

ORDINANCE NO. 2025-19

AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS AMENDING THE BRECKENRIDGE CODE OF ORDINANCES TO REPEAL ARTICLE II “EXCAVATIONS”, OF CHAPTER 17 “STREETS AND SIDEWALKS” TO ADOPT A NEW ARTICLE II ENTITLED “RIGHT OF WAY MANAGEMENT” TO PROVIDE FOR REGISTRATION, PERMITTING, AND CITY OVERSIGHT OF THIRD PARTIES PERFORMING WORK IN THE CITY’S RIGHT-OF-WAY; AMENDING APPENDIX A “FEE SCHEDULE”, SECTION XI “CHAPTER 17—STREETS AND SIDEWALKS” TO ESTABLISH A RIGHT OF WAY CONSTRUCTION PERMIT FEE; PROVIDING FOR A PENALTY; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS the City of Breckenridge (the “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code;

WHEREAS, the City has “exclusive control” City rights-of-way, with the power to “supervise, maintain, and improve” its rights-of-way pursuant to Article III, Section 3.11 of the Charter;

WHEREAS there has been a recent influx of entities installing fiber optic infrastructure within the City rights-of-way and the current provisions of Chapter 17, “Streets and Sidewalks”, Article II, “Excavations”, have not been sufficient to maintain adequate City oversight of such work, causing damage to vital City infrastructure and disruptions to the use of the City rights-of-way by the City and the traveling public; and

WHEREAS, the City Commission of the City of Breckenridge, Texas finds it in the best interest of the health, safety, and welfare of citizens of the City to adopt reasonable rules and regulations concerning the use of City rights-of-way pursuant to the City’s police powers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BRECKENRIDGE, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. FINDINGS. After due deliberations, the City Commission has concluded that the adoption of this Ordinance is in the best interest of the City of Breckenridge, Texas, and of the public health, safety, morals, and welfare of its citizens.

SECTION 3. REPEAL OF CHAPTER 17, ARTICLE II. Chapter 17 “Streets and Sidewalks”, Article II “Excavations” of the Breckenridge Code of Ordinances is hereby repealed and said Article shall be used as provided in Section 4 of this Ordinance.

SECTION 4. ADOPTION OF CHAPTER 17, ARTICLE II. Chapter 17 “Streets and Sidewalks”, Article II “Right-of-Way Management” of the Breckenridge Code of Ordinances is hereby enacted to read as follows, and all other articles, chapters, sections, paragraphs, sentences, phrases and words not expressly amended hereby are hereby ratified and affirmed.

CHAPTER 17. – STREETS AND SIDEWALKS
ARTICLE II. – RIGHT-OF-WAY MANAGEMENT

Sec. 17-20. – Policy and purpose.

The purpose of this article is to govern the use and occupancy of the public rights-of-way to ensure public health, safety and welfare and monitor the different entities using the public rights-of-way to prevent interference between them and to promote the most efficient use of the right-of-way for the traveling public and for utility uses designed to benefit the citizens of the City of Breckenridge, including such uses as have been recognized in statutory and common law in the State of Texas.

Sec. 17-21. – Authority and scope.

All provisions of this division shall apply to all right-of-way users, except for wireless telephone service providers who must comply with article IV of this chapter and right-of-way users with current franchise agreements with the City of Breckenridge. This division shall be effective within the geographical limits of the city, including any areas subsequently annexed by the city.

Sec. 17-22. – Definitions.

City manager shall mean the Breckenridge City Manager or designee.

Construction means any of the following activities performed by any right-of-way user within a right-of-way:

- (a) Installations, excavations, laying, boring, jacking, placement, repair, upgrade, maintenance or relocation of facilities or other improvements, whether temporary or permanent.
- (b) Modification or alteration to any surface, subsurface, or aerial space within the right-of-way; or
- (c) Performance, restoration, or repair of pavement cuts or excavations.

