the alleged infraction has caused, or contributed to the cause of, an accident resulting in appreciable damage to property of another or in an injury to death to any person. In such cases, the procedures for criminal violations shall apply.

10. Penalty assessment procedures shall not apply where the defendant is charged with two or more violations, any one of which is a criminal violation requiring a court appearance. In such cases the procedures for criminal violations shall apply.

11. In no event shall a bench warrant issue for the arrest of any person who fails to appear for a final hearing on an infraction charge. Entry of judgment and assessment of the fine, costs and fees as provided herein shall constitute the sole penalties for failure to appear for the final hearing.

L. If the Defendant fails to satisfy the judgment in the time allowed, such failure shall be treated as a default. In addition to notifying the state motor vehicle division of such default pursuant to Paragraph I, the Town Attorney is hereby authorized to file a civil action in any state court having appropriate jurisdiction, which filing shall include the record of the case certified by the Clerk of the Municipal Court, praying for judgment based thereon. Upon the entry of such judgment the Town Attorney shall be authorized to proceed with all judgment execution and collection procedures authorized by law for the amount of the judgment, costs, legal interest and attorneys' fees incurred in the proceedings.

Section 9. Section 1-8-13 of the Breckenridge Town Code, entitled "Penalty Assessment; Illegal Parking and Similar Violations", is hereby repealed in its entirety.

Section 10. There is hereby added to the Breckenridge Town Code a new Section 1-18-14, to be entitled "Right of Jury Trial", which shall read in its entirety as follows:

1-8-14: RIGHT OF JURY TRIAL

A. Any defendant charged with a violation of this Code or any code adopted by reference herein, other than an infraction as defined in Section 1-3-2, shall have the right to demand a trial by jury upon compliance with the provisions of state law and the Colorado Municipal Court Rules of Procedure.

B. No defendant shall have a right to trial by jury for any infraction as defined in Section 1-3-2.

C. In the event that a defendant is charged with more than one offense arising out of the same episode or incident and at least one of the offenses charged is a misdemeanor offense or a criminal traffic offense, or if the defendant is charged with any other criminal violation arising out of the same incident or episode, the defendant shall have the right to demand and, if such demand is in conformance with state law and the Colorado Municipal Court Rules of Procedure, receive a trial by jury as to all such offenses, which shall be consolidated for purposes of trial.

Section 11. Paragraph A of Section 3-1-39 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Every person found liable for a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1-1 of this Code.

Section 12. Paragraph B of Section 4-1-11 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

B. It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Every person found liable for a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1-1 of this Code.

Section 13. Paragraph A of Section 5-1-13 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. Whenever in any section of this Chapter, the doing of any act is required or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, such violation of this Chapter shall be an infraction as defined in Section 1-3-2 of this Code, and any person who shall be found liable for a violation of any such section shall be subject to such penalties as are provided in Chapter 4 of Title 1 of this Code.

Section 14. Section 7-1-2 of the Breckenridge Town Code is hereby amended by the addition of the new Paragraphs F-M, inclusive, which shall read in their entirety as follows:

F. Paragraph 1 of Section 1701 of the Town of Breckenridge Traffic Code is hereby amended so as to read in its entirety as follows:

1701. Unlawful to Violate Code - Schedule of Fines. (1) It is a municipal offense for any person to violate any provision of this Code. Such offenses shall be classified as misdemeanor offenses or traffic violations as provided in Section 7-1-6 of this Code.

G. The introductory clause of Paragraph (1) of Section 1705 of the Town of Breckenridge Traffic Code is hereby amended so as to read in its entirety as follows:

1705. Person arrested to be taken before the proper court. (1) Whenever a person is arrested for any misdemeanor violation of this Code, the arrested person shall be taken without unnecessary delay before the Municipal Judge in any of the following cases:

- (a) When a person arrested demands an appearance without unnecessary delay before a judge;
- (b) When the person is arrested and charged with an offense under this Code causing or contributing to an accident resulting in injury or death to any person;
- (c) In any other event when the provisions of this part 17 apply and the person arrested refuses to give his or her written promise to appear in court as provided in section 1707.

(2) Whenever any person is arrested by a police officer for any misdemeanor violation of this Code and is not required to be taken before the Municipal Judge as provided in subsection (1) of this section, the arrested person shall, in the discretion of the officer, either be given a written notice or summons to appear in Municipal Court as provided in section 1707 or be taken without unnecessary delay before the Municipal Judge when the arrested person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court. The Municipal Court shall provide a bail bond schedule and available personnel to accept adequate security for such bail bonds.

