

1 **FOR ADOPTION AS EMERGENCY ORDINANCE –**
2 **MARCH 12**

3
4 COUNCIL BILL NO. ____

5
6 Series 2020

7
8 AN EMERGENCY ORDINANCE CONCERNING
9 THE CORONAVIRUS (COVID -19) PUBLIC HEALTH EMERGENCY

10
11 WHEREAS, on March 10, 2020 Jared Polis, the Governor of the State of Colorado,
12 declared a statewide state of emergency in response to coronavirus (COVID-19); and

13
14 WHEREAS, the World Health Organization has declared the coronavirus (COVID-19) to
15 be a worldwide pandemic; and

16
17 WHEREAS, the coronavirus (COVID-19) has been confirmed to exist in Summit
18 County; and

19
20 WHEREAS, the Town Council of the Town of Breckenridge confirms that protecting
21 public health is the Council’s top priority; and

22
23 WHEREAS, the Town Council is empowered by Section 31-15-401(1)(b), C.R.S., to do
24 all acts and make all regulations which may be necessary or expedient for the promotion of
25 health or the suppression of disease; and

26
27 WHEREAS, the Town Council finds and determines that the adoption of this ordinance is
28 necessary for the promotion of health and the suppression of disease; and

29
30 WHEREAS, the Town Council further finds and determines that the adoption of this
31 ordinance is proper under Section 31-15-401(1)(b), C.R.S., and other applicable law.

32
33 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
34 BRECKENRIDGE, COLORADO:

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36 Section 1. Title. This ordinance shall be known and may be cited as the “Town of
37 Breckenridge Coronavirus (COVID-19) Ordinance.”

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39 Section 2. Intent. It is the intent of this ordinance to provide the necessary organization,
40 powers, and authority to enable the timely and effective use of all available Town resources to
41 prepare for, respond to, and recover from the declared local public health emergency. This
42 ordinance is intended to grant as broad a power as is permitted within the letter and spirit of the
43 Town Charter and the Council-Manager form of government, and this ordinance shall be
44 interpreted in accordance with such intent. The Town Council retains the power to direct the

1 Town Manager during the pendency of the current coronavirus (COVID-19) public health
2 emergency.
3

4 Section 3. Public Health Emergency Declared. The Town Council hereby declares that a
5 public health emergency relating to the coronavirus (COVID-19) exists within the Town. Such
6 circumstance is referred to in this ordinance as the “public health emergency.” The public shall
7 be notified of this declaration through general dissemination to the news media, posting on the
8 Town website, or other means of publicity intended to advise the general public.
9

10 Section 4. Duration of Declaration of Public Health Emergency. The declaration of the
11 public health emergency as provided in Section 3 of this ordinance shall remain in effect until the
12 Mayor declares that the emergency has passed.
13

14 Section 5. Continuity of Government. Section 15.8 of the Town Charter concerning
15 continuity of government shall apply, if circumstances warrant, during the duration of the public
16 health emergency.
17

18 Section 6. Powers: Until the Mayor declares that the public health emergency has passed
19 the Town Manager has full power and authority to take the following actions and issue the
20 following orders:
21

22 (a) any action necessary for the protection of life and property, including, but not
23 limited to, establishing regulations governing conduct related to the cause of the public health
24 emergency.

25 (b) an order establishing a curfew during such hours of the days or nights and
26 affecting such categories of persons as may be designated.

27 (c) an order to direct and compel the evacuation of all or a part of the population from
28 any stricken or threatened areas within the Town if the Town Manager deems this action is
29 necessary for the preservation of life, property or other public health emergency mitigation,
30 response or recovery activities and to prescribe routes, modes of transportation and destination in
31 connection with an evacuation.

32 (d) an order controlling, restricting, allocating or regulating the use, sale, production
33 or distribution of food, water, clothing, and other commodities, materials, goods, services and
34 resources.

35 (e) an order requiring the closing of businesses deemed nonessential by the Town
36 Manager.

37 (f) suspend Town board and commission meetings to include, but not be limited to,
38 meetings of the Planning Commission, Breckenridge Open Space Advisory Commission, and
39 Liquor and Marijuana Licensing Authority, or modify meeting rules to allow for telephone,
40 teleconferencing or meeting by other electronic means.

