



**BRECKENRIDGE TOWN COUNCIL REGULAR MEETING**

Tuesday, January 10, 2017; 7:00 PM

Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES - DECEMBER 13, 2016</b>	<b>3</b>
<b>III</b>	<b>APPROVAL OF AGENDA</b>	
<b>IV</b>	<b>COMMUNICATIONS TO COUNCIL</b>	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
	B. BRECKENRIDGE TOURISM UPDATE	
<b>V</b>	<b>CONTINUED BUSINESS</b>	
	A. SECOND READING OF COUNCIL BILLS, SERIES 2017 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 33, SERIES 2016 - AN ORDINANCE ADOPTING CHAPTER 8 OF TITLE 11 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PLACEMENT OF SIGNS ON TOWN-OWNED PROPERTY	<b>7</b>
	2. COUNCIL BILL NO. 34, SERIES 2016 - AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE (Dipping Station)	<b>16</b>
	3. COUNCIL BILL NO. 35, SERIES 2016 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE," CONCERNING A FEE FOR THE FILING OF PAPER SALES TAX RETURNS WITH THE TOWN	<b>20</b>
<b>VI</b>	<b>NEW BUSINESS</b>	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2017 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 1, SERIES 2017 - AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN CODE	<b>23</b>
	2. COUNCIL BILL NO. 2, SERIES 2017 - AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE BY ADOPTING A NEW CHAPTER 16, TO BE ENTITLED "SOLID WASTE COLLECTION AND DISPOSAL;" DESIGNATING THE SUMMIT COUNTY RESOURCE ALLOCATION PARK (SCRAP) AS THE EXCLUSIVE SOLID WASTE DISPOSAL SITE FOR ALL SOLID WASTE GENERATED WITHIN THE TOWN; REQUIRING EACH SOLID WASTE HAULER OPERATING WITHIN THE TOWN TO OBTAIN AN ANNUAL LICENSE; AND PROVIDING DETAILS OF THE TOWN'S PROGRAM FOR THE LICENSING OF SOLID WASTE HAULERS	<b>59</b>
	B. RESOLUTIONS, SERIES 2017	
	1. RESOLUTION NO. 1, SERIES 2017 - A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE USDA, FOREST SERVICE, WHITE RIVER NATIONAL FOREST, CONCERNING THE PROTECTION OF THE TOWN'S MUNICIPAL WATER SUPPLY AND INFRASTRUCTURE FOR INDIANA GULCH	<b>76</b>
	C. OTHER	
	1. LIQUOR AND MARIJUANA LICENSING AUTHORITY APPOINTMENT	<b>86</b>
<b>VII</b>	<b>PLANNING MATTERS</b>	
	A. PLANNING COMMISSION DECISIONS	<b>88</b>
<b>VIII</b>	<b>REPORT OF TOWN MANAGER AND STAFF</b>	

\*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:00 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item.

**IX REPORT OF MAYOR AND COUNCILMEMBERS**

- A. CAST/MMC (MAYOR MAMULA)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MS. WOLFE)
- C. BRECKENRIDGE TOURISM OFFICE (MS. GIGLIELLO)
- D. BRECKENRIDGE HERITAGE ALLIANCE (MR. BURKE)
- E. WATER TASK FORCE (MR. DUDICK)
- F. BRECKENRIDGE CREATIVE ARTS (MS. LAWRENCE)

**X OTHER MATTERS**

**XI SCHEDULED MEETINGS**

**95**

**XII ADJOURNMENT**

**CALL TO ORDER, ROLL CALL**

Mayor Mamula called the meeting of December 13, 2016 to order at 7:00 pm. The following members answered roll call: Mr. Dudick, Mr. Bergeron, Ms. Lawrence, Mr. Burke, Ms. Wolfe, Ms. Gigliello and Mayor Mamula.

**APPROVAL OF MINUTES - NOVEMBER 22, 2016**

With no changes or corrections to the meeting minutes of November 22, 2016, Mayor Mamula declared they would stand approved as submitted.

**APPROVAL OF AGENDA**

Ms. Shannon Haynes, Assistant Town Manager, stated there were no changes to the agenda. Mayor Mamula declared the agenda approved as presented.

**COMMUNICATIONS TO COUNCIL**

A. Citizen's Comment - (Non-Agenda Items ONLY: 3-minute limit please)

Mayor Mamula opened Citizen's Comment.

Ms. Beth Groundwater, a Breckenridge resident, brought forth a proposal to Council to commit to 100% renewable energy. She encouraged the Council to join with other cities that have made the commitment to be 100% renewable energy municipalities. She also recommended the creation of a committee of Town Staff and Citizens to propose a plan and budget, and to pick a reasonable end date to meet the commitment. Ms. Groundwater further stated part of this commitment would include the conversion of the Town's vehicle fleet to renewable sources, such as biodeisel. Patti McLaughlin read a letter from the City of Aspen representing the local chapter of the Sierra Club. Former Mayor John Warner stated he thinks this is a great goal for the Town of Breckenridge, and he is happy to help with contacts and networking to further this goal. Ms. Pam Bradley, a Breckenridge resident, stated climate change is a reality, and read into record a letter asking for a 10 year commitment to 100% renewable energy.

Ms. Kim Stevens, from The Climate Reality Project, spoke about the Renewable Electricity Roadmap, and offered to help with a media campaign around this commitment to renewable energy.

Mayor Mamula explained staff will come back with more information about this proposal.

Mr. Nathan Moorefield, a Breckenridge resident, stated he is concerned about the pedestrian crossing at the 4 O'Clock and Park intersection. He stated it can be a dangerous intersection for pedestrians, and it possibly needs more lights in the area.

Ms. Carol Rockne, spoke to Council regarding the water plant. She stated the current proposal is too expensive, and she asked Council to look at Barton Creek as an option for water. She further stated she is not supportive of the "pump-back" option, and the Ski Area did take 900 acre feet of water last year. She also stated she doesn't believe it's in the Town's best interest to have the same water attorney as Breckenridge Ski Resort due to a possible conflict of interest.

There were no additional comments and Citizen's Comment was closed.

B. Breckenridge Tourism Office Update

Ms. Lucy Kay, Director of the BTO, stated the Welcome Center will probably go over 400,000 visitors this year, which is an increase partly contributed to improved signage. Also, the Town saw a softening in bookings during the end of October and November, but ended up 1% up over last year for November. She further stated December is off so far by 5% but they expect to see last-minute bookings, and March and April are down significantly, and they will monitor this. Ms. Kay stated the Dew Tour was even or up to last year, and peak occupancy will take place at the end of December through the beginning of January. Ms. Kay stated for the Race of the Santas they had 515 runners, 30% were from out of state, and 60% were from outside of Summit County, and the Bernese Dogs were popular, as well as the Mannequin Challenge. Ms. Kay stated Start Up Week was amazing and provided a lot of opportunity for partnerships and other ideas.