H. Section 1706 of the Town of Breckenridge Traffic Code is hereby amended so as to read in its entirety as follows:

1706. Juveniles - convicted - arrested and incarcerated - provisions for confinement. Pursuant to Section 13-10-113(5), C.R.S., and notwithstanding any other provision of law, a child, as defined in section 19-1-103(4), C.R.S., arrested for an alleged misdemeanor violation of a Town ordinance, convicted of violating a criminal Town ordinance or probation conditions imposed by the Municipal Court, or found in contempt of court in connection with a violation or alleged violation of a Town ordinance, shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of human services or a temporary holding facility operated by or under contract with the Town which shall receive and provide care for such child. The Municipal Court in imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a Town ordinance may confine a child pursuant to section 19-2-204, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services. In imposing any jail sentence upon a juvenile for violating any Town ordinance when the Municipal Court has jurisdiction over the juvenile pursuant to section 19-2-102(1)(a)(II), C.R.S., the Municipal Court does not have the authority to order a child under eighteen years of age to a juvenile detention facility operated or contracted by the department of human services.

I. There is hereby added to Article 17 of the Town of Breckenridge Traffic Code a new Section 1707.5, to be entitled "Traffic Infraction Procedures", which shall read in its entirety as follows:

1707.5. Traffic Infraction Procedures. The procedures set forth in Section 1-8-12 of the Breckenridge Town Code shall be followed in connection with the processing of traffic infractions.

J. Section 1710 of the Town of Breckenridge Traffic Code is hereby amended so as to read in its entirety as follows:

1710. Failure to pay penalty for misdemeanor traffic offenses - procedures.

(1) Unless a person who has been cited for a misdemeanor traffic offense pays the penalty assessment as provided in this Code and the surcharge thereon, if any, such person shall appear at a hearing on the date and time specified in the citation and answer the complaint against such person.

(2) If the violator answers that he or she is guilty or if the violator fails to appear for the hearing, judgment shall be entered against the violator.

(3) If the violator denies the allegations in the complaint, a final hearing on the complaint shall be held subject to the applicable provisions of the Colorado Municipal Court Rules of Procedure regarding a speedy trial. If the violator is found guilty or liable at such final hearing or if the violator fails to appear for a final hearing, judgment shall be entered against the violator.

(4) If judgment is entered against a violator, the violator shall be assessed an appropriate penalty and surcharge thereon. If the violator had been cited by a penalty assessment notice, the penalty shall be assessed pursuant to section 1701. If a penalty assessment notice is prohibited by section 1705(1), the penalty shall be assessed pursuant to section 1701.

K. Section 1712 of the Town of Breckenridge Traffic Code is hereby amended so as to read in its entirety as follows:

1712. Procedure prescribed not exclusive. The foregoing provisions of this Code shall govern all police officers in making arrests without a warrant for misdemeanor traffic violations or issuing citations or penalty assessment notices for violations of this Code, and for offenses committed in their presence, but the procedure prescribed in this Code shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense or infraction of like grade.

L. Section 1716 of the Town of Breckenridge Traffic Code is hereby amended so as to read in its entirety as follows:

1716. Notice to appear or pay fine - failure to appear - penalty. (1) For the purposes of this part 17, tender by a police officer of the summons or penalty assessment notice to a defendant charged with a traffic infraction who refuses to accept the same shall constitute notice to the defendant to appear in Municipal

Court at the time specified on such summons or to pay the required fine and surcharge thereon. If a defendant refuses to accept a penalty assessment notice for a designated misdemeanor offense, the police officer may issue and serve the defendant a summons and complaint or may arrest the defendant.

(2) Any person who violates any provision of this section commits a municipal offense.

M. Article II of the Town of Breckenridge Traffic Code, entitled "Definitions", is hereby amended by the inclusion of the following additional definitions:

(24.5) Infraction or traffic infraction means a traffic offense of this Code as described in Section 7-1-6 of the Breckenridge Town Code.

(28.5) Misdemeanor or criminal traffic offense means a criminal violation of this Code as described in Section 7-1-6 of the Breckenridge Town Code.

Section 15. Section 7-1-6 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

7-1-6: Penalties; Traffic Code: The following penalties shall apply to offenses under or adopted by reference pursuant to this Chapter.

A. It is a misdemeanor for any person to violate any of the following provision of the Town of Breckenridge traffic code:

1. Section 1101, basic (speed) rule, but only where the speed alleged is greater than 20 miles per hour over the lawful speed limit;
2. Section 1105, speed contest;
3. Section 1401, reckless driving;
4. Section 1402, careless driving;
5. Section 1413, eluding or attempting to elude a police officer; and
6. Section 1903, stopping for school busses;

B. Every person convicted of a criminal violation of any provision set forth in Paragraph A of this Section shall be punished in accordance with the provisions of Chapter 4 of Title 1 of this Code.

