

## ORDINANCE NO. 22-04

**AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS, CLOSING, VACATING, AND ABANDONING THE PORTION OF AN ALLEY SITUATED IN BLOCK F, EAST BRECKENRIDGE ADDITION, LYING BETWEEN LOTS 1 AND 2 AND LOTS 19 AND 20; PROVIDING FOR CONVEYANCE OF SAID ABANDONED ALLEY PROPERTY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Breckenridge (the “City”) is a home rule municipality operating 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**, Section 311.007 of the Texas Transportation Code provides that a home rule municipality may vacate, abandon, and close a street or alley, and Sections 253.001(a) and 272.001 of the Texas Local Government Code provide that a city may convey abandoned street or alley property to the adjacent property owners without complying with notice and bidding requirements;

**WHEREAS**, the City received a request to close, abandon and vacate an alley situated in Block F, East Breckenridge Addition to the City of Breckenridge, Stephens County, Texas, lying between Lots 1 and 2 and Lots 19 and 20 (the “Alley Property”) by Caddo Creek Investments, LLC, the property owner of the property abutting said Alley Property;

**WHEREAS**, pursuant to Section 2-25 of the Breckenridge Code of Ordinances, the Planning and Zoning Commission has considered this request and has recommended that the City Commission of the City of Breckenridge (the “City Commission”) approve said request; and

**WHEREAS**, the City Commission has considered the recommendation of the Planning and Zoning Commission and has determined that it would be to the public benefit to abandon, vacate, and close the Alley Property, that said land is not needed for public use and therefore constitutes a public charge without a corresponding public benefit, and that the Alley Property should be abandoned, vacated, and closed, and conveyed to the adjacent property owners as hereinafter provided.

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

**SECTION 1. Incorporation of Premises.** The above and foregoing premises are true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

**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, and welfare.

**SECTION 3. Alley Abandoned.** The portion of a sixteen-foot-wide alley situated in Block F, East Breckenridge Addition to the City of Breckenridge, Stephens County, Texas, lying

between Lots 1 and 2 and Lots 19 and 20, and as depicted in Exhibit "A", attached hereto and incorporated herein by reference, be and the same is closed, vacated, and abandoned.

**SECTION 4. Fair Market Value.** The City Commission finds that the alley was originally dedicated to the public at no cost to the City and any fair market value that the Alley Property may have is offset from the City's release from the obligation to maintain the Alley Property.

**SECTION 5. Extent of Abandonment.** The abandonment, vacation, and closure provided for herein shall extend only to the public right, title, easement, and interest, and shall be construed to extend only to that interest which the City may legally and lawfully abandon, vacate, and close, and may be subject to recorded reversionary interests.

**SECTION 6. Release of Easements.** All public easements and rights-of-way on the Alley Property are hereby released.

**SECTION 7. Conveyance.** The City Secretary is authorized and directed to prepare and record a copy of this Ordinance in the Real Property Records of Stephens County, Texas. The Mayor is hereby authorized and directed to convey by Deed Without Warranty, in "As Is" condition, all of the interest of the City in and to the Alley Property, to the property owner abutting said Alley Property.

**SECTION 8. Replat Required.** A revised plat of the combined properties is required to be produced and approved before a building permit will be issued for new construction on the Alley Property and adjacent property.

**SECTION 9. Savings/Repealing Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 10. Effective Date.** This ordinance shall take effect upon adoption.

**DULY PASSED AND APPROVED** by the City Commission of the City of Breckenridge, Texas, this the 1st day of February, 2022.

APPROVED:

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Bob Sims, Mayor

ATTEST:

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Pamela Wright, Assistant City Secretary

Exhibit "A"

