

ORDINANCE NO. 7

Series 2011

AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE WATER ORDINANCE"

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

Section 1. Section 12-1-6 of the Breckenridge Town Code is hereby amended by the addition of a new definition of "Town Water Easement (or easement)", which shall read in its entirety as follows:

TOWN WATER EASEMENT (OR EASEMENT):

An easement created in accordance with Colorado law that authorizes the Town to locate, operate, and maintain its underground water utility transmission lines and appurtenances, over, under, upon, across, in and through certain specified real property.

Section 2. Section 12-1-13 of the Breckenridge Town Code is amended by the addition of a new subsection C, which shall read in its entirety as follows:

C. If necessary for the Director or any Public Works employee to perform a lawful function described in the first sentence of this section, the Director or Public Works employee may temporarily use so much of the water using property as is required in order to perform the required act; provided, however, the Director or Public Works employee shall, at Town expense, clean up and restore any area outside of a Town water easement to its prior condition immediately following the use of such area, and provided, further, the Director or Public Works employee shall not use any portion of the water using property that is more than ten feet outside the boundaries of the Town water easement.

Section 3. Chapter 1 of Title 12 of the Breckenridge Town Code is hereby amended by the addition of a new Section 12-1-16, to be entitled "Resale of Water Prohibited", which shall read in its entirety as follows:

12-1-16: RESALE OF WATER PROHIBITED: No person shall resell water received from the water system. No water from the water system may be used on or at any premises other than the water using property specified in the application for water service submitted to the Town. This section does not apply to bulk water sold by the Town as authorized by this Chapter.

Section 4. Section 12-2-7 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

12-2-7: INSTALLATION AND MAINTENANCE OF CERTAIN WATER FACILITIES BY OWNER:

A. In addition to the provisions of Section 12-2-9 with respect to frozen water lines, it shall be the responsibility of the owner of a water using property to install and maintain the owner's individual service line and other related water facilities which extend from the stop-and-waste valve to the water using property. The stop-and-waste valve or sub-main loop valve shall be installed at or near the property line in an easement or right of way dedicated to the Town.

B. The Director has the authority to require the owner of a water using property to repair any leak in the owner's individual service line and other related water facilities within such reasonable period of time as may be established by the Director. In establishing a reasonable period of time for the repair of a leak, the Director shall take into consideration: (i) the location of the leak; (ii) the amount of water that is escaping from the leak; (iii) any threat to nearby buildings and structures posed by the leak; (iv) any threat to the Town's water system posed by the leak; (v) the time of year when the leak occurs; (vi) any practical construction difficulties the owner is likely to incur in repairing the leak; and (vii) all other relevant factors.

Section 5. Chapter 1 of Title 12 of the Breckenridge Town Code is hereby amended by the addition of a new Section 12-2-14-1 to be entitled "Use of Town Water Easement For Landscaping, Paving, and Other Uses; Town's Nonliability for Damage to Landscaping, Paving, or Other Property Placed With Town Water Easement", which shall read in its entirety as follows:

**12-2-14-1: USE OF TOWN WATER EASEMENT FOR LANDSCAPING, PAVING, AND OTHER USES; TOWN'S NONLIABILITY FOR DAMAGE TO LANDSCAPING, PAVING, OR OTHER PROPERTY PLACED WITHIN TOWN WATER EASEMENT:**

A. The owner of real property abutting a Town water easement may place: (i) grass, trees, shrubs, and similar landscaping items, and (ii) asphalt and other surface paving materials, within the easement without prior authorization from the Town. The Town Manager may also authorize the owner of real property abutting a Town water easement to place other items of personal property within the Town's easement if the Town Manager determines that the placement of such personal property within the easement will not interfere with the Town's lawful exercise of its rights under the easement.

B. Any person who places any landscaping, asphalt or other surface paving material, or any other personal property, within a Town water easement does so at such person's own risk. If any landscaping, asphalt or other surface paving material, or other personal property located within a Town water easement, is removed, damaged, or destroyed by the Town, or its contractors, in the lawful exercise of the Town's rights under the Town's water easement, the Town is not liable for such damage or destruction under any legal theory, and the owner of such property shall bear all costs associated with the replacement or repair of such landscaping, asphalt or other surface paving material, or personal property.

