

ORDINANCE NO. 32

Series 2014

AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING PENALTY ASSESSMENT NOTICES AND THE AUTHORITY OF COMMUNITY SERVICE OFFICERS

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

Section 1. Section 1-8-12(K) of the Breckenridge Town Code is amended to read as follows:

- K. Penalty Assessment and Municipal Court Procedure.
1. Except as provided in Subsection (K)(2), below, any offense described in this Code as an infraction may be written using a penalty assessment procedure if the offense is listed on the Municipal Judge's list of designated violations the penalties for which may be paid at the office of the Municipal Court Clerk as described in Rule 210(b)(5) of the Colorado Rules of Municipal Court Procedure.
 2. The penalty assessment procedure may not be used for:
 - A. Any violation of this Code that is not listed on the Municipal Judge's list of designated violations the penalties for which may be paid at the office of the Municipal Court Clerk;
 - B. Offenses resulting in an accident causing personal injury, death, or appreciable damage to the property of another;
 - C. Reckless driving;
 - D. Exceeding the speed limit by more than twenty-four miles per hour; or
 - E. Exhibition of speed or speed contest.
 3. Penalty assessment procedures shall not apply where the defendant is charged with two (2) or more violations, any one (1) of which is a criminal violation requiring a court appearance.
 4. The Municipal Judge shall establish appropriate practices and procedures for infraction cases involving minor defendants under the age of eighteen (18) years.
 5. At the time a person is charged with an infraction for which a penalty assessment notice may be issued as provided in this Section (K) the defendant may be issued or tendered a penalty assessment notice in accordance with the following procedures:
 - A. 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 fine or penalty specified by the Municipal Judge in the schedules adopted pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure for the violation charged, and the surcharge, costs, and other applicable fees; 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 fine or penalty, surcharge, costs, and applicable fees are 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 fine or penalty, surcharge, costs, and applicable fees not be paid within the time allowed.
 - B. The date and 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.
 - C. 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.

- D. If the defendant refuses to accept service of the penalty assessment notice when such notice is tendered, the officer shall issue a summons and complaint in accordance with the Colorado Municipal Court Rules of Procedure.
- E. The fine or penalty, surcharge, costs, and applicable fees may be paid by the defendant at the office of the Clerk of the Municipal Court, either in person or by postmarking such payment within twenty (20) days from the date the penalty assessment notice is served upon the defendant.
- F. A defendant who does not furnish satisfactory evidence of identity or who the officer has reasonable and probable grounds to believe will disregard the summons portion of such notice may be issued a penalty assessment notice only if the defendant consents to be taken by the officer to the nearest mailbox and to mail the amount of the fine or penalty, surcharge, costs, and applicable fees to the Clerk of the Municipal Court.
- G. Acceptance of a penalty assessment notice and payment of the prescribed fine or penalty, surcharge, costs, and applicable fees to the Clerk of the Municipal Court shall be deemed a complete satisfaction for the violation, and the defendant shall be given a receipt which so states when such fine or penalty, surcharge, costs, and applicable fees are paid in currency or other form of legal tender.
- H. Should the defendant accept service of the penalty assessment notice but fail to pay the prescribed fine or penalty, surcharge, costs, and applicable fees within twenty (20) days after service of the notice, the penalty assessment notice shall be converted into and construed to be a summons and complaint, and 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. The case shall thereafter be heard in the Municipal Court.
- I. If the defendant fails to appear on the date and time specified in the penalty assessment notice and answer the complaint, or if the defendant appears and answers that he or she is liable for the alleged violation, judgment shall be entered against the defendant in accordance with such procedures as may be established by the Municipal Judge.
- J. If the defendant denies the allegations in the penalty assessment notice or complaint, a final hearing shall be held before the Municipal Court.
- K. If judgment is entered against a defendant, he or she shall be assessed the fine or other penalty specified in the penalty assessment notice, plus any applicable surcharge, costs, and fees.
- L. 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 Code. The entry of judgment and assessment of the fine or penalty, surcharge, 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.
- M. In the event of a conflict between the penalty assessment requirements and procedure described in this Section (K) and the penalty assessment procedure set forth in Chapter 1 of Title 7 of this Code concerning the Town's Traffic Code, the provisions of Chapter 1 of Title 7 shall control.

Section 2. The caption of Section L of Section 1-8-12 of the Breckenridge Town Code is amended to read "L. Enforcement of Default Judgment."

Section 3. Section 2-1-6(A) of the Breckenridge Town Code is amended to read as follows:

- A. Any duly appointed community service officer of the police department is authorized, as part of his or her duties, to issue a summons and complaint, penalty assessment notice, or other appropriate citation into the Municipal Court for any alleged violation of any ordinance or code of the Town of Breckenridge, except an alleged violation of Title

6, Chapter 3, Articles A through H] of this Code; provided that a duly appointed community service officer is authorized to issue a summons and complaint, penalty assessment notice, or other appropriate citation into the Municipal Court for an alleged violation of Section 6-3B-12 (Parking Motor Vehicle On Private Ground); Section 6-3B-18 (Unlawful Use of Skiing Facilities); Section 6-3H-2 (Distribution of Handbills) and Section 6-3H-5 (Riverwalk Restrictions). To the extent permitted by law, and for the sole purpose of issuing Municipal Court summons and complaints, penalty assessment notices or other citations as authorized by this section, a community service officer shall be deemed to be a peace officer duly authorized law enforcement officer within the meaning of Rule 203(d) of the Municipal Court Rules of Procedure.

Section 4. Section 2-1-6(B) of the Breckenridge Town Code is deleted.

Section 6-3I-9(B) of the Breckenridge Town Code is amended to read as follows:

B. At the time that any person is arrested for the commission of a violation of Section 6-3I-3 (Unlawful Possession of Marijuana), Section 6-3I-4 (Open and Public Consumption or Use of Marijuana), (6-3I-6 (Unlawful Transfer of Marijuana to Person Twenty-One Years of Age or Older), or Section 6-3I-7 (Open Containers of Marijuana Prohibited) the arresting officer may offer to give a penalty assessment notice to the defendant. The provisions of Section 1-8-12(K) of this Code shall apply to such penalty assessment notice.

Section 5. 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 6. 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 7. 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 8. This ordinance applies to any violation of the Breckenridge Town Code occurring on or after the effective date of this ordinance.

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

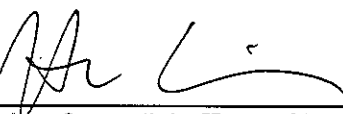
INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this 14th day of October, 2014.

This ordinance was published in full on the Town of Breckenridge website on October 16, October 17, October 18, October 19 and October 20, 2014.

A public hearing on this ordinance was held on November 11, 2014.

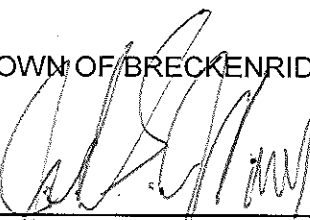
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE
TOWN'S WEBSITE this 11th day of November, 2014. A copy of this Ordinance is available for
inspection in the office of the Town Clerk.

ATTEST:



Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE



John G. Warner, Mayor

APPROVED IN FORM

 11/11/14
Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on November 13, November 14, November 15, November 16 and November 17, 2014. This ordinance shall become effective on December 17, 2014.