

ORDINANCE NO. 1

Series 2017

AN ORDINANCE ADOPTING CHAPTER 8 OF TITLE 11 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PLACEMENT OF SIGNS ON TOWN-OWNED PROPERTY

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

Section 1. Title 11 of the Breckenridge Town Code is amended by the addition of a new Chapter 8, to be entitled "Signs On Town-owned Property," which shall read as follows:

CHAPTER 8

SIGNS ON TOWN-OWNED PROPERTY

SECTIONS:

- 11-8-1: Authority
- 11-8-2: Legislative Findings and Purpose
- 11-8-3: Regulatory Scope
- 11-8-4: Definitions
- 11-8-5: Private Signs Prohibited on Town-owned property; Exceptions
- 11-8-6: Governmental Signs Allowed on Town-owned property
- 11-8-7: Town's Street Banner Program
- 11-8-8: Authority to Remove Signs From Town-owned Property
- 11-8-9: Penalties and Remedies
- 11-8-10: Rules and Regulations

11-8-1: AUTHORITY:

- A. In adopting this Chapter the Town Council acts in its proprietary capacity as to Town-owned property. This Chapter is adopted pursuant to the Town's general powers and its right and power to control its own property.
- B. In adopting this Chapter the Town Council also acts as a proprietor managing its own internal operations.
- C. It is not the intent of this Chapter to make any Town-owned real property subject to the requirements of the Town's Development Code (Chapter 1 of Title 9 of the Code).

11-8-2: LEGISLATIVE FINDINGS AND PURPOSE: The Town Council finds and determines as follows:

- A. The Town is widely known for its high mountain setting, its natural beauty, and its aesthetic charm.
- B. The Town's economy is tourist-based, and it is essential to the continued economic vitality of the Town that the aesthetic appeal of the Town be preserved and enhanced.
- C. The purpose of this Chapter is to establish a process for the Town to engage in its own expressive conduct with respect to the placement of signage evidencing the Town's own speech, and signage evidencing the speech of other governmental entities of which the Town approves, on Town-owned property. Such signage is meant to convey and have the effect of conveying a government message.
- D. Government speech has not been held to the same standards as normally apply to the regulation of speech under the First Amendment to the United States Constitution.
- E. All speech permitted under this Chapter shall be deemed to be the speech of the

Town, or speech of which the Town approves.

11-8-3: REGULATORY SCOPE: This Chapter primarily regulates signs and other forms of government speech conveyed by the Town and other governmental entities. Signs that may lawfully be placed on Town-owned property by the Town or other governmental entities pursuant to this Chapter do not require a sign permit issued pursuant to Chapter 2 of Title 8 of this Code, or other formal approval by the Town. Signage on property other than Town-owned property is regulated by Chapter 2 of Title 8 of this Code.

11-8-4: DEFINITIONS:

A. As used in this Chapter, the following words have the following meanings:

- BANNER SIGN:** A strip of cloth or other flexible material on which a sign or message is painted calling attention to the Town, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community.
- DIRECTOR:** The Town's Director of Community Development, or such person's designee.
- PLACE (A SIGN):** To install, place, display, locate, erect, or maintain a sign. The term also includes changing the copy or message on a sign.
- PRIVATE SIGN:** Any sign placed on Town-owned property that is not owned by the Town or another governmental entity.
- SPECIAL EVENT:** An event and/or activity: (i) sponsored entirely by the Town or co-sponsored (either financially or otherwise) by the Town, or which the Town determines to be beneficial to the Town, either financially or otherwise; (ii) generally of limited duration; (iii) that may or may not involve an assembly of persons; and (iv) that calls attention to the Town, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community. A special event under this Chapter may, but need not be, a special event for which a permit is issued by the Town pursuant to Chapter 13 of Title 4 of this Code.
- SUBDIVISION ENTRANCE SIGN:** A sign used to identify the name and entryway to a subdivision.
- TOWN-OWNED PROPERTY:** (i) Land or other property owned by the Town; (ii) land or other property that the Town holds a present right of possession and control; and (iii) all public rights-of-way owned or controlled by the Town, including, without limitation, the airspace above a public right-of-way to the height permitted by law.
- TRAFFIC CONTROL DEVICE:** A sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or shared-use path by authority of a public agency having jurisdiction.

B. Where terms are not defined, they shall have their ordinary accepted meanings

within the context that they are used.

11-8-5 PRIVATE SIGNS PROHIBITED ON TOWN-OWNED PROPERTY; EXCEPTIONS:

- A. Except as specifically authorized in this Section, it is unlawful for any person to place a private sign on any Town-owned property.
- B. The following private signs may lawfully be placed on Town-owned property:
 - 1. Private signs when authorized by a special events permit issued by the Town pursuant to Chapter 13 of Title 4 of this Code.
 - 2. Private subdivision entrance signs when authorized by the Director under the following conditions:
 - (a) The sign owner shall demonstrate that it is not feasible to place the sign on private property due to site constraints, poor topography, or other similar conditions.
 - (b) The sign owner shall enter into an encroachment license agreement, or similar contractual agreement, with the Town, which agreement shall contain provisions concerning insurance and indemnification so as to adequately protect the Town from liability in the event of a claim or loss arising from the placement of the sign on such Town-owned property.
 - (c) The sign shall be maintained as required by the terms of the encroachment license agreement and this Chapter. If the sign is not so maintained the Town may order the sign removed from the Town-owned property, and if the sign owner refuses to remove the sign, the Town may remove the sign and may recover the costs thereof from the sign owner.
 - (d) The sign shall not be placed so as to substantially interfere with the Town's use of the Town-owned property, or create an unsafe or hazardous condition. Without limiting the generality of the foregoing, the sign shall not obstruct the sight triangle, impede drainage or interfere with utilities, pedestrian ways, snow stack areas, or snowplowing.
 - (e) The Director shall review and approve as to form and content any request to place a private subdivision entrance sign on Town-owned property pursuant to this Section before the sign is placed. The Director may impose any reasonable conditions of approval on the placement of any private subdivision entrance sign on Town-owned property .
 - 3. Private signs placed by a real estate agent on Town-owned property as authorized by Chapter 2 of Title 8 of this Code.

11-8-6: GOVERNMENTAL SIGNS ALLOWED ON TOWN-OWNED PROPERTY: The following signs may be placed on Town-owned property by the Town and other governmental entities:

- A. Traffic control devices signs placed by the Town or other governmental entity.
- B. Official notices required or authorized by law.
- C. Other signs placed by the Town in furtherance of its governmental functions.
- D. Other signage that conveys the government speech of the Town in such form and content as may be determined solely by the Town.
- E. Public art placed by the Town.
- F. Any official advertising device placed by the Town pursuant to the "Colorado

Outdoor Advertising Act,” Part 4 of Article 1 of Title 43, C.R.S., and the regulations of the Colorado Transportation Commission duly enacted thereunder.

- G. Signs placed by federal, state, or other local governments in furtherance of their governmental functions, subject to the review and approval of the Director.

11-8-7: TOWN'S STREET BANNER PROGRAM:

- A. The street banner program involves the temporary placement of banner signs at the Town's designated aerial location above the Town's right of way on South Main Street. The Town's street banner program is reserved for the Town's use to promote its own messages and those special events that are sponsored, co-sponsored, or approved by the Town. Because they are to be located in the airspace that is above a Town right-of-way, banner signs placed at the designated location pursuant to this Section shall be deemed to be the speech of the Town.
- B. The Town Manager shall devise and implement a method of authorizing the placement of banner signs at the Town's designated location.
- C. The decision whether to allow the placement of a banner sign pursuant to this Section shall be made by the Town Manager or his or her designee in the decision maker's considered discretion. There is no entitlement to place a banner sign pursuant to this Section. The decision of the Town Manager or his or her designee with respect to a request to allow the placement of a banner sign pursuant to this Section shall be final.
- D. No person shall place a banner sign on Town-owned property except when authorized to do so by the Town Manager or his or her designee.

11-8-8: AUTHORITY TO REMOVE SIGNS FROM TOWN-OWNED PROPERTY: Any employee of the Department, the Police Department, or the Public Works Department may remove and destroy any sign that is illegally placed on Town-owned property in violation of the provisions of this Chapter.

11-8-9: PENALTIES AND REMEDIES:

- A. General: It is an infraction as defined in Section 1-3-2 of this Code for any person to violate any of the provisions of this Chapter. Each such person shall be liable for a separate offense for each and every day during any portion of which any violation of any of the provisions of this Chapter is committed, continued, or permitted, and shall be punished accordingly.
- B. Fine Schedule: Any person found to have violated any provision of this Chapter, or against whom a default judgment has been entered for any violation of this Chapter shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100
Second Offense	\$250
Third Offense and Each Subsequent Offense	As Determined By the Municipal Judge subject to the limits in Section 1-4-1-1

- C. When Penalty Assessment Procedure May Be Used: A defendant's first two alleged violations of this Chapter may be written as penalty assessments. A defendant's third and each subsequent alleged violation of this Chapter shall require a mandatory court appearance.
- D. Injunctive Relief: In addition to other remedies available to the Town, the Town may commence an action pursuant to Section 1-8-10 of this Code to enjoin the alleged violation of any provision of this Chapter, or to authorize and compel the removal, termination, or abatement of such violation.
- E. Additional Remedies: Any remedies provided for in this Chapter shall be

cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

11-8-10: RULES AND REGULATIONS: The Town Manager may from time to time adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this Chapter. Such regulations shall be adopted in accordance with the procedures established by Title 1, Chapter 18 of this Code.

Section 2. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. Resolution No. 14, Series 2016, adopted by the Town Council of the Town of Breckenridge on October 11, 2016, is repealed.

Section 4. The Town Council finds, determines, and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the Breckenridge Town Charter.

Section 5. 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 6. 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 13th day of December, 2016.

This ordinance was published in full on the Town of Breckenridge website on December 15, December 16, December 17, December 18 and December 19, 2016.

A public hearing on this ordinance was held on January 10, 2017.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 10th day of January, 2017. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

_____/s/_____
Helen Cospolich, CMC, Town Clerk

_____/s/_____
Eric S. Mamula, Mayor

APPROVED IN FORM

_____/s/_____
Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on January 13, January 14, January 15, January 16 and January 17, 2017. This ordinance shall become effective on February 16, 2017.