Facility or facilities means any and all of the wires, cables, fibers, duct spaces, manholes, poles, conduits, pipes underground and overhead passageways and other equipment, structures, plants and appurtenances and all associated physical equipment placed in, on or under the public rights-of-way for the provision of utility or communications services to the public.

Franchise or franchise agreement means the initial authorization or subsequent renewal granted by the city in order for a person to construct, operate, and maintain a system in all, or part, of the city right-of-way.

Permit means a document issued by the city authorizing installation, removal, modification and other work for equipment or facilities in accordance with approved plans and specifications.

Person means any individual, corporation, business, trust, estate, trust, partnership, association of two or more persons having a joint common interest, governmental agency, or other legal entity, including the city.

Right(s)-of-way, public way, or public right(s)-of-way mean the surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, alley, court, boulevard, parkway, drive, or other easement now or hereafter held by the city for the purpose of public travel and shall include other easements or rights-of-way now or hereafter held by the city (including any easements or rights-of-way acquired by eminent domain) which shall, with their proper use and meaning, entitle the city or utilities provider, with proper authorization, to use thereof for the purpose of installing facilities. The term includes sidewalks and utility easements. The term does not include a private easement or the airwaves above a public right-of-way with regard to wireless telecommunications.

Right-of-Way Contractor means a person hired or retained to perform construction of facilities in the right-of-way.

Right-of-Way User means an agency, utility company, or right-of-way contractor.

Utility means any privately or publicly owned entity that uses the rights-of-way to furnish the public any general public services, including, without limitation, sanitary sewer, gas, electricity, water, telephone, petroleum service, and internet service.

Sec. 17.23. – Right-of-way construction compliance.

No person shall commence or continue with the construction of facilities within the public right-of-way in the city except as provided by this article, the ordinances of the city, and the directives of the city manager. All construction activity in the rights-of-way shall be in accordance with this article.

Sec. 17.24. – Administration and enforcement.

(a) General. The city manager shall have the primary responsibility to administer and enforce compliance with this article.

(b) Criminal Offense. It shall be unlawful for any person to violate any provision of this article, and any person violating or failing to comply with any provision of this article shall be fined, upon conviction, no more than Five Hundred Dollars (\$500.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(c) Civil enforcement. Appropriate actions and proceedings may be taken by the city in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, and to restrain, correct, or abate a violation. These remedies shall be in addition to the penalties described in this section.

Sec. 17-25. – Registration.

(a) Required. All right-of-way users shall register with the City within sixty (60) days of the effective date of this article. All right-of-way users shall report any changes in their registration information within thirty (30) days of such change. A new right-of-way user shall register with the City at least thirty (30) days prior to performing any construction in the right-of-way.

(b) Form. The registration shall be on a form furnished by the City. The form must include:

(1) The name of the right-of-way user that owns the facilities.

(2) The name, address, telephone number, and email address of the officer, agent, or employee responsible for the accuracy of the registration information.

(3) The name, address, telephone number, and email address of the local representative of the right-of-way user who shall be available at all times to act on behalf of the right-of-way user in the event of an emergency.

(4) General description of activities to be performed.

(5) The name, address, telephone number, and email address of the contractor or contractors who will perform work on behalf of the right-of-way user.

(6) If applicable, the certification number issued by the Public Utilities Commission.

(7) If applicable, a copy of the franchise from the state allowing the right-of-way user to use the right-of-way.

(c) Registration must be renewed annually. If registration is not renewed, the facilities of the user will be deemed to have been abandoned to the extent allowed under state law.

(d) Registration is not authorization to install facilities in the rights-of-way. Such authorization must be through municipal franchise or by agreement of the City, unless otherwise authorized by state law.

(e) In addition to all other legal penalties, including criminal penalties, failure to register or to maintain and update registration information may result in denial of a permit application.

Sec. 17-26. – Insurance and bond requirements; indemnification.

(a) Insurance.

(1) Prior to construction in the right-of-way, a right-of-way user must maintain liability insurance in the total amount of \$1,000,000.00.

