

ORDINANCE NO. 64

Series 2003

AN ORDINANCE CONCERNING THE TREATMENT OF INOPERABLE MOTOR VEHICLES AS PUBLIC NUISANCES UNDER CHAPTER 1 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE

WHEREAS, Colorado municipalities are authorized by Section 31-15-401(1)(c), C.R.S., to declare what is a nuisance; to abate the same; and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist; and

WHEREAS, the Town Council of the Town of Breckenridge finds and determines that inoperable motor vehicles: (i) create an eyesore; (ii) impair the aesthetics of the Town; and (iii) create attractive nuisances which may present a danger to children.

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

Section 1. Section 5-1-4 of the Breckenridge Town Code is hereby amended by the addition of a new definition of "Motor Vehicle", which shall read in its entirety as follows:

MOTOR VEHICLE: A motor vehicle as defined in the Town of Breckenridge Traffic Code adopted in Chapter 1 of Title 7 of this Code, as from time to time amended.

Section 2: The definition of "Inoperable Vehicle" as set forth in Section 5-1-4 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

INOPERABLE VEHICLE: Any motor vehicle parked or left standing on any lot, tract or parcel anywhere within the Town which (i): is incapable of moving under its own power; or (ii) has a license plate which has been expired for more than ninety days. A motor vehicle which is completely enclosed within a building in a lawful manner so as to not be visible from a street or other public or private property is not an inoperable vehicle.

Section 3. Paragraph J of Section 5-1-7 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follow:

[The following are declared to be nuisances:]

J. Inoperable Vehicles: Any inoperable vehicle.

Section 4. Paragraph A of Section 5-1-9 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an authorized representative of the Town shall have reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, the Town Manager, Building Official, Chief of Police, any police officer or any community service officer may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on any of them. If such building or premises is occupied, such person shall first present proper credentials and demand entry; and if such building or premises is unoccupied, such person shall first make a reasonable effort to locate the owner, occupant or other person having charge or control of the building or premises and, upon locating said owner, occupant or other person having charge or control, shall present proper credentials and request entry. If entry is refused, such person shall give the owner, occupant or person in charge or control (or, if said owner or occupant cannot be located after a reasonable effort, he shall leave at the building or premises) a twenty four (24) hours' written notice of intention to inspect. The notice given shall state that the property owner, occupant or person in charge or control has the right to refuse entry, and that in the event that such entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge or a judge of any other court having jurisdiction.

Section 5. Section 5-1-9 of the Breckenridge Town Code is hereby amended by the addition of a new paragraph A.5, which shall read in its entirety as follows:

A.5 Whenever any of the persons enumerated in paragraph A of this section has reasonable cause to believe that a motor vehicle is an inoperable vehicle, such person may, upon the presentation of proper credentials, lawfully request the owner or person having charge or control of such vehicle to demonstrate if the vehicle is capable of moving under its own power. The owner or person having charge or control of such vehicle may lawfully refuse the request. If the request is refused, the person making the request shall give the owner or person having charge or control of the vehicle a twenty four (24) hour notice of intention to inspect in accordance with paragraph A of this section.

Section 6. Paragraph B of Section 5-1-9 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

B. After the expiration of said twenty four (24) hour period from the giving or leaving of the notice, the Town Manager, Building Official, Chief of Police, or police officer or community service officer, or any of them, may appear before the Municipal Judge and, upon a showing of probable cause, obtain a search warrant entitling such person to enter the building or motor vehicle or go upon such premises. Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, said person may enter into said building or motor vehicle or go upon said premises using such reasonable force as may be necessary to gain entry. If the search warrant authorizes the entry into a motor vehicle for the purpose of determining whether it is an inoperable vehicle, the person executing such warrant may lawfully inspect the vehicle to determine if it is capable of being operated under its own power.

Section 7. Paragraph C of Section 5-1-10 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

C. In the case of any nuisance not requiring summary abatement, the Town Manager or Chief of Police may cause a notice to be served upon the person responsible under this Chapter for any nuisance which may be found. Such notice shall require such person to abate the nuisance in a reasonable time and in such reasonable manner as may be prescribed. Such notice may be given or served by any police officer or community service officer. The reasonable time for abatement shall not exceed fourteen (14) days, unless: (i) it appears from the facts and circumstances that compliance could not reasonably be made within fourteen (14) days; (ii) the nuisance involves an inoperable vehicle which is dismantled or partially dismantled for maintenance or repairs; or (iii) that a good faith attempt at compliance is being made. In the case of a nuisance involving an inoperable vehicle which is dismantled or partially dismantled for maintenance or repairs, the reasonable time for abatement shall not exceed thirty (30) days. Such notice shall be in writing, signed by the Town official issuing the same, and shall be personally served upon the owner, occupant or person in charge or control of the premises upon which said nuisance exists or, if not occupied, then by posting the same prominently at some place on the premises upon which said nuisance exists. If service is by posting, then a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of such property as shown upon the tax rolls of Summit County, Colorado, at the address of such owner as therein shown. For good cause, the person who issued the notice described in this section may extend the time for abatement.

Section 8. The definition of "Refuse" as set forth in Section 5-2-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

RUBBISH: All wastes, garbage, refuse and litter, whether putrescible or nonputrescible, combustible or noncombustible, and including, but not limited to, grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, containers, boxes, glass, cans, bottles, wrappings, cigarettes, cardboard, branches, wood, bedding, crockery, rags, abandoned or unsafe household furnishings, carcasses of dead animals, discarded or waste building materials including, but not limited to, plaster, concrete pieces, bricks, cinder blocks, stone, wood, roofing materials, wire or metal binding, sacks and any and all other materials commonly known as rubbish or refuse.

Section 9. 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 10. 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 11. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of Section 31-15-401(1)(c), C.R.S., and the powers possessed by home rule municipalities in Colorado.

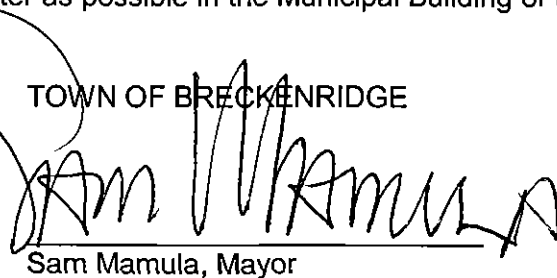
Section 12. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 11th day of November, 2003. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 25th day of November, 2003, 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

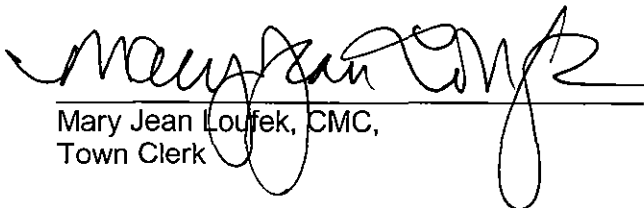
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on November 21, 2003.

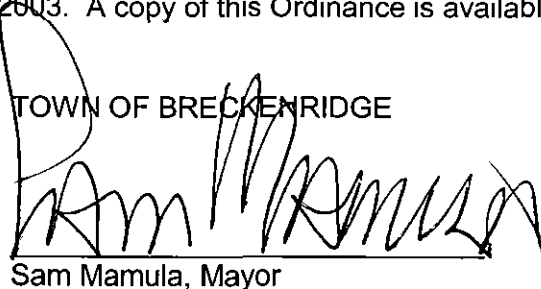
The public hearing on this ordinance was held on November 25, 2003.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH AMENDMENTS, this 25th day of November, 2003. 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

11/25/03
Date

This ordinance was published by title with amendments in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on December 5, 2003.