

## **ORDINANCE NO. 25-09**

**AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS AMENDING CHAPTER 5 “BUILDINGS AND STRUCTURES”, ARTICLE V “FLOOD DAMAGE PREVENTION”, SECTION 5-88 “FLOODWAYS” OF THE BRECKENRIDGE CODE OF ORDINANCES TO REVISE SAID SECTION TO BE ENTITLED “ENCROACHMENTS” AND TO PROHIBIT ENCROACHMENTS IN AREAS DESIGNATED AS FLOODPLAIN IN ADDITION TO FLOODWAYS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Breckenridge, Texas (the “City”) is a home-rule city operating pursuant to its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution;

**WHEREAS**, the City has “the power to enact and enforce ordinances necessary to protect health, life, and property, and to prevent and summarily abate and remove all nuisances within the city” pursuant to Section 3.2 of the City Charter;

**WHEREAS**, pursuant to the City’s participation in the National Flood Insurance Program, the City Commission of the City (the “City Commission”) adopted Chapter 5, Article V of the Breckenridge Code of Ordinances to establish flood damage prevention regulations;

**WHEREAS**, Section 5-88 of said Article prohibits encroachments within property designated as floodway but City staff has proposed to also prohibit encroachments within the floodplain; and

**WHEREAS**, the City Commission finds that it is in the best interest of the health, safety, and welfare of the citizens of the City to revise Section 5-88 of the Code to prevent encroachments in the floodplain, in addition to the floodplain.

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

**I. Amendment of Section 5-88.** Chapter 5 “Buildings and Structures”, Article V “Flood Damage Prevention”, Section 5-88 “Floodways” of the Breckenridge Code of Ordinances is amended to read as follows, and all articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

### **Sec. 5-88. Encroachments.**

Located within areas of special flood hazard established in section 5-75 are areas designated as floodway or floodplain. Since the floodway and floodplain are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless certification by a professional registered engineer or architect is provided

demonstrating that encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 5-85—5-87.

**II. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Government Code.

**III. Severability.** The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance, but they shall remain in effect notwithstanding the invalidity of any other part.

**IV. Effective Date.** This ordinance shall become effective immediately upon its adoption by the City Commission.

PASSED, APPROVED, AND ADOPTED on this the 6<sup>th</sup> day of May 2025.

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Bob Sims, Mayor

ATTEST:

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Jessica Sutter, City Secretary

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