(2) The coverage must be on an “occurrence” basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards.

(3) Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before canceling, failing to renew, or reducing policy limits.

(4) The right-of-way user shall file the required original certificate of insurance prior to any commencement of work. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address, and telephone number of insured; policy expiration date; and specific coverage amounts. The city may accept a certificate of insurance, or the city may require another form of legally binding proof of insurance.

(5) An insurer has no right of recovery against the city. The required insurance policies shall protect the person and the city. The insurance shall be primary coverage for losses covered by the policies.

(6) The policy clause "other insurance" shall not apply to the city if the city is an insured under the policy.

(b) **Bonds.** Each right-of-way user shall file an annual surety bond which will be valid each year construction will occur through one full year after the completion of the construction from a surety company authorized to do business in the state of Texas in the amount of the estimated amount of the cost to restore the right-of-way for the work anticipated to be done in that year, in the event the applicant leaves a job site in the right-of-way unfinished, incomplete or unsafe or other provisions as acceptable to the city manager.

(c) **Indemnification.** To the extent allowed by state law, each right-of-way user shall agree to promptly defend, indemnify and hold the city and its officers and employees harmless from and against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm caused solely by the negligent act, error, or omission of a right-of-way user or any agent, officer, director, representative, employee, affiliate, or subcontractor of a right-of-way user while installing, repairing, or maintaining facilities in the right-of-way.

Sec. 17-27. – City authorization required.

(a) Municipal authorization or agreement to install facilities in the right-of-way shall be required, except when clearly preempted by state law. Nothing in this article shall be considered to grant authorization to any right-of-way user. If any state law authorizing right-of-way use is struck down, pre-empted, declared to be invalid or void, in whole or in part, the right-of-way user relying upon said law for authorization shall seek separate authorization or shall cease using the right-of-way.

(b) When municipal authorization or agreement is required, the application for a construction permit may not be submitted until said authorization or agreement is obtained.

(c) Municipal authorization does not extend to the use of any property or facilities other than the right-of-way.

(d) Municipal authorization does not address or allow the use of third-party facilities in the right-of-way.

Sec. 17-28. – Construction in the right-of-way; permit.

(a) Required. No person shall perform any construction of facilities in the right-of-way without first obtaining a construction permit, except as provided herein.

(b) Exception. Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however, the city manager should be notified in writing within two business days of any construction related to an emergency response, including a reasonably detailed description of the work performed in the right-of-way and an updated map of any facilities that were relocated, if applicable.

(c) Application. The application for a permit shall contain the following information:

(1) The proposed, approximate location and route of all facilities to be constructed or installed and the applicant's plan for right-of-way construction should be shown on a set of scaled dimensioned construction plans, plan/profile sheet, a street view, and an aerial map. Said plans should indicate the current right-of-way lines and any existing city facilities. Said plans shall show any proposed underground conduit, type of casing pipe required, if applicable, overhead lines, network nodes, ancillary equipment, or any other facilities to be installed. The drawings shall show a cross sectional profile, identify all existing utilities and any existing or potential utility conflicts.

(2) For installation of any proposed pole applicant shall provide sectional detail showing depth of anchor, scaled dimensional drawings of the proposed pole, and shall indicate spacing from existing curb, driveways, sidewalk, light poles, and any other poles or appurtenances. If there are multiple poles/anchors on a project, one typical sectional detail drawing for pole or anchor will be provided.

(3) If the project is within the state right-of-way, the applicant must provide evidence of a permit or permission from the state and shall be exempt from a city permit.

(4) If a city pole or poles or light structure or structures will be used or will be in the area of the proposed construction, the pole or poles or light structure or structures will be identified.

(5) Detail of the location of all right-of-way and utility easements which applicant plans to use.

(6) Detail of all existing city or other utilities in relationship to applicant's proposed route as shown through ground penetrating radar (GPR) images.

(7) Detail of the facilities that applicant proposes to install.

(8) Detail of plans to remove and replace asphalt or concrete in streets.

