

ORDINANCE NO. 11

Series 2014

AN ORDINANCE AMENDING TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE WATER ORDINANCE", BY ADOPTING PERMANENT CONSERVATION MEASURES RELATED TO OUTDOOR WATERING AND OTHER SPECIFIED USES OF WATER FROM THE TOWN'S WATER SYSTEM; PROVIDING EXEMPTIONS FROM SUCH CONSERVATION MEASURES; AND PROVIDING PROCEDURES AND PENALTIES FOR THE VIOLATION OF SUCH CONSERVATION MEASURES

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

Section 1. Section 12-1-14-1 of the Breckenridge Town Code is amended to read as follows:

12-1-14-1: TEMPORARY CONSERVATION MEASURES: 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 additional conservation measures related to 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 conservation measures related to use of water by customers of the Town's Water System in addition to those permanent conservation measures provided for in Section 12-1-21. Any additional conservation measures related to use of water from the Town's Water System implemented by the Town Council pursuant this Section may contain such additional conservation measures related to the use of water from the Town's Water System, or procedures related to the enforcement of such conservation measures, 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 1 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-1-21 to read as follows:

12-1-21: PERMANENT CONSERVATION MEASURES RELATED TO THE USE OF WATER FROM THE TOWN'S WATER SYSTEM; EXEMPTIONS; PROCEDURES AND PENALTIES:

A. As used in this Section the following terms have the following meanings:

OUTDOOR WATERING: Means the watering of any plant, lawn, garden, tree, landscaping, flower, shrub, bush, or any other vegetation that occurs outside of the exterior walls of any structure.

STRUCTURE: Has the meaning provided in Section 9-1-5 of this Code.

B. It is an unlawful and an infraction for any person to use water from the Water System for any of the following purposes:

1. To engage in outdoor watering, except when done in accordance with the requirements of Subsections C(1) through C(6) of this Section;
2. To wash any motor vehicle, except when done in accordance with the requirements of Subsection C(7) of this Section; and
3. To wash off or clean any parking lot, driveway, parking area, or other exterior furnishings or paved or hardscaped surface, except when done in accordance with Subsection (C)(8) of this Section.

C. Subsection B(1) of this Section shall not apply to the following uses of water from the Water System:

1. Outdoor watering when done in accordance with the following permanent conservation measures:
 - (a) outdoor watering is permitted only three days each calendar week (Monday through the next Sunday) as described in Subsections C(1)(b) and C(1)(c) of this Subsection.
 - (b) outdoor watering on properties located east of the centerline of: (i) Main Street; or (ii) Colorado Highway 9 north of Park Avenue and Colorado Highway 9 south of Park Avenue, whichever is applicable, may lawfully occur only on Sundays, Wednesdays, and Fridays of each week.
 - (c) outdoor watering on properties located west of the centerline of: (i) Main Street; or (ii) Colorado Highway 9 north of Park Avenue and Colorado Highway 9 south of Park Avenue, whichever is applicable, may lawfully occur only on Tuesdays, Thursdays, and Saturdays of each week.
 - (d) no outdoor watering is permitted on any property within the Town on Mondays of each week.
 - (e) on days when outdoor watering is permitted, it may occur only between the hours of 5:00 P.M. and 9:00 A.M. of the following day.
 2. Outdoor watering by drip irrigation, or by hand using only a watering can or a hose with a shut-off nozzle.
 3. Outdoor watering of new lawns and landscaping for the first two years after installation.
 4. Outdoor watering of public school property (including, but not limited to, public school athletic fields).
 5. Outdoor watering within the Town's public parks.
 6. Outdoor watering at the Town's municipal golf course.
 7. The non-commercial outdoor washing of a personal motor vehicle if the vehicle is washed using only a bucket or a hose with a shut-off nozzle.
 8. Washing off or cleaning any parking lot, driveway, parking area, or other exterior furnishings or paved or hardscaped surface using a hose with a shut-off nozzle.
- D. Nothing in this Section prohibits the use of water from the Water System to clean the concrete areas of street medians.
- E. Any person found to have violated any provision of Subsection B of this Section shall be punished as follows:
1. First violation – warning only (no fine);
 2. Second violation - \$250.00 fine;
 3. Third violation - \$500.00 fine; and
 4. Fourth and each subsequent violation - \$750.00 fine
- F. Each day during any portion of which a violation of Subsection B of this Section occurs shall be a separate violation.
- G. Any fine imposed for a violation of Subsection B of this Section that is not paid within 45 days of the date of imposition of the fine shall be a "water charge" within the meaning of Section 12-1-6, and the collection procedures of Chapter 6 of this Title, including, but not limited to, the discontinuance of water service provision of Section 12-6-4, shall apply to the collection of such

unpaid fine.