C. It is a traffic infraction for any person to violate any provision of the traffic code, other than those misdemeanor violations enumerated in Paragraph A of this Section.

D. Any person admitting liability for, found to be in violation of, or against whom a default judgment has been entered for any traffic infraction of the traffic code shall be fined in an amount not to exceed one hundred dollars (\$100.00), unless a greater or lesser amount is specified in any specific penalty provision. The Municipal Judge shall establish a schedule of fines for each traffic infraction. No defendant found to be have committed a violation of any traffic infraction shall be subject to imprisonment.

Section 16. Paragraph A of Section 8-1-15 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. General: It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Any person who violates any provision of this Chapter shall, upon a determination of liability, be punished as provided in Title 1, Chapter 4 of this Code. Each such person shall be liable for a separate offense for each and every day during any portion of which any violation of any of the provisions of this Chapter is committed, continued or permitted by such person, and such person shall be punished accordingly.

Section 17. Paragraph A of Section 8-2-17 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. General: It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Any person who violates any provision of this Chapter shall be punished as provided in Chapter 4 of Title 1 of the Town Code. Each such person shall be liable for a separate offense for each and every day during any portion of which any violation of any of the provisions of this Chapter is committed, continued or permitted by such person, and he shall be punished accordingly.

Section 18. Paragraph C of Section 9-1-6 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

C. Violations: Penalties: It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Every person found liable for a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1-1 of this Code.

Section 19. Paragraph A of Section 9-2-1-11 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. General: It shall be the duty of the Director to enforce this Chapter and to bring to the attention of the Town Attorney any violation or lack of compliance herewith.

It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Every person found liable for violating any provision of this Chapter shall be punished as provided in Section 1-4-1-1 of this Code.

Section 20. Paragraphs A and B of Section 9-3-18 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. Every person found liable for a violation of any provision of this Chapter shall be punished as provided in Chapter 4 of Title 1 of this Code.

B. It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Failure to comply with the requirements of this Chapter shall also be deemed to be a violation of the Development Code, and such violation shall be subject to a civil action to enjoin such violation as provided in Section 9-1-6 of this Code.

Section 21. Paragraph A of Section 9-7-7 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Every person found liable for a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1-1 of this Code.

Section 22. There is hereby added to the Breckenridge Town Code a new Section 9-8-20-1, to be entitled "Penalties"), which shall read in its entirety as follows:

9-8-20-1: PENALTIES: It is an infraction, as defined in Section 1-3-2 of this Code, for any person to violate any of the provisions of this Chapter. Every person found liable for a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1-1 of this Code.

Section 23. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of this ordinance. The Town Council hereby declares that it would have passed the ordinance, including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 24. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 25. 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 26. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 27. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed; provided that such repealer shall not repeal the repealer clause of such ordinance nor revive any ordinance thereby.

Section 28. This Ordinance shall be published as provided by Section 5.9 of the Breckenridge Town Charter, and shall become effective September 1, 2000.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 13th day of June, 2000. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 27th day of June, 2000, 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, CMC, Town Clerk


Sam Mamula, Mayor

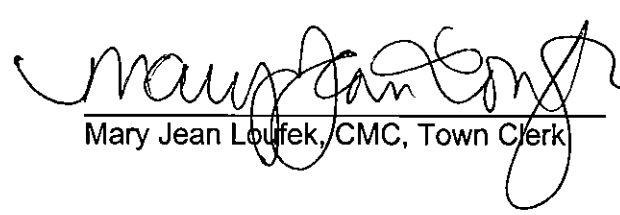
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on June 23, 2000.

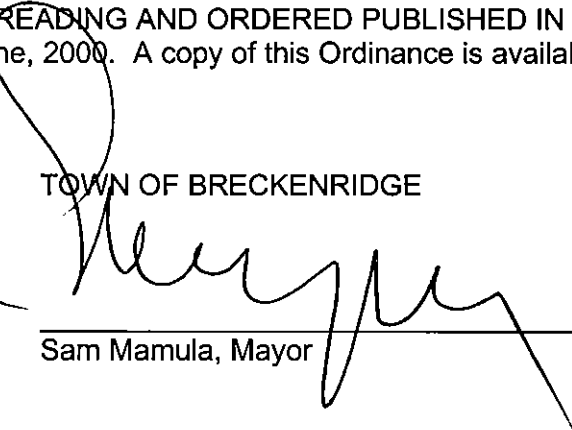
The public hearing on this Ordinance was held on June 27, 2000.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL WITH AMENDMENTS this 27th day of June, 2000. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

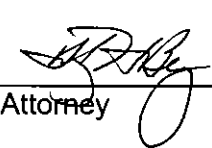
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Sam Mamula, Mayor

APPROVED IN FORM:


Town Attorney

6/27/00
Date

This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on July 7, 2000.