Ms. Wolfe asked if the new Marriott will be part of the occupancy reporting, and Ms. Kay stated yes, she expects that for the future.

C. Breckenridge Ski Resort Update

Mr. John Buhler, COO of Breckenridge Ski Resort, stated the ski area had received 38 inches of snow in the past week, but the resort is still behind in snowmaking. He further

stated they will be ready to open Peak 6 soon. He stated people need to be safe with the high avalanche danger. Mr. Buhler stated Peak 7 will open on Friday and on Christmas all peaks should be open. He further stated the Dew Tour was hard to pull off, and it will air on NBC on December 17th and 24th. Mr. Buhler stated Vail Resorts is working on employee housing at Keystone, with approximately 140 units of workforce housing, and the remainder for deed-restricted use by employees from around Summit County. Mayor Mamula stated the Dew Tour was a positive experience and he believes the resort handled itself well given the challenging conditions.

**CONTINUED BUSINESS**

- A. Second Reading of Council Bills, Series 2016 - Public Hearings
1. COUNCIL BILL NO. 32, SERIES 2016 - AN ORDINANCE AMENDING THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION, CONCERNING PARKING METERS

Mayor Mamula read the title into the minutes. Mr. Tim Berry stated there were no changes to this ordinance from the first reading, but there was a change to the version in the packet as a result of the work session discussion about timing of the effective date of the ordinance. He further stated the proposed language of an emergency ordinance that was in the version in the packet was removed so the ordinance will become effective approximately 35 days from the date of approval.

Mayor Mamula opened the public hearing. There were no comments and the hearing was closed.

Mr. Dudick moved to approve COUNCIL BILL NO. 32, SERIES 2016 - AN ORDINANCE AMENDING THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION, CONCERNING PARKING METERS. Mr. Bergeron seconded the motion. The motion passed 7 - 0.

**NEW BUSINESS**

- A. First Reading of Council Bills, Series 2016 - Public Hearings
1. COUNCIL BILL NO. 33, SERIES 2016 - AN ORDINANCE ADOPTING CHAPTER 8 OF TITLE 11 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PLACEMENT OF SIGNS ON TOWN-OWNED PROPERTY

Mayor Mamula read the title into the minutes. Mr. Berry stated this ordinance changes the current sign code to reflect new regulations for signs placed on public property. He further stated this code amendment is necessary as a result of a recent Supreme Court decision regarding signage content, and this particular ordinance deals only with signs on Town property.

Mr. Bergeron moved to approve COUNCIL BILL NO. 33, SERIES 2016 - AN ORDINANCE ADOPTING CHAPTER 8 OF TITLE 11 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PLACEMENT OF SIGNS ON TOWN-OWNED PROPERTY. Mr. Burke seconded the motion. The motion passed 7 - 0.

2. COUNCIL BILL NO. 34, SERIES 2016 - AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE (Dipping Station)

Mayor Mamula read the title into the minutes. Mr. Berry stated this ordinance would landmark the Dipping Station historical property that is owned by the Town. He further stated staff has reviewed the matter and believes it meets the criteria for a landmark, and the Planning Commission also recommends approval.

Mr. Bergeron moved to approve COUNCIL BILL NO. 34, SERIES 2016 - AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE (Dipping Station). Ms. Lawrence seconded the motion. The motion passed 7 - 0.

3. COUNCIL BILL 35, SERIES 2016 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE," CONCERNING A FEE FOR THE FILING OF PAPER SALES TAX RETURNS WITH THE TOWN

Mayor Mamula read the title into the minutes. Mr. Brian Waldes, Finance Director, stated this ordinance is part of an effort by the Finance Division to go paperless, and it encourages people to go online to file their sales tax returns.

Ms. Lawrence moved to approve COUNCIL BILL 35, SERIES 2016 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE," CONCERNING A FEE FOR THE FILING OF PAPER SALES TAX RETURNS WITH THE TOWN. Mr. Burke seconded the motion.

The motion passed 7 - 0.

B. Resolutions, Series 2016

1. RESOLUTION NO. 17, SERIES 2016 - A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY SERVICES WITH TIMOTHY H. BERRY, P.C. FOR 2017

Mayor Mamula read the title into the minutes. Ms. Haynes stated this resolution would reappoint Mr. Tim Berry as the Town Attorney with an hourly rate increase to \$190 as desired by Council from the work session discussion. Mayor Mamula stated this raise is less than a 3% annual increase, and Mr. Berry's knowledge is invaluable to this community. Ms. Lawrence moved to approve RESOLUTION NO. 17, SERIES 2016 - A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY SERVICES WITH TIMOTHY H. BERRY, P.C. FOR 2017. Mr. Burke seconded the motion.

The motion passed 7 - 0.

2. RESOLUTION NO. 18, SERIES 2016 - A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY SERVICES WITH ROBERT GREGORY OF WEST BROWN HUNTLEY PC FOR 2017

Mayor Mamula read the title into the minutes. Ms. Haynes stated this resolution would reappoint Mr. Robert Gregory as the Town Prosecuting Attorney. She further stated Mr. Gregory is asking for a \$5 per hour raise, which Council has determined is warranted in his third year of working for the Town.

Ms. Wolfe moved to approve RESOLUTION NO. 18, SERIES 2016 - A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY SERVICES WITH ROBERT GREGORY OF WEST BROWN HUNTLEY PC FOR 2017. Mr. Burke seconded the motion.

The motion passed 7 - 0.

C. Other

**PLANNING MATTERS**

A. Planning Commission Decisions

With no request to call an item off the consent calendar, Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

**REPORT OF TOWN MANAGER AND STAFF**

Ms. Haynes stated there was no report.

**REPORT OF MAYOR AND COUNCILMEMBERS**

A. Cast/MMC (Mayor Mamula)

Mayor Mamula stated there was no report.

B. Breckenridge Open Space Advisory Committee (Ms. Wolfe)

Ms. Wolfe stated there was no update.

C. Breckenridge Tourism Office (Ms. Gigliello)

Ms. Giglieiello stated there was no update.

D. Breckenridge Heritage Alliance (Mr. Burke)

Mr. Burke stated he emailed the report from the meeting to the Council members.