(9) Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, network nodes, micro-network nodes, or other facilities, including depth located in

public right-of-way. Utility may provide spec drawings of equipment but not necessarily the physical location of each.

(10) The name, address and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be always available during construction.

(11) A statement that the requirements of sections 17-25 and 17-26 are met.

(12) If the work will require traffic lane or sidewalk closures, a traffic control plan approved by the city manager.

(13) A stormwater pollution prevention plan (SWPP) that has been submitted to the Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ) or a letter from the EPA or TCEQ stating that the applicant is not required to obtain such approval.

(14) The fee required by Section 17-29.

(d) The permit application must be submitted at least ten working days before the proposed commencement of work in the request.

(e) The permit shall state to whom it is issued, location of work, location of facilities, dates and times work is to take place and any other conditions set out by the city manager.

(f) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and always made available for inspection by the city manager when construction work is occurring.

(g) Revocation or Denial of Permit. The city manager may stop work and revoke a permit at any time upon finding that conditions at the worksite exist that pose an immediate risk of harm to persons and/or property or the right-of-way user fails to comply with the terms of the permit or this article. A permit may be denied if a right-of-way user has had a previous permit revoked by the city or if the city manager finds that the facilities proposed to be installed by the applicant could damage existing city or other facilities in the right-of-way. A right-of-way user may appeal the revocation or denial of a permit to the city commission by filing a written appeal with the City Secretary within five (5) business days of such decision.

Sec. 17-29. – Fees.

(a) Application fees, as allowed by state law, for construction in the right-of-way shall be the fees set by the city commission in Appendix A, Fee Schedule, from time to time.

(b) Failure to pay application fees, when required, shall result in the denial of a permit.

Sec. 17-30. – Right-of-Way Activities.

(a) All construction and installation in the right-of-way shall be in accordance with the permit for the facilities. The city manager shall be provided access to the work and to such further information as he or she may reasonably require ensuring compliance with the permit.

(b) Notification requirements. The right-of-way user shall notify the city manager and all landowners and residents that are affected and directly adjacent to the construction that construction will begin at least forty-eight (48) hours prior to the beginning of construction. The city manager may require notification of additional property owners/residents, and/or notification further in advance, depending on the scope, type, location, or nature of the construction.

(c) Hours of work. Except in an emergency, the working hours in the rights-of-way are 7:00 a.m. to 5:00 p.m., Monday through Thursday. Any work performed outside these times must be approved 24 hours in advance by the city manager. No work will be done, except for emergencies, on Sundays or city holidays.

(d) Trees. A right-of-way user may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in accordance with city standards. Should the right-of-way user fail to remove such trimmings within 24 hours, the city may remove the trimmings or have them removed at the expense of the right-of-way user. Upon receipt of a bill from the city, the right-of-way user shall promptly reimburse the city for all costs incurred within 30 working days.

(e) A right-of-way user performing work in the right-of-way shall:

(1) Ensure that the portion of the rights-of-way in which repair work is conducted is, always and to the extent practicable, kept free of accumulating water.

(2) Maintain current and accurate records of all existing city or other utilities along right-of-way user's route through ground penetrating radar (GPR) images.

(3) Physically locate all existing water, sewer, electric, and gas mains and service lines, in any paved or unpaved area, prior to boring by way of potholing with a hydro excavation method.

(4) Promptly remove from the rights-of-way all earth, gravel, stone, or other material excavated from the area of such repair work, which is not needed for fill material at that location.

(5) Notify the city manager immediately of any damage to other facilities, either city or privately owned.

(6) Maintain the excavation site in a reasonably clean and litter-free condition. Any debris found at the excavation site, regardless of the source, must be removed immediately at no cost to the City.

(7) Safeguard persons and property from damage or injury due to the right-of-way user's work.

