

ORDINANCE NO. 5

Series 2002

AN ORDINANCE AMENDING TITLE 11 OF THE BRECKENRIDGE TOWN CODE BY THE ADOPTION OF PROVISIONS CONCERNING THE TOWN SURVEY OF MUNICIPAL STREETS, ALLEYS AND OTHER RIGHTS OF WAY

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

Section 1. There is hereby added to the Breckenridge Town Code a new Chapter 7 of Title 11, to be entitled "Town Right of Way Surveys", which shall read in its entirety as follows:

CHAPTER 7

TOWN RIGHT OF WAY SURVEYS

SECTION:

- 11-7-1: Title
- 11-7-2: Findings
- 11-7-3: Definitions
- 11-7-4: Town Council Authorization
- 11-7-5: Procedure For Adoption of Town Right of Way Survey Plat
- 11-7-6: Recording
- 11-7-7: Disclaimer
- 11-7-8: Disturbance of Town Survey Monumentation Prohibited

11-7-1: TITLE: This Chapter shall be known and may be cited as the "Town of Breckenridge Right of Way Survey Ordinance."

11-7-2: FINDINGS: The Town Council finds and determines:

A. The Town of Breckenridge owns and controls numerous public streets, alleys and other rights of ways.

B. The Town's streets, alleys and other rights of ways were often dedicated to the public on historic subdivision plats.

C. Some of the historic subdivision plats by which the Town acquired its streets, alleys and other rights of way date to the mid to late nineteenth century.

D. The locations of the Town's streets, alleys and other rights of way are in many cases unclear and uncertain.

E. *The public interest will be served by the adoption of a series of new survey plats which have been prepared by the Town and which locate, in so far as the Town is concerned, the Town's streets, alleys and other rights of way.*

F. The survey plats of the Town's streets, alleys and other rights of way adopted pursuant to this Chapter may be used in the future as survey control for preparation of new subdivision plats and other land surveys.

11-7-3: DEFINITIONS: For the purposes of this Chapter, the words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

TOWN SURVEY MONUMENT: An object or physical structure placed by the Town, or its agents, that marks the boundary of a Town street, alley or other Town-owned right of way.

TOWN RIGHT OF WAY SURVEY: A survey plat of a portion of the Town's public streets, alleys and other rights of way adopted by the Town Council pursuant to Section 11-7-4.

11-7-4: TOWN COUNCIL AUTHORIZATION: The Town Council is hereby authorized to adopt new survey plats depicting the location of the Town's streets, alleys and other rights of way.

11-7-5: PROCEDURE FOR ADOPTION OF TOWN RIGHT OF WAY SURVEY PLAT: A Town Right of Way Survey shall be adopted by Resolution of the Town Council.

11-7-6: RECORDING: Following adoption by the Town Council, the Town Clerk shall record a Town Right of Way Survey in the records of Summit County, Colorado.

11-7-7: DISCLAIMER: The Town Right of Way Survey is intended only to evidence the Town of Breckenridge's belief as to the proper location of the Town's streets, alleys and other rights of way. No Town Right of Way Survey is intended to create a cloud on the title of any real property, nor shall any Town Right of Way Survey be interpreted or construed so as to impair the bona fide legal rights or claims of any person. The provisions of this Section shall be set forth on the face of each Town Right of Way Survey that is recorded with Summit County.

11-7-8: DISTURBANCE OF TOWN SURVEY MONUMENTATION PROHIBITED: It shall be unlawful for any person to move, disturb or tamper with any Town Survey Monument. Any person convicted of violating this Section shall be punished as provided in Section 1-4-1 of this Code.

Section 2. 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 3. 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.

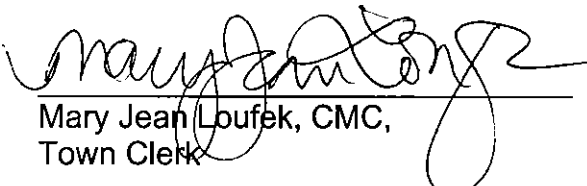
Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 5. 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 January, 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 February, 2002, 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

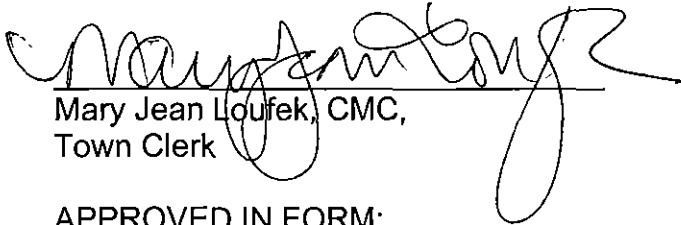
This ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on February 1, 2002.

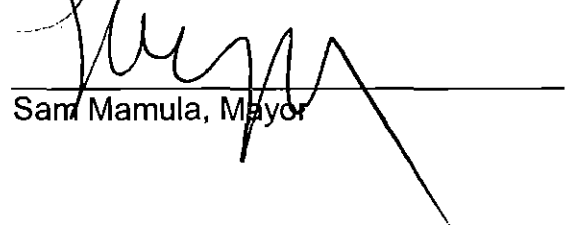
The public hearing on this ordinance was held on February 12, 2002.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 12<sup>th</sup> day of February, 2002. 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

2/12/02  
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on February 22, 2002.