

ORDINANCE NO. 22

Series 2002

AN EMERGENCY ORDINANCE AMENDING CHAPTER 1 OF TITLE 12 OF THE BRECKENRIDGE TOWN CODE CONCERNING TEMPORARY MEASURES NECESSARY FOR THE CONSERVATION OF WATER IN THE TOWN OF BRECKENRIDGE; AUTHORIZING THE SUBSEQUENT IMPOSITION BY THE TOWN COUNCIL OF TEMPORARY RESTRICTIONS ON THE USE OF WATER FROM THE TOWN'S WATER SYSTEM; ESTABLISHING PROCEDURES FOR THE ADOPTION OF SUCH TEMPORARY RESTRICTIONS; ESTABLISHING MEANS AND METHODS FOR THE ENFORCEMENT OF SUCH TEMPORARY RESTRICTIONS, INCLUDING A WATER SURCHARGE ON PERSONS WHO VIOLATE SUCH TEMPORARY RESTRICTIONS; DECLARING AN EMERGENCY; AND PROVIDING FOR THE IMMEDIATE EFFECTIVENESS OF THIS ORDINANCE

WHEREAS, the Town Council of the Town of Breckenridge ("Town Council") desires to protect and preserve the health, safety and welfare of its citizens in time of drought and impending drought by protecting and preserving, to the greatest extent possible, the water resources of the Town; and

WHEREAS, drought conditions currently exist within Summit County and the Upper Blue River Basin, and the drought threatens to put a strain on the Town's municipal water system; and

WHEREAS, the Town's municipal water demands have historically been satisfied by the flow of water in the Blue River; and

WHEREAS, the Town Council has been advised by the Superintendent of the Town's Water Division ("Water Superintendent") that due to the current drought conditions, it is possible that at some time in the foreseeable future available water in the Blue River may be insufficient to meet the demands of the Town's water system unless temporary restrictions on the use of water from the Town's municipal water system are put into place; and

WHEREAS, the Town additionally has water stored in the Goose Pasture Tarn ("Tarn"); and

WHEREAS, the Town's water which is stored in the Tarn has not been needed for the Town's own use at any time during the last thirty years; and

WHEREAS, it is a goal of the Town Council to preserve the water which is stored in the Tarn so that such water will be available for meeting the winter water demands of the Town and its out-of-Town water customers, for use in snowmaking for the Breckenridge Ski Area, and for other uses as may be necessary or appropriate during the winter months; and

WHEREAS, the Town Council has been advised by the Water Superintendent that inflows into to the Tarn have been consistently well below average this year, and the Town Council has further been advised by the Water Superintendent that the inflow into the Tarn is currently about 20% of average (a flow which is typically not seen until the month of November); and

WHEREAS, the Town Council hereby finds, determines and declares that it is necessary to establish a procedure for the subsequent implementation by the Town Council of temporary restrictions to encourage conservation of the water which is available in the Town's municipal water system; and

WHEREAS, the Town Council further finds, determines and declares that such temporary restrictions, if and when imposed and enforced, will be an effective means for achieving a significant reduction in the amount of water consumed from the Town's water system, and will thereby result in the protection of the public health, safety and welfare of the citizens of the Town.

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

Section 1. Chapter 1 of Title 12 of the Breckenridge Town Code is hereby amended by the addition of a new Section 12-1-14-1, to be entitled "Temporary Restrictions on Use of Water System", which shall read in its entirety as follows:

12-1-14-1: TEMPORARY RESTRICTIONS ON USE OF WATER SYSTEM:

- A. At such time as the Town Council shall find and determine that a shortage exists in the supply of water to the Town's water system, or that a shortage is imminent, such as to require the implementation of restrictions on the use of water from Town's water system, the Town Council may, by Resolution, declare the existence of a water shortage and implement mandatory restrictions on the use of water by customers of the Town's water system.

- B. Any restrictions on the use of water from the Town's water system which are implemented by the Town Council pursuant to Paragraph A of this Section may contain: (i) restrictions on outside watering or irrigation; (ii) exceptions from outside watering or irrigation restrictions for new lawns and landscaping, and playgrounds and athletic fields owned and operated by governmental entities; (iii) restrictions on the non-commercial washing of motor vehicles; (iv) restrictions on the serving of water by restaurants; (v) a provision requiring the giving of a warning before a water surcharge for the violation of the restrictions is imposed; (vi) a method of determining whether violations of the restrictions have occurred; (vii) an administrative water surcharge, which may include graduated surcharge amounts based upon the number of violations which occur within a twelve month period, for persons determined to have violated the restrictions; and (viii) such other restrictions or limitations on the use of water from the Town's water system, or procedures related to the enforcement of such restrictions, as the Town Council shall determine to be necessary to adequately protect the Town's water system and the public health, safety and welfare.