E. Water Task Force (Mr. Dudick)

Mr. Dudick stated there was no update.

F. Breckenridge Creative Arts (Ms. Lawrence)

Ms. Lawrence stated there was an end of the year meeting during which new board members elected, and Ms. Deb Spiers was selected as chair.

G. Breckenridge Events Committee (Mr. Bergeron)

Ms. Lawrence stated she attended this committee meeting for Mr. Bergeron. She further stated the Spartan Race is looking to hold its date at end of August, the BCA and BTO will have a joint meeting with the Breck Epic organizers to discuss the event taking place the week of BIFA. Also, the Wine Classic cannot move to the Riverwalk during its desired dates due to a conflict in that space, so a compromise might be that Ridge Street cannot be closed during the entire event, and the event would require a smaller footprint and shorter timeframe. Ms. Lawrence stated there will be a larger discussion about booking all of the arts venues, with possibly a tiered approach based on demand in the future. Also, an alcohol subcommittee to look at the liquor-oriented events.

**OTHER MATTERS**

Ms. Gigliello stated there is a rumor that Breck Sports might go into the new Marriott, and she has concerns about the planning process and parking matters in regard to that space. Mr. Holman stated he would have staff look into that rumor.

Mr. Burke stated Hal Vatcher said he would like to wish the Council a Merry Christmas. Mr. Burke also asked about towing complaints, including differences in towing rates, and Ms. Haynes stated it's controlled by a PUC, and different rates may be considered with different kinds of tows. Mr. Burke also asked if patron passes worked when plowing was required? Ms. Haynes stated it is very rare that they would be towed under those circumstances.

Mr. Dudick stated Christie Heights residents asked about the Town's interest in purchasing the land between their homes and Cucumber Gulch. Ms. Haynes stated she would pass on this interest to BOSAC to see if there's any traction.

Also, he watched the 60 Minutes on ADA laws and feels the Town should pass an ordinance allowing a 90-day right to cure before a lawsuit on ADA matters. Mr. Berry stated these are Federal suits so it doesn't matter what you do locally to try to prevent them.

Ms. Lawrence stated the Joy of Sox contacted her about bags, and she would like the Town to do a reminder or re-education about the program. She further stated Joy of Sox follows the rules, and is getting pushback from people who haven't been charged in other stores. Also, the signs for the bag program are looking tired, and possibly new designs are needed.

Mayor Mamula stated it was rough getting around this weekend, and we are asking people to find new ways to park and take transit. He stated there is a ripple effect from adding these kiosks that includes cleaning, shoveling, preparing the sidewalks and more. Mayor Mamula stated we can't push this solution forward and not have the personnel and the equipment to make available what we are asking them to do. He stated we have approved additional dollars in the past, and if we are in agreement, Council will give the spending authority to fix this problem. The Council agreed with Mayor Mamula to spend the additional funds necessary for upkeep and good service. Ms. Wolfe further stated French Street is a mess because now it is busy and there is very little sidewalk access.

**SCHEDULED MEETINGS**

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 8:15 pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_  
Eric S. Mamula, Mayor

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 33 (Signs on Town-owned Property Ordinance)

DATE: January 3, 2017 (for January 10<sup>th</sup> meeting)

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The second reading of the new “Signs on Town-owned Property” ordinance is scheduled for your meeting on January 10<sup>th</sup>. There are no changes proposed to ordinance from first reading.

I will be happy to discuss this matter with you on Tuesday.

1 **FOR WORKSESSION/SECOND READING – JAN. 10**

2  
3 Additions To The Current Breckenridge Town Code Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~  
5

6 ***NO CHANGE FROM FIRST READING***

7  
8 COUNCIL BILL NO. 33

9  
10 Series 2016

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

15  
16 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
17 COLORADO:

18  
19 Section 1. Title 11 of the Breckenridge Town Code is amended by the addition of a new  
20 Chapter 8, to be entitled “Signs On Town-owned Property,” which shall read as follows:

21  
22 **CHAPTER 8**

23  
24 **SIGNS ON TOWN-OWNED PROPERTY**

25 **SECTIONS:**

26  
27 **11-8-1: Authority**

28 **11-8-2: Legislative Findings and Purpose**

29 **11-8-3: Regulatory Scope**

30 **11-8-4: Definitions**

31 **11-8-5: Private Signs Prohibited on Town-owned property; Exceptions**

32 **11-8-6: Governmental Signs Allowed on Town-owned property**

33 **11-8-7: Town’s Street Banner Program**

34 **11-8-8: Authority to Remove Signs From Town-owned Property**

35 **11-8-9: Penalties and Remedies**

36 **11-8-10: Rules and Regulations**

37  
38 **11-8-1: AUTHORITY:**

- 39  
40 A. **In adopting this Chapter the Town Council acts in its proprietary capacity as**  
41 **to Town-owned property. This Chapter is adopted pursuant to the Town’s**  
42 **general powers and its right and power to control its own property.**



- 1           B.     In adopting this Chapter the Town Council also acts as a proprietor  
2                     managing its own internal operations.
- 3           C.     It is not the intent of this Chapter to make any Town-owned real property  
4                     subject to the requirements of the Town's Development Code (Chapter 1 of  
5                     Title 9 of the Code).

6 **11-8-2: LEGISLATIVE FINDINGS AND PURPOSE: The Town Council finds and**  
7 **determines as follows:**

- 8
- 9           A.     The Town is widely known for its high mountain setting, its natural beauty,  
10                    and its aesthetic charm.
- 11          B.     The Town's economy is tourist-based, and it is essential to the continued  
12                    economic vitality of the Town that the aesthetic appeal of the Town be  
13                    preserved and enhanced.
- 14          C.     The purpose of this Chapter is to establish a process for the Town to engage  
15                    in its own expressive conduct with respect to the placement of signage  
16                    evidencing the Town's own speech, and signage evidencing the speech of  
17                    other governmental entities of which the Town approves, on Town-owned  
18                    property. Such signage is meant to convey and have the effect of conveying a  
19                    government message.
- 20          D.     Government speech has not been held to the same standards as normally  
21                    apply to the regulation of speech under the First Amendment to the United  
22                    States Constitution.
- 23          E.     All speech permitted under this Chapter shall be deemed to be the speech of  
24                    the Town, or speech of which the Town approves.