41 (g) appropriate and expend funds, execute contracts, authorize the obtaining and
42 acquisition of property, equipment, services, supplies and materials without the strict compliance
43 with procurement regulations or procedures.

44 (h) transfer the direction, personnel, or functions of Town departments and agencies
45 for the purposes of performing or facilitating public health emergency services.

46 (i) utilize all available resources of the Town as may be reasonably necessary to cope

1 with this public health emergency whether in preparation for, response to, or recovery from this
2 public health emergency.

3 (j) suspend or modify the provisions of any ordinance if strict compliance with such
4 ordinance would in any way prevent, hinder or delay necessary action in coping with this public
5 health emergency.

6 (k) accept services, gifts, grants and loans, equipment, supplies, and materials whether
7 from private, nonprofit or governmental sources.

8 (l) .make application for local, state or federal assistance.

9 (m) terminate or suspend any process, operation, machine, device or event that is or
10 may negatively impact the health, safety and welfare of persons or property within the Town.

11 (n) delegate authority to such Town officials as the Town Manager determines
12 reasonably necessary or expedient.

13 (o) limit the use of any Town-owned building, facility, or property as to time, manner,
14 and permitted activities, including, but not limited to, limiting the permissible number of people
15 that may lawfully occupy such building, facility, or property at any one time.

16 (p) close and prohibit the use of any Town-owned building, facility, or property.

17 (q) exercise such powers and functions in light of the exigencies of this public health
18 emergency, including, but not limited to, the waiving of compliance with any time consuming
19 procedures and formalities, including notices, as may be prescribed by law pertaining thereto.

20 (r) issue any and all other order or undertake such other functions and activities as
21 the Town Manager reasonably believes is required under the circumstances to protect the health,
22 safety, welfare of persons or property within the Town of Breckenridge, or to otherwise preserve
23 the public peace or abate, clean up, or mitigate the effects of the public health emergency.

24
25 The restrictions may be changed from time to time during the time frame of the
26 declaration based upon the discretion of the Town Manager.

27
28 Section 7. Enforcement Of Orders:

29
30 (a) The members of the Town's Police Department, code enforcement, and such other
31 law enforcement and peace officers as may be authorized by the Town Manager are hereby
32 authorized and directed to enforce the orders, rules, and regulations made or issued pursuant to
33 this ordinance. All members of the public shall be deemed to have been given notice of all
34 orders, rules, and regulations made or issued pursuant to this ordinance upon their dissemination
35 to the news media or publication on the Town website or other means of publicity.

36 (b) Until the Mayor declares that the public health emergency has passed, no person
37 shall:

38 (1) enter or remain upon the premises of any establishment not open for business to
39 the general public, unless such person is the owner or authorized agent of the establishment.

40 (2) violate the provisions of this ordinance.

41 (3) violate any of the orders duly issued by the Town Manager or designee pursuant to
42 Section 6 of this ordinance.

43 (4) willfully obstruct, hinder, or delay any duly authorized Town officer, employee or
44 volunteer in the enforcement or exercise of the provisions of this ordinance, or of the undertaking
45 of any activity pursuant to this ordinance.

1 (c) It is unlawful and a misdemeanor offense for any person to violate any provision
2 of this Section 7. Any person convicted of a violation of this section shall be subject to the
3 penalties set forth in section 1-4-1 of the Breckenridge Town Code.
4

5 Section 8. Authority To Enter Property: During the period of the public health
6 emergency, a Town employee or authorized agent may enter onto or upon private property if the
7 employee or authorized agent has reasonable grounds to believe that there is a true emergency
8 and an immediate need for assistance for the protection of life or property, and that entering onto
9 the private land will allow the person to take such steps to alleviate or minimize the emergency
10 or disaster or to prevent or minimize danger to lives or property from the declared public health
11 emergency.
12