- H. Except as provided in Subsection H(10) with respect to a fourth or subsequent violation, at the time a person is charged with a violation of Subsection B of this Section the defendant shall be issued or tendered a penalty assessment notice in accordance with the following procedures:
1. A penalty assessment notice shall be signed and served on or tendered to the defendant and shall contain the information required to be contained in a municipal summons and complaint by Rule 204 of the Colorado Municipal Court Rules of Procedure; the amount of the prescribed fine for the alleged violation; and the date the penalty assessment notice is served on the defendant. The notice shall direct the defendant to appear in the Municipal Court on a specified date, time, and place in the event the prescribed penalty is not paid. The notice shall also contain any additional information that is required to convert the penalty assessment notice into a summons and complaint should the penalty not be paid within the time allowed.
 2. The time specified in the penalty assessment notice for an appearance if the defendant fails to pay the penalty shall be at least thirty (30) days and not more than ninety (90) days after the date the penalty assessment notice is issued.
 3. One copy of the penalty assessment notice shall be served upon the defendant, and the remaining copy shall be filed with the Clerk of the Municipal Court.
 4. The fine specified in the penalty assessment notice may be paid at the office of the Clerk of the Municipal Court in person on or before the appearance date; or by postmarking such payment not less than ten (10) days before the appearance date.
 5. If the defendant fails to pay the penalty on the penalty assessment notice on or before the appearance date, then the defendant shall appear at the Municipal Court on the date and time specified in the notice and answer the complaint against him or her.
 6. If the defendant fails to appear on the date and time specified in the penalty assessment notice and answer the complaint against him or her, or if the defendant appears and answers that he or she is liable for the alleged violation, judgment shall be entered against the defendant.
 7. If the defendant denies the allegations in the penalty assessment notice or complaint, a final hearing shall be held before the Municipal Court.
 8. If judgment is entered against a defendant, he or she shall be assessed the fine specified in the penalty assessment notice, plus any applicable surcharge, court costs, and other applicable fees.
 9. In no event shall a bench warrant be issued for the arrest of any person who fails to appear for a final hearing on an infraction charged under this Subsection B of this Section. Subject to the provisions of Chapter 6 of this Title, entry of judgment and assessment of the fine, costs, and applicable fees as provided herein shall constitute the sole penalties for failure to appear for the final hearing, or for being found liable for the violation.
 10. Penalty assessment procedures shall not apply when it appears that the offense is a fourth or any subsequent alleged violation of any provision of Subsection B of this Section. A person charged with a fourth or subsequent violation of any provision of Subsection B of this Section shall be issued a summons and complaint in accordance with the Colorado Municipal Court Rules of Procedure, and shall be required to appear in court to answer the charges against him or her.

Section 3. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-1-22 to read as follows:

12-1-22: RESTRICTION ON THE SALE OF BULK WATER: Bulk water may not be sold by the Town for the purpose of providing water to wash off or clean any parking lot, driveway, parking area, or other exterior paved or hardscaped surface.

Section 4. Chapter 5 of Title 12 of the Breckenridge Town Code is amended by the addition of a new Section 12-5-12 as follows:

12-5-12: SURCHARGE FOR OUT-OF-TOWN VIOLATION OF PERMANENT CONSERVATION MEASURES RELATED TO THE USE OF THE WATER SYSTEM:

- A. Any out of town water user found to have violated the permanent conservation measures related to the use of use of water from the Town's Water System described in Section 12-1-21 shall be subject to a water surcharge of one and one-half times the amount of the fine for such a violation as described in Section 12-1-21. Water surcharges imposed pursuant to this Subsection A may be collected in the manner set forth in Chapter 6 of this Title.
- B. It shall be a term and condition of each out of town water service contract that the water user shall comply with the permanent conservation measures related to the use of water from the Town's Water System described in Section 12-1-21. The fourth instance of noncompliance with the permanent conservation measures related to the use of water from the Town's Water System described in Section 12-1-21 shall be grounds for the discontinuance of water service.

Section 5. Section 12-6-10(A) of the Breckenridge Town Code is amended to read as follows:

- A. Except as provided in Section 12-1-21, every person convicted of a violation of any provision of this Title shall be punished as provided in Section 1-4-1 of this Code.

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: (i) Section 31-35-402(1)(f), C.R.S. (concerning municipal water systems); (ii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iii) Section 31-15-401, C.R.S.(concerning municipal police powers); (iv) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (v) the powers contained in the *Breckenridge Town Charter*.

Section 9. This ordinance shall be published as provided by Section 5.9 of the *Breckenridge Town Charter*, and shall become effective June 1, 2014.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 8th day of April 10, 2014.

This ordinance was published in full on the Town of Breckenridge website on April 10, April 11, April 12, April 13, and April 14, 2014.

A public hearing on this ordinance was held on April 22, 2014.

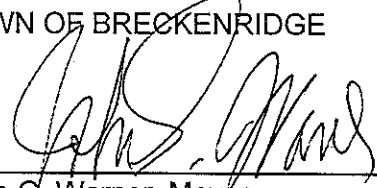
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 22nd day of April, 2014. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE




Helen Cospolich, Town Clerk

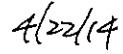


John G. Warner, Mayor

APPROVED IN FORM



Town Attorney



Date

This Ordinance was published on the Town of Breckenridge website on April 24, April 25, April 26, April 27 and April 28, 2014. This ordinance shall become effective on May 28, 2014.