25 **11-8-3: REGULATORY SCOPE: This Chapter primarily regulates signs and other forms**  
26 **of government speech conveyed by the Town and other governmental entities. Signs that**  
27 **may lawfully be placed on Town-owned property by the Town or other governmental**  
28 **entities pursuant to this Chapter do not require a sign permit issued pursuant to Chapter 2**  
29 **of Title 8 of this Code, or other formal approval by the Town. Signage on property other**  
30 **than Town-owned property is regulated by Chapter 2 of Title 8 of this Code.**

31

32 **11-8-4: DEFINITIONS:**

- 33
- 34           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.**

- 1           B.    **Where terms are not defined, they shall have their ordinary accepted**  
2                   **meanings within the context that they are used.**

3 **11-8-5 PRIVATE SIGNS PROHIBITED ON TOWN-OWNED PROPERTY;**  
4 **EXCEPTIONS:**

- 5  
6           A.    **Except as specifically authorized in this Section, it is unlawful for any person**  
7                   **to place a private sign on any Town-owned property.**

- 8           B.    **The following private signs may lawfully be placed on Town-owned**  
9                   **property:**

- 10           1.   **Private signs when authorized by a special events permit issued by the**  
11                   **Town pursuant to Chapter 13 of Title 4 of this Code.**

- 12           2.   **Private subdivision entrance signs when authorized by the Director**  
13                   **under the following conditions:**

- 14                   (a)   **The sign owner shall demonstrate that it is not feasible to place**  
15                           **the sign on private property due to site constraints, poor**  
16                           **topography, or other similar conditions.**

- 17                   (b)   **The sign owner shall enter into an encroachment license**  
18                           **agreement, or similar contractual agreement, with the Town,**  
19                           **which agreement shall contain provisions concerning**  
20                           **insurance and indemnification so as to adequately protect the**  
21                           **Town from liability in the event of a claim or loss arising from**  
22                           **the placement of the sign on such Town-owned property.**

- 23                   (c)   **The sign shall be maintained as required by the terms of the**  
24                           **encroachment license agreement and this Chapter. If the sign**  
25                           **is not so maintained the Town may order the sign removed**  
26                           **from the Town-owned property, and if the sign owner refuses**  
27                           **to remove the sign, the Town may remove the sign and may**  
28                           **recover the costs thereof from the sign owner.**

1 (d) The sign shall not be placed so as to substantially interfere with  
2 the Town’s use of the Town-owned property, or create an  
3 unsafe or hazardous condition. Without limiting the generality  
4 of the foregoing, the sign shall not obstruct the sight triangle,  
5 impede drainage or interfere with utilities, pedestrian ways,  
6 snow stack areas, or snowplowing.

7 (e) The Director shall review and approve as to form and content  
8 any request to place a private subdivision entrance sign on  
9 Town-owned property pursuant to this Section before the sign  
10 is placed. The Director may impose any reasonable conditions  
11 of approval on the placement of any private subdivision  
12 entrance sign on Town-owned property .

13 3. Private signs placed by a real estate agent on Town-owned property  
14 as authorized by Chapter 2 of Title 8 of this Code.

15 **11-8-6: GOVERNMENTAL SIGNS ALLOWED ON TOWN-OWNED PROPERTY: The**  
16 **following signs may be placed on Town-owned property by the Town and other**  
17 **governmental entities:**

- 18
- 19 A. Traffic control devices signs placed by the Town or other governmental  
20 entity.
- 21 B. Official notices required or authorized by law.
- 22 C. Other signs placed by the Town in furtherance of its governmental functions.
- 23 D. Other signage that conveys the government speech of the Town in such form  
24 and content as may be determined solely by the Town.
- 25 E. Public art placed by the Town.
- 26 F. Any official advertising device placed by the Town pursuant to the  
27 “Colorado Outdoor Advertising Act,” Part 4 of Article 1 of Title 43, C.R.S.,  
28 and the regulations of the Colorado Transportation Commission duly  
29 enacted thereunder.
- 30 G. Signs placed by federal, state, or other local governments in furtherance of  
31 their governmental functions, subject to the review and approval of the  
32 Director.

33 **11-8-7: TOWN’S STREET BANNER PROGRAM:**

- 34
- 35 A. The street banner program involves the temporary placement of banner

1 signs at the Town's designated aerial location above the Town's right of way  
2 on South Main Street. The Town's street banner program is reserved for the  
3 Town's use to promote its own messages and those special events that are  
4 sponsored, co-sponsored, or approved by the Town. Because they are to be  
5 located in the airspace that is above a Town right-of-way, banner signs  
6 placed at the designated location pursuant to this Section shall be deemed to  
7 be the speech of the Town.

8 B. The Town Manager shall devise and implement a method of authorizing the  
9 placement of banner signs at the Town's designated location.

10 C. The decision whether to allow the placement of a banner sign pursuant to  
11 this Section shall be made by the Town Manager or his or her designee in the  
12 decision maker's considered discretion. There is no entitlement to place a  
13 banner sign pursuant to this Section. The decision of the Town Manager or  
14 his or her designee with respect to a request to allow the placement of a  
15 banner sign pursuant to this Section shall be final.

16 D. No person shall place a banner sign on Town-owned property except when  
17 authorized to do so by the Town Manager or his or her designee.

18 **11-8-8: AUTHORITY TO REMOVE SIGNS FROM TOWN-OWNED PROPERTY: Any**  
19 **employee of the Department, the Police Department, or the Public Works Department may**  
20 **remove and destroy any sign that is illegally placed on Town-owned property in violation**  
21 **of the provisions of this Chapter.**

22  
23 **11-8-9: PENALTIES AND REMEDIES:**

24  
25 A. General: It is an infraction as defined in Section 1-3-2 of this Code for any  
26 person to violate any of the provisions of this Chapter. Each such person  
27 shall be liable for a separate offense for each and every day during any  
28 portion of which any violation of any of the provisions of this Chapter is  
29 committed, continued, or permitted, and shall be punished accordingly.

30 B. Fine Schedule: Any person found to have violated any provision of this  
31 Chapter, or against whom a default judgment has been entered for any  
32 violation of this Chapter shall be punished by a fine as follows:

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

- 1  
2 C. When Penalty Assessment Procedure May Be Used: A defendant's first two  
3 alleged violations of this Chapter may be written as penalty assessments. A  
4 defendant's third and each subsequent alleged violation of this Chapter shall  
5 require a mandatory court appearance.
- 6 D. Injunctive Relief: In addition to other remedies available to the Town, the  
7 Town may commence an action pursuant to Section 1-8-10 of this Code to  
8 enjoin the alleged violation of any provision of this Chapter, or to authorize  
9 and compel the removal, termination, or abatement of such violation.
- 10 E. Additional Remedies: Any remedies provided for in this Chapter shall be  
11 cumulative and not exclusive, and shall be in addition to any other remedies  
12 provided by law.