13 Section 9. Town Council Meetings And Departments:
14

15 (a) For the duration of the public health emergency, if a Town Council member
16 reasonably determines that his or her personal attendance at a Town Council meeting would not
17 be prudent, such Council member may listen by telephone, video conferencing, or other
18 electronic means to any Council meeting (“Electronic Participation”). Such Council member
19 listening via telephone or other electronic means shall be deemed present for purposes of
20 determining a quorum. The member of Town Council may not participate nor vote in a quasi-
21 judicial public hearing; however, the Council member may maintain the electronic connection
22 and monitor and listen to the hearing. The member of Town Council may participate and vote in
23 legislative matters. Electronic Participation is also available to a Town Council member during
24 an executive session. The Town Council may discontinue the use of Electronic Participation by
25 one or more members during a meeting where the participation results in delays or interference
26 in the meeting process; e.g., where the telephone connection or connection by other electronic
27 means is repeatedly lost, the quality of the connection is unduly noisy or otherwise problematic
28 to the conduct of the meeting, or the listening member is unable to hear speakers using a normal
29 speaking voice amplified to a level suitable for the meeting audience in attendance. Whenever a
30 Town Council member is allowed to participate in a Town Council meeting by telephone or
31 other electronic means pursuant to this Rule, the following additional rules shall be observed:
32

33 (1) All members of the Town Council must be able to hear one another or otherwise
34 communicate with one another, and be able to hear all discussion and testimony in a manner
35 designed to provide maximum notice and participation;

36 (2) Members of the public present at the meeting location must be able hear all
37 discussion, testimony, and votes;

38 (3) All votes held at the meeting shall be conducted by roll call.

39 (4) To the extent possible, full and timely notice shall be given to the public setting
40 advising that one or more members of the Town Council may participate in the meeting
41 electronically.

42 (5) Participation in a regular Town Council meeting by telephone or other electronic
43 means in accordance with this Rule shall not be considered to be a “failure to attend” a regular
44 Council meeting for determining whether a vacancy in the office of the Mayor or a Council
45 member has occurred under Section 4.8(b) of the Town Charter.
46

1 (b) Whenever the public health emergency makes it imprudent or impossible for Town
2 Council, or any Town board, commission, or committee, to meet at a previously scheduled date
3 and time, such meeting shall be deemed to be postponed until a quorum of the Town Council or
4 Town board, commission, or committee is able to meet, not to exceed one (1) week.
5

6 (c) Any official act or meeting required to be performed at any regular location of the
7 Town Council board, commission, or committee or any Town department is valid when
8 performed at any temporary location under this section.
9

10 (d) The provisions of this section shall apply to all executive, legislative, and judicial
11 branches, powers and functions conferred upon the Town and its officers, employees, and
12 authorized agents by the Colorado Constitution, Colorado Statutes, the Town Municipal Code,
13 including the Town Charter.
14

15 Section 10. Access To Tabor Funds: During the current public health emergency the
16 Town Manager shall have access to the Town's emergency funds mandated by the Taxpayer's
17 Bill of Rights (TABOR) as set forth in Article X, Section 20, Subsection (5) of the Colorado
18 Constitution, entitled "Emergency reserves." Funds utilized pursuant to this ordinance shall be
19 replenished no later than the conclusion of the fiscal year following the end of the current public
20 health emergency.
21

22 Section 11. Conflict With Other Laws: If any provision of this ordinance conflicts with
23 the Town Charter, the Town Charter shall control. If any provision of this ordinance conflicts
24 with any provision of the Breckenridge Town Code, or any provision of the Town Council's
25 Procedures and Rules of Order, this ordinance shall control.
26

27 Section 12. Police Power Finding. The Town Council hereby finds, determines and
28 declares that this ordinance is necessary and proper to provide for the safety, preserve the health,
29 promote the prosperity, and improve the order, comfort and convenience of the Town of
30 Breckenridge and the inhabitants thereof.
31

32 Section 13. Authority. The Town Council hereby finds, determines and declares that it
33 has the power to adopt this ordinance pursuant to the provisions of Section 31-15-401(1)(b)
34 C.R.S., and the powers possessed by home rule municipalities in Colorado, including, but not
35 limited to, Section 15.7 of the Breckenridge Town Charter entitled "Emergency Powers."
36

37 Section 14. Emergency Declaration. The Town Council of the Town of Breckenridge
38 hereby finds, determines and declares that an emergency exists and that this ordinance is
39 necessary for the immediate preservation of public property, health, welfare, peace or safety for
40 the reasons enumerated in the introductory paragraphs of this ordinance, which are incorporated
41 into this Section 13 by reference. The Town Council further determines that the adoption of this
42 ordinance as an emergency ordinance is in the best interest of the citizens of the Town of
43 Breckenridge.
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