Section 6. Section 12-2-23 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

**12-2-23: WATER METER MAINTENANCE AND TESTING:**

All water meters and remote readouts shall be maintained by the Town. Subject to the fee provided in Section 12-4-22, all water meters and remote readouts shall be tested and repaired by the Town as necessary. All meter pits, vaults, covers, and meter risers located in a Town right of way or a Town easement shall be maintained by the Town.

Section 7. Section 12-4-14 of the Breckenridge Town Code is amended so as to read in its entirety as follows:

**12-4-14: BULK WATER:** The rate for each one thousand (1,000) gallons of bulk water sold by the Town shall be \$20.00. In addition, a connection fee of \$100, and a \$1,000 deposit shall be collected at the time of each bulk water sale. The damage deposit, less any amount necessary to reimburse the Town for damage to the Town's water meter and hydrant arising from the sale and delivery of the bulk water, shall be returned to the purchaser of the bulk water within thirty (30) days after the sale.

Section 8. Chapter 4 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-4-22, which shall read in its entirety as follows:

**12-4-22: FEE TO CHECK WATER METER:** At the request of a water user the Town shall, at the Town's expense, check the accuracy of the water user's water meter. There shall be no fee for the first water meter accuracy check. The fee for the second and each subsequent water meter accuracy check requested by the same water user shall be one hundred dollars (\$100.00). The fee established by this Section shall be a water charge within the meaning of Section 12-1-6 of this Title, and shall be due and payable to the Town at the same time and in the same manner as other water charges are due and payable to the Town under this Chapter.

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.

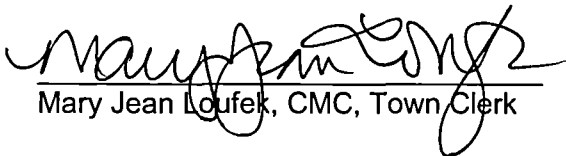
Section 10. The Town Council hereby finds, determines, and declares that it has the power to adopt this ordinance pursuant to the provisions of: (i) Section §31-35-402, C.R.S.; (ii) Article XIII of the Breckenridge Town Charter; and (iii) the powers possessed by home rule municipalities in Colorado.

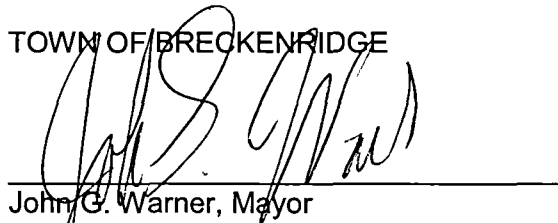
Section 11. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 8<sup>th</sup> day of February, 2011. A Public Hearing on the ordinance shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado, on the 22<sup>nd</sup> day of February, 2011 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

  
John G. Warner, Mayor

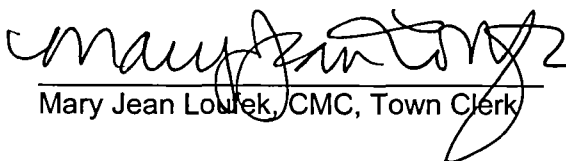
This Ordinance was published in full on the Town of Breckenridge website, on February 10, February 11, February 12, February 13, February 14, 2011.

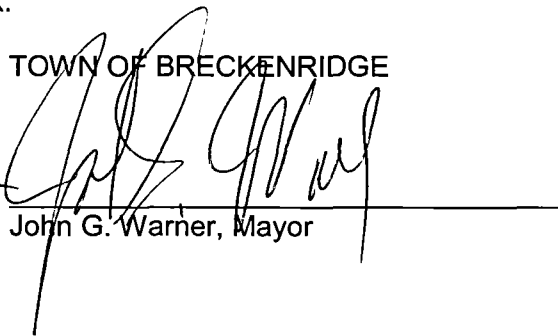
The public hearing on this ordinance was held on February 22, 2011.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 22<sup>nd</sup> day of February, 2011. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

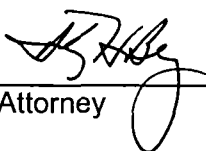
ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, CMC, Town Clerk

  
John G. Warner, Mayor

APPROVED IN FORM

  
Town Attorney

2/22/11  
Date

This Ordinance was published on the Town of Breckenridge website on February 24, February 25, February 26, February 27, and February 28, 2011. This ordinance shall become effective on March 30, 2011.