13 11-8-10: RULES AND REGULATIONS: The Town Manager may from time to time adopt,  
14 amend, alter, and repeal administrative rules and regulations as may be necessary for the  
15 proper administration of this Chapter. Such regulations shall be adopted in accordance  
16 with the procedures established by Title 1, Chapter 18 of this Code.

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

20  
21 Section 3. Resolution No. 14, Series 2016, adopted by the Town Council of the Town of  
22 Breckenridge on October 11, 2016, is repealed.

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

31  
32 Section 5. The Town Council finds, determines, and declares that it has the power to  
33 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX  
34 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

35  
36 Section 6. This ordinance shall be published and become effective as provided by Section  
37 5.9 of the Breckenridge Town Charter.

38  
39 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
40 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2016. A Public Hearing shall be held at the

1 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_ day of  
2 \_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
3 Town.  
4

5 TOWN OF BRECKENRIDGE, a Colorado  
6 municipal corporation  
7

8  
9  
10 By: \_\_\_\_\_  
11 Eric S. Mamula, Mayor  
12

13 ATTEST:  
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17 \_\_\_\_\_  
18 Helen Cospolich  
19 Town Clerk  
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**MEMO**

TO: Town Council  
FROM: Town Attorney  
RE: Council Bill No. 34 (Dipping Station Landmarking Ordinance)  
DATE: December 16, 2016 (for January 10<sup>th</sup> meeting)

---

The second reading of the ordinance designating the “Dipping Station” as a landmark under the Town’s historic preservation ordinance is scheduled for your meeting on January 10<sup>th</sup>. There are no changes proposed to ordinance from first reading.

I will be happy to discuss this matter with you on Tuesday.



1 **FOR WORKSESSION/SECOND READING – JAN. 10**

2  
3 **NO CHANGE FROM FIRST READING**

4  
5 COUNCIL BILL NO. 34

6  
7 Series 2016

8  
9 AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK  
10 UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE  
11 (Gold Pan Shops Dipping Station – Tract B, Placer Ridge Townhomes Subdivision)

12  
13 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
14 COLORADO:

15  
16 Section 1. Findings. The Town Council of the Town of Breckenridge finds and  
17 determines as follows:

18  
19 A. The Town of Breckenridge owns the hereinafter described real property.  
20 Such real property is located within the corporate limits of the Town of Breckenridge,  
21 County of Summit and State of Colorado.

22  
23 B. The Town of Breckenridge filed an application pursuant to Chapter 11 of  
24 Title 9 of the Breckenridge Town Code seeking to have the hereinafter described real  
25 property designated as a landmark (“**Application**”).

26  
27 C. The Town followed all of procedural requirements of Chapter 11 of Title 9 of  
28 the Breckenridge Town Code in connection with the processing of the Application.

29  
30 D. The improvements located on hereinafter described real property are more  
31 than fifty (50) years old.

32  
33 E. The hereinafter described real property meets the “Architectural” designation  
34 criteria for a landmark as set forth in Section 9-11-4(A)(1)(a)(1) of the Breckenridge  
35 Town Code because the property exemplifies specific elements of architectural style or  
36 period, and Section 9-11-4(A)(1)(a)(5) because the property is of a style particularly  
37 associated with the Breckenridge area.

38  
39 F. The hereinafter described real property meets the “Social” designation criteria  
40 for a landmark as set forth in Section 9-11-4(A)(1)(b)(2) of the Breckenridge Town Code  
41 because the property exemplifies cultural, political, economic or social heritage of the  
42 community.

43  
44 G. The hereinafter described real property meets the “Geographical/  
45 Environmental Importance” designation criteria for a landmark as set forth in Section 9-

1 11-4(A)(1)(c)(2) of the Breckenridge Town Code because the property is an established  
2 and familiar natural setting or visual feature of the community.

3  
4 H. The hereinafter described real property meets the “Physical Integrity” criteria  
5 for a landmark as set forth in Section 9-11-4(A)(3) of the Breckenridge Town Code  
6 because:

- 7  
8 (i) The property shows character, interest or value as part of the development,  
9 heritage or cultural characteristics of the community, region, state or  
10 nation and;  
11 (ii) The property retains original design features, materials and/or character.

12  
13 I. In accordance with the requirements of Section 9-11-3(B)(3) of the  
14 Breckenridge Town Code, on December 6, 2016 the Application was reviewed by the  
15 Breckenridge Planning Commission. On such date the Planning Commission  
16 recommended to the Town Council that the Application be granted.

17  
18 J. The Application meets the applicable requirements of Chapter 11 of Title 9 of  
19 the Breckenridge Town Code, and should be granted without conditions.

20  
21 K. Section 9-11-3(B)(4) of the Breckenridge Town Code requires that final  
22 approval of an application for landmark designation under Chapter 11 of Title 9 of the  
23 Breckenridge Town Code be made by ordinance duly adopted by the Town Council.

24  
25 Section 2. Designation of Property as Landmark. The following described real  
26 property:

27  
28 Tract B, Placer Ridge Townhomes Subdivision, Town of Breckenridge, County of  
29 Summit, and State of Colorado; also known as 504 South Ridge Street,  
30 Breckenridge, Colorado 80424

31  
32 is designated as a landmark pursuant to Chapter 11 of Title 9 of the Breckenridge Town  
33 Code.

34  
35 Section 3. Police Power Finding. The Town Council finds, determines and declares that  
36 this ordinance is necessary and proper to provide for the safety, preserve the health, promote the  
37 prosperity, and improve the order, comfort, and convenience of the Town of Breckenridge and  
38 the inhabitants thereof.

39  
40 Section 4. Town Authority. The Town Council finds, determines and declares that it has  
41 the power to adopt this ordinance pursuant to the authority granted to home rule municipalities  
42 by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town  
43 Charter.

44  
45 Section 5. Effective Date. This ordinance shall be published and become effective as  
46 provided by Section 5.9 of the Breckenridge Town Charter.

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INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
PUBLISHED IN FULL this 13th day of December, 2016. A Public Hearing shall be held at the  
regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 10th day of  
January, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
Town.

TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

By: \_\_\_\_\_  
Eric S. Mamula, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich  
Town Clerk

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 35 (Fee For Filing Paper Sales Tax Returns)

DATE: December 16, 2016 (for January 10<sup>th</sup> meeting)

---

The second reading of the ordinance authorizing a fee for the filing of a paper sales tax return is scheduled for your meeting on January 10<sup>th</sup>. There are no changes proposed to ordinance from first reading.