- (f) In performing work within the right-of way, a right-of-way user shall not:
 - (1) Interfere with the operation of other facilities or equipment situated within the right-of-way, whether owned or maintained by the city or other utility providers.
 - (2) Use dynamite or other explosives during the excavation without the prior written approval of the city manager; or
 - (3) Remove locate flags from a location while facilities are being constructed.
- (g) A right-of-way user is responsible for the workmanship and any damage by a contractor or subcontractor. The right-of-way user shall always make available a representative of the right-of-way user to the city manager during construction.
- (h) Right-of-way users shall restore rights-of-way affected by construction of facilities to a condition that is equal to or better than the condition of the rights-of-way prior to the performance of the work.

Sec. 17-31. – Construction Standards.

The right-of-way user shall:

- (1) Comply with trench safety requirements adopted by federal, state, and local laws.
- (2) Follow the appropriate national safety code, as applicable, regarding design and construction procedures.
- (3) Repair the stretch of paved surface from the edge of the two nearest intersections between which permittee performed its pavement cut, or as otherwise directed by the city manager, if a right-of-way user performs a pavement cut on a road, street, or other paved surface in the right-of-way, where that paved surface was last resurfaced five years or less from the date of the pavement cut undertaken by the right-of-way user.
- (4) Not make pavement cuts in newly constructed, reconstructed, or resurfaced streets for 60 months after the completion of the street work, unless required otherwise by the city manager or by city ordinance. The right-of-way user may submit written documentation and the city manager may grant an exception based on finding that the following criteria have been met:
 - (A) Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts; and
 - (B) Alternative facility alignments that do not involve excavating the street or alley are found to be impracticable; and
 - (C) The proposed excavation cannot reasonably be delayed until five-year deferment period has lapsed; or
 - (D) Emergency service restoration is required, and no other timely alternatives are

available; or

(E) New technology that sufficiently minimizes damage to the pavement structure is available; or

(F) All utilities lines under the pavement are required to be located prior to excavation.

(5) Compact the backfilling to a density of 95% standard proctor density, as determined by a testing laboratory, so as to prevent settling when a trench lies under any city street, or within 18 inches of a city street. All density testing shall be at the right-of-way user's expense and a copy of density reports shall be provided to the city.

(6) Install new facilities located within the right-of-way at a minimum depth of 10' unless approved by the city manager, with the following minimum clearance of 3', except where the city manager finds an alternate clearance can safely accommodate existing utilities:

(A) All conduit/piping that crosses an existing sanitary sewer or water main shall be buried under the existing pipes and shall have a 12-to-18-inch minimum vertical clearance at the underside of the existing pipes.

(B) All conduit/piping that crosses an existing storm sewer shall have a 12-to-18-inch minimum vertical clearance from the exterior face of the existing storm sewer; and

(C) All conduit/piping that runs parallel to an existing storm sewer, sanitary sewer or water main shall have a 3-foot minimum horizontal clearance from the exterior face of the pipe or manholes.

(D) The integrity of the City's public infrastructure system for treatment and delivery of potable water must be preserved and protected by all rights-of-way users. Public health, safety, and welfare are at risk when damage to water and sewer mains occurs, particularly to high-risk mains. Any longitudinal installation of facilities within 3 feet of a high-risk main in rights-of-way may be required to be installed by open excavation, instead of by bore. Every effort shall be made by the rights-of-way user to locate and verify the depth of the high-risk main by hand digging, potholing, or minimally invasive process to core the street to locate a high-risk main. High-risk mains are considered 6 inch and above.

(8) Have the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the rights-of-way. The city manager may waive the requirement of trenchless technology if the city manager determines that the field conditions warrant the waiver, based upon information provided to the city by the right-of-way user.

(9) Comply with city, state, and federal regulations and guidance for stormwater management erosion control.

(10) Maintain a 3-foot vertical clearance below the bottom of the proposed streambed or drainage facilities, if applicable. The applicant shall contact the city manager to determine whether future improvements to the channel may impact the cable alignment.

(11) Physically verify the location, both horizontal and vertical, of all affected facilities, or, if required by the city manager, hand digging or potholing, prior to any excavation or boring.

