

ORDINANCE NO. 39

Series 2002

AN ORDINANCE CONCERNING THE REGULATION OF LIVE, REMOTE RADIO BROADCASTS  
BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Town Council finds and determines as follows:

- A. Live, remote radio broadcasts are often intended to generate large crowds.
- B. Live, remote radio broadcasts may result in creation of loud noise through the use of amplified voice and music.
- C. Live, remote radio broadcasts may, if unregulated, degrade the environment of the Town of Breckenridge to a degree that:
  - (1) is harmful to the health, welfare, and safety of its inhabitants and the many visitors to the Town;
  - (2) interferes with the comfortable enjoyment of life and property;
  - (3) interferes with the well being, tranquility, and privacy of homes and other residential structures;
  - (4) interferes with the ability of merchants to attract and retain potential customers to their businesses; and
  - (5) creates an atmosphere which is inconsistent with the image of the community which the Town desires to maintain and foster.
- D. The potential negative impacts set forth in Paragraphs A, B and C, above, are of a particular concern in the Town's Conservation District because of the historic nature of the District, the potential for pedestrian and vehicular congestion within the District, and the residential and commercial uses which are located in close proximity within the District.
- E. A live, remote radio broadcast which is conducted outside of the Town's Conservation District does not have as many of the potential negative impacts as a similar broadcast held within the Conservation District.
- F. In certain instances, the negative impacts which might otherwise be associated with a live, remote radio broadcast may adequately be mitigated by the imposition of lawful conditions governing the time, place and manner in which such activity is conducted.
- G. A live, remote radio broadcast, when conducted as part of a special event to which all or a substantial part of the community is invited (either expressly or by implication), can be integrated with the event in such a way as to enhance the event for the benefit of the event sponsor (and the Town) while, at the same time, minimizing the potentially adverse impacts of the broadcast. This is true even within the Conservation District.
- H. The effective control of live, remote radio broadcasts is a proper use of the Town's land use and police powers.
- I. The classifications established in this Ordinance are not capricious, arbitrary or unreasonable.
- J. In adopting this Ordinance is not the intent or purpose of the Town Council to unlawfully abridge or interfere with the exercise of the right of free speech protected by the First Amendment to the United States Constitution, or the Colorado Constitution.

Section 2. Section 5-8-11 of the Breckenridge Town Code is hereby amended by the addition of a new Paragraph J, which shall read in its entirety as follows:

- J. Sound emitted from a live, remote radio broadcast, when authorized by a Class D Development Permit issued pursuant to Chapter 1 of Title 9 of this Code.

Section 3. The introductory paragraph Section 8-2-14(A)(2) of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

- 2. Sponsor Banners: Except as provided in Section 8-2-11(F) of this Chapter with respect to a Master Sponsor Banner Sign Plan, sponsor banners will be allowed when authorized by a Class D Development Permit. Such permit shall be subject to the follow conditions:

Section 4. There is hereby added to Section 9-1-5 of the Breckenridge Town Code a new definition of "Radio Broadcast" which shall read in its entirety as follows:

Radio Broadcast: A live, remote radio broadcast conducted by a radio broadcaster licensed to engage in such activity by the Federal Communications Commission.

Section 5. There is hereby added to the Section 9-1-19 of the Breckenridge Town Code a new Policy 44(Absolute), to be entitled "Radio Broadcasts", which shall read in its entirety as follows:

44. (Absolute) RADIO BROADCASTS: A Class D development permit shall be obtained to authorize a radio broadcast. Such application may be combined with a Class D development permit application for a banner and/or a Class D development permit application for a temporary structure. An application for a development permit to authorize a radio broadcast shall be subject to the following:

1. No permit shall be issued for a location within the Town's Conservation District. Exceptions: 1. A radio broadcast may be held within the Conservation District in connection with a special event held pursuant to a special event permit issued by the Town.
2. The radio broadcast must be conducted on private property. A radio broadcast may be conducted on commonly owned property if written permission for the broadcast may be obtained from the owner's association or similar group responsible for the management of the commonly owned property. Exception: A radio broadcast may be held on public property in connection with a special event held pursuant to a special event permit issued by the Town.
3. One Class D development permit may authorize more than one radio broadcast, if all of the radio broadcasts will occur on the same property of the applicant. No such permit shall be valid for more than six months from the date of issuance.
4. No permit shall be required if a radio broadcast is conducted entirely within the interior walls of a building or structure. The holding of such a radio broadcast shall be subject, however, to all applicable Town ordinances, including, but not limited to, the noise limits set forth in Chapter 8 of Title 5 of this Code.
5. Nothing in this Policy shall be interpreted or constructed as preventing the valid exercise of the right of free speech protected by the First Amendment to the United States Constitution or the Colorado Constitution.

Section 6. 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.

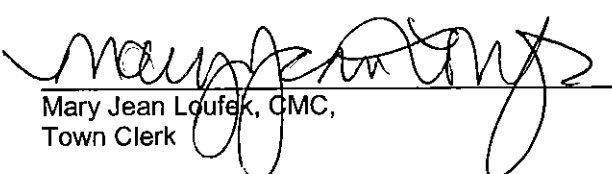
Section 7. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 8. 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.

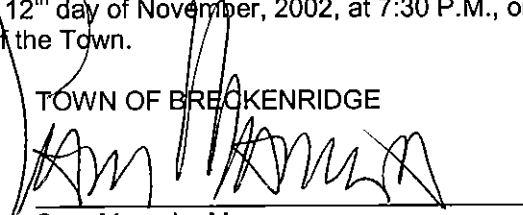
Section 9. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 22<sup>nd</sup> day of October, 2002. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 12<sup>th</sup> day of November, 2002, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

  
Mary Jean Loufek, CMC,  
Town Clerk

TOWN OF BRECKENRIDGE

  
Sam Mamula, Mayor

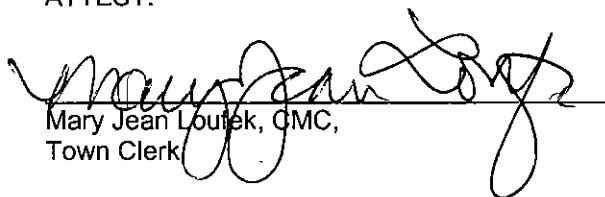
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on November 8, 2002.

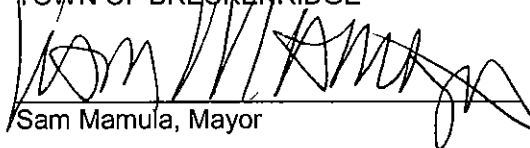
The public hearing on this ordinance was held on November 26, 2002, the date to which such hearing was lawfully continued.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL , this 26<sup>th</sup> day of November, 2002. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

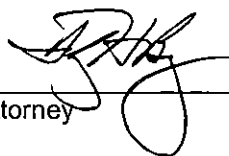
ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, GMC,  
Town Clerk

  
Sam Mamula, Mayor

APPROVED IN FORM:

  
Town Attorney

11/26/02  
Date

This ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on December 6, 2002.