I will be happy to discuss this matter with you on Tuesday.

1 ***FOR WORKSESSION/SECOND READING – JAN. 10***

2  
3 Additions To The Current Breckenridge Town Code Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~  
5

6 ***NO CHANGE FROM FIRST READING***

7  
8 COUNCIL BILL NO. 35

9  
10 Series 2016

11  
12 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE  
13 TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE SALES TAX  
14 ORDINANCE,” CONCERNING A FEE FOR THE FILING OF PAPER SALES TAX  
15 RETURNS WITH THE TOWN

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

18  
19 Section 1. Section 3-1-7 of the Breckenridge Town Code is amended by the addition of a  
20 new section C as follows:

21  
22 **C. Commencing with the sales tax return for the January 2017 tax period,**  
23 **there shall be added to each paper return filed with the financial services**  
24 **manager, and there shall be assessed and paid by the taxpayer filing such**  
25 **return, a paper filing fee in the amount of five dollars (\$5.00) per return. A**  
26 **“paper return” is a town sales tax return that is not filed through the town’s**  
27 **designated online tax filing system. The paper return filing fee shall be due**  
28 **and payable to the town at the time the paper return is filed with the**  
29 **financial services manager. Beginning with the town’s 2018 fiscal year, the**  
30 **amount of the paper return filing fee described in this section shall be fixed**  
31 **by the town council as part of its annual budget process. If, for any reason,**  
32 **the amount of such fee is not fixed by the town council as part of its annual**  
33 **budget process, the fee for the preceding year shall continue in full force and**  
34 **effect until changed by the town council. There shall be no paper return**  
35 **filing fee charged if the taxpayer elects to file the subject return with the**  
36 **financial services manager through the town’s designated online tax filing**  
37 **system. The financial services manager may waive the paper return filing fee**  
38 **for good cause.**  
39

40 Section 2. Except as specifically amended by this ordinance, the  
41 BreckenridgeTownCode, and the various secondary codes adopted by reference therein, shall  
42 continue in full force and effect.  
43

44 Section 3. The adoption of this ordinance does not result in a new tax, a tax rate increase,

1 or a tax policy change directly causing a net tax revenue gain to the Town within the meaning of  
2 Article X, §20 of the Colorado Constitution.

3  
4 Section 4. The Town Council finds, determines, and declares that it has the power to  
5 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX  
6 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

7  
8 Section 5. This ordinance shall be published and become effective as provided by Section  
9 5.9 of the Breckenridge Town Charter.

10  
11 TOWN OF BRECKENRIDGE, a Colorado  
12 municipal corporation

13  
14  
15  
16 By: \_\_\_\_\_  
17 Eric S. Mamula, Mayor

18  
19 ATTEST:

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23 \_\_\_\_\_  
24 Helen Cospolich  
25 Town Clerk

**MEMO**

TO: Town Council  
FROM: Town Attorney  
RE: Ordinance Making Miscellaneous Amendments  
DATE: December 30, 2016 (for January 10<sup>th</sup> meeting)

---

The enclosed ordinance makes a couple of house-keeping type amendments to the Town Code.

Specifically, the ordinance makes a series of amendments to the Town Code changing the name of the “Liquor Licensing Authority” to the “Liquor and Marijuana Licensing Authority.”

In addition, the ordinance adds a new section 1-7-3 to the Town Code providing that any reference in the Town Code to the specific job title of a Town officer or employee refers to any successor and to any person who performs the same essential employment functions of such officer or employee, regardless of such person’s job title.

Finally, the ordinance changes the term “Financial Services Manager” to “Finance Director” throughout the Code. This is necessary because the title of the position has changed.

I will be happy to discuss this ordinance with you on Tuesday.

1 **FOR WORKSESSION/FIRST READING – JAN. 10**

2  
3 Additions To The Current Breckenridge Town Code Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5  
6 COUNCIL BILL NO. \_\_\_\_

7  
8 Series 2017

9  
10 AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE  
11 BRECKENRIDGE TOWN CODE

12  
13 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
14 COLORADO:

15  
16 Section 1. Chapter 7 of Title 1 of the Breckenridge Town Code is amended by the  
17 addition of a new Section 1-7-3, which shall read as follows:

18  
19 **1-7-3: REFERENCES TO TOWN OFFICERS AND EMPLOYEES:**

20  
21 **Any reference in this code to the specific job title of a Town officer or**  
22 **employee means and includes any successor to such officer or employee and**  
23 **any person who performs the same essential employment functions of such**  
24 **officer or employee, regardless of such person’s job title.**

25  
26 Section 2. The definition of “Town Board or Commission” in Section 1-16-7 of the  
27 Breckenridge Town Code is amended to read as follows:

28  
TOWN BOARD OR COMMISSION: The town’s planning commission, open  
space advisory commission, and the  
liquor **and marijuana** licensing  
authority.

29  
30 Section 3. The definition of “Financial Services Manager” in Section 3-1-2 of the  
31 Breckenridge Town Code is amended to read as follows:

32  
~~FINANCIAL SERVICES~~  
MANAGER **FINANCE DIRECTOR:** The ~~financial services manager~~ **director**  
**of finance and information technology**  
of the town or such other person  
designated by the municipality, **or;**  
~~“financial services manager“~~ shall also  
~~include~~ such person’s designee.



1 Section 4. Section 3-1-7 of the Breckenridge Town Code is amended to read as follows:

2  
3 3-1-7: RETAILER RESPONSIBLE FOR PAYMENT OF TAX:

4  
5 A. Every retailer or vendor engaged in business and selling at retail as defined in  
6 this chapter shall be liable and responsible for the payment of an amount  
7 equivalent to two and one-half percent (21/2%) of all sales made by him of  
8 commodities or services as specified in section 3-1-3 of this chapter, and shall file  
9 a return each month with the ~~financial services manager~~finance director on or  
10 before the twentieth day of each month for the preceding month and remit an  
11 amount equivalent to said two and one-half percent (21/2%) of such sales to the  
12 ~~financial services manager~~finance director.