(12) Obtain 48-hour line locates from all affected utilities prior to any excavation. Use of the geographic information system of the plans of record does not satisfy this requirement.

(13) Obtain the advance approval of the city manager for the placement of all manholes and/or vaults.

Sec. 17-32. – Plans of record.

(a) Right-of-way users will provide the city manager with plans of record within 90 calendar days of installation of new facilities or removal of existing facilities in the right-of-way.

(b) Users who have facilities in the right-of-way existing as of the effective date of this article who have not provided plans of record shall provide such plans to the city upon request.

(c) The plans shall be provided to the city with as much detail and accuracy as required by the city manager but, at a minimum, will address the location, size of facilities, materials used, and any other health, safety, and welfare concerns. The plans are not required to include information regarding capacity of lines, customers, or competitively sensitive details.

(d) Submittal of plans of record shall be in digital format if available.

Sec. 17-33. – Conditions of right-of-way occupancy.

(a) In the exercise of governmental functions, the city has first priority over all other users of the public rights-of-way. To the fullest extent allowed by law, the city reserves the right to:

(1) Lay sewer, gas, water facilities, and any other pipelines or cables and conduits.

(2) Do underground and overhead work, including attachments.

(3) Require restructuring or changes in the city's aerial facilities in, across, along, over or under a public street, alley or public rights-of-way that may be occupied by a utility company; and

(4) Change the curb, route or grade of sidewalks and streets.

(b) The city shall assign the location in or over the rights-of-way among competing users of the rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent the city can demonstrate that there is limited space available for additional users, may limit new users as allowed under state or federal law. As a priority, each user of the public rights-of-way will be allowed one alignment on one side of the street for placement of its facilities, provided there is adequate space available. In the event an additional alignment or both sides of the street have been requested by a user, the city manager will grant such request, provided there is adequate space available, and the requestor has demonstrated the financial or technical impracticability of the use of the requestor's single alignment or use of only one side of the street.

(c) Whenever by reasons of widening or straightening of streets, water or sewer line projects, or any other public works or city projects, (e.g. install or improve storm drains, water lines, sewer lines, or any other public works or city project), with the exception of projects that benefit a city owned facility where they are the end use metered customer, replacing overhead lines with underground lines, and beautification projects, it shall be deemed necessary by the city to remove, alter, change, adapt, or conform the underground or overhead facilities of a right-of-way user to another part of the right-of-way, such alterations shall be made by the owner of the facilities at their expense within the time limits set by the city manager working in conjunction with the owner of the facilities, or if no time frame can be agreed upon, within 90 days from the day the notice was sent to make the alterations, unless a different schedule has been approved by the city manager.

Sec. 17-34. – Abandoned facilities.

Any right-of-way user who abandons facilities in the right-of-way by ceasing to use the facilities or replacing existing facilities with new facilities must remove the abandoned facilities within thirty (30) days of such abandonment.

SECTION 5. AMENDMENT OF APPENDIX A, SECTION IX. Appendix A “Fee Schedule”, Section XI “Chapter 17—Streets and Sidewalks” of the Breckenridge Code of Ordinances is hereby amended by adding Subsection D “Permit for Right-of-Way Construction” to read as follows, and all other articles, chapters, sections, paragraphs, sentences, phrases and words not expressly amended hereby are hereby ratified and affirmed.

(D) Permit for Right-of-Way Construction (Sec. 17-29):\$250.00

SECTION 6. SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7. SEVERABILITY. Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Breckenridge hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 8. PENALTY. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be fined in a sum not exceeding \$500.00. Each continuing day’s violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Breckenridge from filing suit to enjoin the violation. Breckenridge retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 9. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 10. OPEN MEETINGS. It is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that a public notice of the time, place, and purpose of said meeting was given, all as required by the Texas Open Meetings Act.

PASSED AND APPROVED on this the 2nd day of December, 2025.

Bob Sims, Mayor

ATTEST:

Jessica Sutter, City Secretary