Section 2. Chapter 4 of Title 12 of the Breckenridge Town Code is hereby amended by the addition of a new Section 12-4-16, "Surcharge For In-Town Violation of Temporary Restrictions on Use of Water System", which shall read in its entirety as follows:

12-4-16: SURCHARGE FOR IN-TOWN VIOLATION OF TEMPORARY RESTRICTIONS ON USE OF WATER SYSTEM: Any in-Town water user found to have violated any restriction on the use of water from the Town's water system implemented by the Town Council pursuant to Section 12-1-14-1 of this Code shall be subject to a water surcharge in an amount established by the Town Council Resolution implementing such restrictions. Such Resolution may provide for graduated surcharge amounts based upon the number of violations which occur within a twelve month period. Water surcharges imposed pursuant to this Section may be collected in the manner set forth in chapter 6 of this title.

Section 3. Chapter 5 of Title 12 of the Breckenridge Town Code is hereby amended by the addition of a new Section 12-5-11, "Surcharge For Out-of-Town Violation of Temporary Restrictions on Use of Water System", which shall read in its entirety as follows:

12-5-11: SURCHARGE FOR OUT-OF-TOWN VIOLATION OF TEMPORARY RESTRICTIONS ON USE OF WATER SYSTEM: Any out-of-Town water user found to have violated any restriction on the use of water from the Town's water system implemented by the Town Council pursuant to Section 12-1-14-1 of this Code shall be subject to a water surcharge in an amount established by the Town Council Resolution implementing such restrictions. Such Resolution may provide for graduated surcharge amounts based upon the number of violations which occur within a twelve month period. Water surcharges imposed pursuant to this Section may be collected in the manner set forth in chapter 6 of this title.

Section 4. 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 5. 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 6. 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 7. The Town Council of the Town of Breckenridge hereby finds, determines and declares that an emergency exists, and that this Ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety. Because of the current drought conditions, the Town Council finds and determines that the procedures set forth in this Ordinance should be put into place immediately so that the Town Council will have the authority to promptly implement actual restrictions on the use of the Town's water system at a later date in the event the drought worsens and such restrictions are necessary to protect the public health, safety and welfare. The Town Council further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Breckenridge.

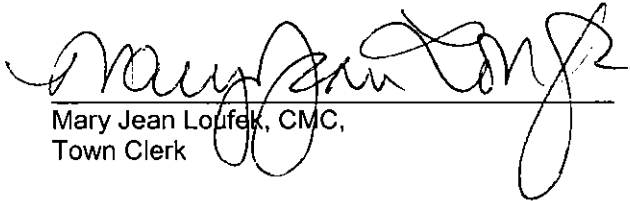
Section 8. Pursuant to Section 5.11 of the Breckenridge Town Charter this Ordinance shall take effect and be in full force upon adoption of this Ordinance by the affirmative votes of at least five (5) members of the Town Council.

Section 9. This Ordinance shall be published in full within ten (10) days after adoption, or as soon thereafter as possible, as required by Section 5.11 of the Breckenridge Town Charter.

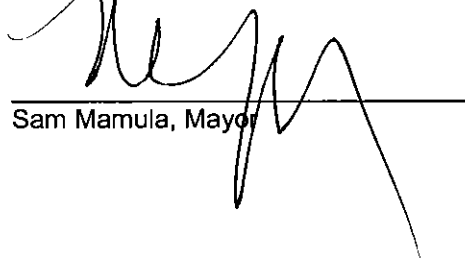
ADOPTED AND APPROVED as an Emergency Ordinance this 23rd day of July, 2002.

ATTEST:

TOWN OF BRECKENRIDGE



Mary Jean Loufek, CMC,
Town Clerk



Sam Mamula, Mayor

APPROVED IN FORM



Town Attorney

7/23/02
Date

The public hearing on this ordinance was held on July 23, 2002.

This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on August 2, 2002. A copy of this ordinance is available for inspection in the office of the Town Clerk.