

ORDINANCE NO. 20

Series 2022

AN ORDINANCE ADOPTING TIMELINE FOR NOTICE AND RELOCATION OF FACILITIES AND IN CONNECTION THEREWITH ADOPTING FINES AND PENALTIES FOR FAILURE TO COMPLY

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

Section 1. That Title 11 entitled "Public Ways and Property" be amended by adding a new Chapter 10 entitled "Relocation of Facilities" as follows:

CHAPTER 10

RELOCATION OF FACILITIES

A. Definitions. For purposes of enforcement of this chapter, the following terms shall mean:

1. Facility or facilities: any works or improvements used or useful in providing electric, communication, gas, and water service including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances. The term facility easement shall be interpreted to include public utility easement.

2. Person: any individual, partnership, firm, company, association, corporation, limited liability company or governmental entity.

B. Relocation obligation. A person shall temporarily or permanently remove, relocate, change or alter the position of any facility in: (i) Town streets; (ii) public facility easements in Town streets or other Town property; or (iii) in any other Town property at no cost or expense to the Town whenever the Town determines such relocation is necessary for the completion of any public project. For all relocations, a person and the Town agree to cooperate on the location and relocation of the facilities in the most efficient and cost-effective manner possible, the terms of which are set forth in a permit issued by the Town engineer. Notwithstanding the foregoing, once a person has relocated any facility at the Town's direction, if the Town requests that the same facility be relocated within two years, the subsequent relocation shall not be at the person's expense. Nothing provided herein shall prevent a person from recovering its relocation costs and expenses from third parties.

C. Relocation performance. Relocation required by this chapter shall be completed within a reasonable time, not to exceed 60 (sixty) days from the later of the date on which the Town engineer requests, in writing, that the relocation commence, or the date when a person is provided all supporting documentation. A person subject to this chapter shall notify the Town engineer within 20 (twenty) days of receipt of the request if the supporting documentation is insufficient to complete the project. The timeframes in this section may be extended as follows:

1. Any revision by the Town of supporting documentation provided to a person that causes a person to substantially redesign and/or change its plans regarding facility relocation shall be deemed good cause for a reasonable extension of time to complete the relocation under this chapter.

2. A person shall receive an extension of time to complete a relocation where relocation performance was delayed due to force majeure or the failure of the Town to provide adequate supporting documentation. The person notified about the duty to relocate has the burden of presenting evidence to reasonably demonstrate the basis for the delay.

3. Upon written request from a person subject to relocation under this chapter, the Town may also grant a person reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

D. Completion. Each relocation shall be complete only when a person restores the relocation site in accordance with permits issued by the Town engineer, and removes from the site or properly abandons on-site all unused facilities, equipment, material and other impediments.

E. Coordination. When requested in writing by the Town or a person, representatives of the Town and the person shall meet to share information regarding coordination of anticipated projects that will require relocation of facilities in the Town. Such meetings shall be for the purpose of minimizing conflicts where possible and to facilitate coordination with any reasonable timetable established by the Town engineer for any public project.

F. Notice. The Town shall provide a person with one year's advance notice of any planned street repaving to the extent the Town has such information. A person shall make reasonable best efforts to complete any necessary or anticipated repairs or upgrades to facilities that are located underneath the street within the one-year period if practicable.

G. Proposed alternatives or modifications. Upon receipt of written notice of a required relocation, a person may propose an alternative to or modification of the public project requiring the relocation in an effort to mitigate or avoid the impact of the required relocation of facilities. The Town shall in good faith review the proposed alternative or modification. The acceptance of the proposed alternative or modification shall be at the sole discretion of the Town. In the event the Town accepts the proposed alternative or modification, a person agrees to promptly compensate the Town for all additional costs, expenses, or delay that the Town reasonably determines resulted from the implementation of the proposed alternative.

H. Town revision of supporting documentation.

I. Rules and Regulations. The Town engineer has the power and authority to adopt rules and regulations to implement this chapter.

J. Enforcement, fines and penalties.

1. The Town engineer shall enforce all provisions found in this chapter against any person except where a person has a franchise agreement with the Town with different or conflicting provisions. In such case, the franchise agreement shall control. A person who fails to comply with this chapter is subject to the following penalties:

2. It is a violation of this chapter to maintain overhead electric distribution lines or telecommunication lines including circumstances governed by the Town of Breckenridge Development Code.

3. It is a violation of this chapter if a person fails to relocate facilities within the timeframes established by this chapter or, if an extension is granted, as set forth in the extension granted in writing by the Town engineer.

4. Any person found in violation of this section shall be subject to a fine of up to \$2,650.00 per day for each day in which the facilities remain in place. In addition to the penalties in this chapter, the Town may seek any appropriate remedy, including delay damages and

equitable relief to secure compliance with this Chapter and to preserve the Town's interest in Town streets or other Town property.

5. After providing notice and the opportunity for relocation, if a person fails to comply with the terms and conditions of this chapter and any permits issued, the Town may cause any work to be done to relocate any facilities and bill the person for the cost of repair. In circumstances where the Town causes such work to be done, the Town shall not be liable for the work.

Section 2. 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.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 14th day of June, 2022.

This ordinance was published in full on the Town of Breckenridge website on June 17, June 18, June 19, June 20 and June 21, 2022.

A public hearing on this ordinance was held on June 28, 2022.

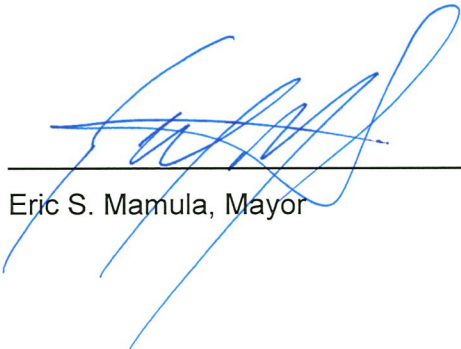
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 28th day of June, 2022. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE




Helen Cospolich, CMC, Town Clerk

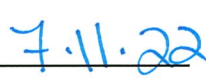


Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney



Date

This Ordinance was published on the Town of Breckenridge website on June 29, June 30, July 1, July 2 and July 3, 2022. This ordinance shall become effective on August 2, 2022.