13  
14 B. Every retailer or vendor conducting a business in which the transaction  
15 between the vendor and the consumer consists of the supply of tangible personal  
16 property and services in connection with the maintenance or servicing of same,  
17 shall be required to pay the tax levied under this chapter on the full contract price,  
18 unless application is made to the ~~financial services manager~~finance director for  
19 permission to use a percentage basis of reporting the tangible personal property  
20 sold and the services supplied under such contract. The ~~financial services~~  
21 ~~manager~~finance director is hereby authorized to determine the percentage based  
22 on the ratio of the tangible personal property included in the consideration as it  
23 bears to the total of the consideration paid under said combination contract or sale  
24 which shall be subject to the tax levied pursuant to the provisions of this chapter.  
25 This section shall not be construed to include terms upon which the tax is imposed  
26 on the full purchase price as defined herein.

27  
28 Section 5. Section 3-1-8(A)(2)(b) of the Breckenridge Town Code is amended to read as  
29 follows:

30  
31 b. Any amount so withheld shall be paid to the town within ten (10) days of the  
32 date of the sale of the business on forms prescribed by the ~~financial services~~  
33 ~~manager~~finance director.

34  
35 Section 6. Section 3-1-9 of the Breckenridge Town Code is amended to read as follows:

36  
37 3-1-9: RETAILER TO COLLECT TAX:

38  
39 Retailers shall add the tax imposed to the sale price or charge, showing such tax  
40 as a separate and distinct item, and when added, such tax shall constitute a part of  
41 such price or charge and shall be a debt from the consumer or user to the retailer  
42 until paid and shall be recoverable at law in the same manner as other debts;  
43 provided, however, that the retailer shall be entitled, as collection agent of the  
44 town, to apply and credit the amount of this collection against the two and one-

1 half percent (21/2%) rate to be paid by him under the provisions of section 3-1-5  
2 of this chapter remitting any excess collected over said two and one-half percent  
3 (21/2%) to the ~~financial services manager~~finance director in the retailer's next  
4 monthly sales tax returns.

5  
6 Section 7. Section 3-1-12(B) of the Breckenridge Town Code is amended to read as  
7 follows:

8  
9 B. When it is determined by the ~~financial services manager~~finance director of  
10 the town that sales tax owed to the town has been reported and paid to another  
11 municipality, the town shall promptly notify the vendor that taxes are being  
12 improperly collected and remitted, and that as of the date of the notice, the vendor  
13 must cease improper tax collections and remittances.

14  
15 Section 8. Section 3-1-13 of the Breckenridge Town Code is amended to read as follows:

16  
17 3-1-13: EXEMPTION; BURDEN OF PROOF:

18  
19 The burden of proving that any vendor, retailer, consumer or purchaser is exempt  
20 from collecting or paying the tax upon goods sold or purchased, paying the same  
21 to the ~~financial services manager~~finance director or from making such returns,  
22 shall be on the vendor, retailer, consumer, or purchaser under such reasonable  
23 requirements of proof as the ~~financial services manager~~finance director may  
24 prescribe.

25  
26 Section 9. Section 3-1-14 of the Breckenridge Town Code is amended to read as follows:

27  
28 3-1-14: EXCESS COLLECTIONS:

29  
30 If any vendor shall during any reporting period collect as a tax any amount in  
31 excess of two and one-half percent (21/2%) of his total taxable sales, he shall  
32 remit to the ~~financial services manager~~finance director the full net amount of the  
33 tax herein imposed, and also such excess. The retention by the retailer or vendor  
34 of any excess tax collections or the intentional failure to remit punctually to the  
35 ~~financial services manager~~finance director the full amount required to be  
36 remitted by the provisions of this chapter is hereby declared to be a violation of  
37 this chapter.

38  
39 Section 10. Section 3-1-16 of the Breckenridge Town Code is amended to read as  
40 follows:

41  
42 3-1-16: SPECIAL ACCOUNTING BASIS FOR REMITTANCE OF TAX:

43  
44 If the accounting methods employed by the vendor or licensed consumer in the

1 transaction of his business, or other conditions, are such that returns made on the  
2 calendar month basis will impose unnecessary hardship, the ~~financial services~~  
3 ~~manager~~ **finance director** may, upon request of the vendor or licensed consumer,  
4 accept returns at such intervals as will, in his opinion, better suit the convenience  
5 of the taxpayer and will not jeopardize the collection of the tax. If any taxpayer  
6 who has been granted permission to file reports and pay tax on other than a  
7 monthly basis shall become delinquent, then authorization for such alternative  
8 method of reporting may be revoked by the ~~financial services manager~~ **finance**  
9 **director** or his authorized agent, and immediately following notice of revocation,  
10 the taxpayer will be required to file reports and pay tax, interest and penalties on a  
11 monthly basis for all unreported or unpaid tax in the same manner required by law  
12 under conditions that would prevail if he has never been granted the alternate  
13 method of reporting and paying the tax.  
14

15 Section 11. Section 3-1-18 of the Breckenridge Town Code is amended to read as  
16 follows:

17  
18 3-1-18: INVESTIGATION OF BOOKS:

19  
20 For the purpose of ascertaining the correctness of a return, or for the purpose of  
21 determining the amount of tax due from any person, the ~~financial services~~  
22 ~~manager~~ **finance director**, or his duly authorized agent, may hold investigations  
23 and hearings concerning any matters covered by this chapter and may examine  
24 any relevant books, journals, ledgers, business bank account records, work papers  
25 of the taxpayer or accountant, records or memorandum of any such person and  
26 may require the attendance and testimony of such person.  
27

28 Section 12. Section 3-1-19 of the Breckenridge Town Code is amended to read as  
29 follows:

30  
31 3-1-19: COORDINATED AUDIT:

32  
33 A. Any taxpayer licensed in this town pursuant to section 3-1-22 of this chapter,  
34 and holding a similar sales tax license in at least four (4) other Colorado  
35 municipalities that administer their own sales tax collection, may request a  
36 coordinated audit as provided herein.  
37

38 B. Within fourteen (14) days of receipt of notice of an intended audit by any  
39 municipality that administers its own sales tax collection, the taxpayer may  
40 provide to the ~~financial services manager~~ **finance director** of this town, by  
41 certified mail, return receipt requested, a written request for a coordinated audit  
42 indicating the municipality from which the notice of intended audit was received  
43 and the name of the official who issued such notice. Such request shall include a  
44 list of those Colorado municipalities utilizing local collection of their sales tax in

1 which the taxpayer holds a current sales tax license and a declaration that the  
2 taxpayer will sign a waiver of any passage of time based limitation upon this  
3 town's right to recover tax owed by the vendor for the audit period.  
4

5 C. Except as provided in subsection G of this section, any taxpayer that submits a  
6 complete request for a coordinated audit may be audited by this town during the  
7 twelve (12) months after such request is submitted only through a coordinated  
8 audit involving all municipalities electing to participate in such an audit.  
9

