

ORDINANCE NO. 12

Series 2014

AN ORDINANCE AMENDING SECTION 7-3-6 OF THE BRECKENRIDGE TOWN CODE  
CONCERNING TOW HEARINGS

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

Section 1. Section 7-3-6 of the Breckenridge Town Code is amended to read as follows:

7-3-6: TOW HEARING:

- A. The owner of any vehicle that has been towed by the Town, or the owner's agent, shall have the opportunity to request a hearing concerning the legality of the towing of the vehicle. Such request shall be made in writing within ten (10) days after the notice was sent by the Town pursuant to Section 42-4-1804(4), C.R.S., if the tow was made pursuant to Section 7-3-2, "Unlawful Abandonment Of Vehicle On Public Property", or within ten (10) days of the date of the tow, if the tow was made for any other reason. The tow hearing shall be conducted before a hearing officer appointed by the Town Manager, or before the Municipal Judge, within seventy two (72) hours (excluding Saturdays, Sundays and Town holidays) of receipt of a written request for such hearing if the vehicle is still impounded when the request for the hearing is made, or within thirty (30) days of receipt of a written request for such hearing if the vehicle is not impounded when the request for the hearing is made, unless the person requesting the hearing waives the right to a speedy hearing. The sole issue before the hearing officer or Municipal Judge shall be whether there was reasonable grounds cause to impound the vehicle in question. "Reasonable grounds to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was a sufficient breach of municipal, state or federal law to grant legal authority for the removal of the vehicle.
- B. The hearing shall be conducted in an informal manner and shall not be governed by technical rules of evidence. The hearing may be conducted by telephone or other remote electronic means if so ordered by the hearing officer or the Municipal Judge. The person requesting the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The Breckenridge Police Department shall carry the burden of establishing that there was reasonable grounds to impound the vehicle in question. The hearing officer or Municipal Judge shall only determine that, as to the vehicle in question, either: 1) there was reasonable grounds to impound the vehicle, or 2) there was not reasonable grounds to impound the vehicle. The decision of the hearing officer or Municipal Judge is final.
- C. Upon a finding of no reasonable grounds, towing and storage fees shall be paid by the Town in accordance with arrangements made between the Town and the operator. If a bond was posted pursuant to subsection 7-3-5B of this Chapter, said bond shall be returned to the person who posted the bond. If the vehicle is impounded and the owner of the vehicle or the owner's agent fails to claim the vehicle from the operator within six (6) hours of a finding of no reasonable grounds to tow, excluding such days when the operator is not open for business, the person who requested the hearing shall assume liability for all subsequent storage charges. Unless the owner of the vehicle was present at the hearing, it shall be the responsibility of the Breckenridge Police Department to notify the owner in writing of a finding of no reasonable grounds to tow immediately after such finding is made.
- D. If reasonable grounds to tow are found, the owner of the vehicle may have the vehicle returned to him or her upon payment of the towing fees, all unpaid parking citations involving the vehicle (if any), accrued storage fees, and a reasonable administrative fee assessed by the Town to offset the Town's costs incurred in processing the towed vehicle.
- E. Failure of the owner of the vehicle in question to request a hearing or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

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 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 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 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.

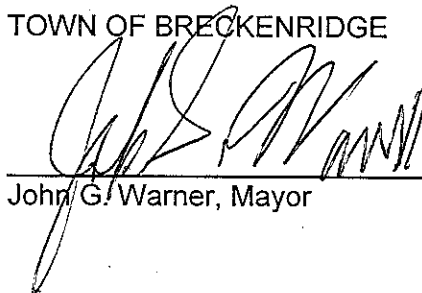
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 22nd day of April, 2014. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

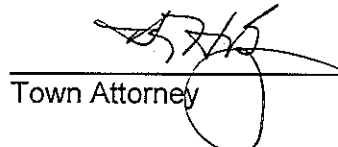


Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

4/22/14

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.