10 D. If this town desires to participate in the audit of a taxpayer that submits a  
11 complete request for a coordinated audit pursuant to subsection C of this section,  
12 the ~~financial services manager~~ **finance director** shall so notify the ~~financial~~  
13 ~~services manager~~ **finance director** of the municipality whose notice of audit  
14 prompted the taxpayer's request within ten (10) days after receipt of the  
15 taxpayer's request for a coordinated audit. The ~~financial services manager~~ **finance**  
16 **director** shall then cooperate with other participating municipalities in the  
17 development of arrangements for the coordinated audit, including arrangement of  
18 the time during which the coordinated audit will be conducted, the period of time  
19 to be covered by the audit, and a coordinated notice to the taxpayer of those  
20 records most likely to be required for completion of the coordinated audit.  
21

22 E. If the taxpayer's request for a coordinated audit was in response to a notice of  
23 audit issued by this town, this town's ~~financial services manager~~ **finance**  
24 **director** shall facilitate arrangements between this town and other municipalities  
25 participating in the coordinated audit unless and until an official from some other  
26 participating municipality agrees to assume this responsibility. The ~~financial~~  
27 ~~services manager~~ **finance director** shall cooperate with other participating  
28 municipalities to, whenever practicable, minimize the number of auditors that will  
29 be present on the taxpayer's premises to conduct the coordinated audit on behalf  
30 of the participating municipalities. Information obtained by or on behalf of those  
31 municipalities participating in the coordinated audit may be shared only among  
32 such participating municipalities.  
33

34 F. If the taxpayer's request for a coordinated audit was in response to a notice of  
35 audit issued by this town, this town's ~~financial services manager~~ **finance**  
36 **director** shall, once arrangements for the coordinated audit between the town and  
37 other participating municipalities are completed, provide written notice to the  
38 taxpayer of which municipalities will be participating, the period to be audited  
39 and the records most likely to be required by participating municipalities for  
40 completion of the coordinated audit. The ~~financial services manager~~ **finance**  
41 **director** shall also propose a schedule for the coordinated audit.  
42

43 G. The coordinated audit procedure set forth in this section shall not apply:  
44 1. When the proposed audit is a jeopardy audit,

- 1 2. To audits for which a notice of audit was given prior to the effective date of this  
2 section, or  
3 3. When a taxpayer fails to provide a timely and complete request for a  
4 coordinated audit as provided in subsection B of this section.  
5

6 Section 13. The second unnumbered paragraph of Section 3-1-20 of the Breckenridge  
7 Town Code is amended to read as follows:  
8

9 In the case of a false or fraudulent return with intent to evade tax, the tax together  
10 with interest and penalties thereon may be assessed, or proceedings for the  
11 collection of such taxes may be begun at any time without regard to the statute of  
12 limitations. Prior to the expiration of the period of limitation, the taxpayer and the  
13 ~~financial services manager~~ **finance director** may agree in writing to an extension  
14 thereof, and the period so agreed on may be extended by subsequent agreements  
15 in writing.  
16

17 Section 14. Section 3-1-21 of the Breckenridge Town Code is amended to read as  
18 follows:  
19

20 3-1-21: SUBPOENAS:  
21

22 The ~~financial services manager~~ **finance director** may issue a subpoena to compel  
23 a person to attend and give testimony or to produce books and records, work  
24 papers, photographs or such other information that may be deemed necessary for  
25 the purpose of determining the amount of tax due from any person.  
26

27 Section 15. Section 3-1-23 of the Breckenridge Town Code is amended to read as  
28 follows:  
29

30 3-1-23: SALES TAX LICENSES; APPLICATION AND CONTENT:  
31

32 Breckenridge sales tax licenses shall be granted only upon application stating the  
33 name and address of the person desiring such license, the name of such business  
34 and the character thereof, the location, including the street number of such  
35 business and such other facts as may be required by the ~~financial services~~  
36 ~~manager~~ **finance director**. Any person doing business as a wholesaler shall  
37 obtain a retailer's license if any sales are made at retail as defined herein. In case  
38 business is transacted at two (2) or more separate places by one person, a separate  
39 license for each place of business shall be required. The license shall be posted in  
40 a conspicuous place in the place of business for which it is used. No license shall  
41 be transferable.  
42

43 Section 16. Section 3-1-24 of the Breckenridge Town Code is amended to read as  
44 follows:

1  
2 3-1-24: DENIAL OF LICENSE:  
3

4 A. An application for the initial issuance or renewal of a Breckenridge sales tax  
5 license shall be denied by the ~~financial services manager~~ **finance director** if:

- 6 1. The business for which the license is sought is an unlawful business;  
7 2. The applicant is not qualified to engage in such business under applicable  
8 federal, state or local law; or  
9 3. The applicant or, in the event of an applicant which is other than a natural  
10 person, if any principal of the applicant, owes to the town any unpaid and  
11 delinquent tax of any kind. As used in this subsection A3, the term “principal”  
12 means: a) as to a corporation, any officer, director, or shareholder owning fifty  
13 percent (50%) or more of the issued and outstanding capital stock of the  
14 corporation, b) as to any general partnership, any partner, c) as to any limited  
15 partnership, any general partner, and d) as to any limited liability company, any  
16 manager or member owning more than fifty percent (50%) interest in the entity.  
17 The term “delinquent” means the nonpayment of any tax obligation owed to the  
18 town within sixty (60) days of the date such obligation is due.  
19

20 B. Before denying an application the ~~financial services manager~~ **finance**  
21 **director** shall cause a hearing to be held using the general procedures provided for  
22 the revocation of a license in section 3-1-26 of this chapter. In the event an  
23 application is denied, the ~~financial services manager~~ **finance director** shall deliver  
24 to the applicant a written order of denial stating the reason for denial.  
25

26 Section 17. Section 3-1-26 of the Breckenridge Town Code is amended to read as  
27 follows:  
28

29 3-1-26: REVOCATION OF LICENSE:  
30

31 The ~~financial services manager~~ **finance director** may, on a reasonable notice and  
32 after full hearing, revoke the license of any person found by the ~~financial services~~  
33 ~~manager~~ **finance director** to have violated any provisions of this chapter.  
34

35 Section 18. Section 3-1-27 of the Breckenridge Town Code is amended to read as  
36 follows:  
37

38 3-1-27: APPEAL:  
39

40 Any finding and order of the ~~financial services manager~~ **finance director** revoking  
41 the license of any person shall be subject to review by the district court of the  
42 district where the business of the licensee is conducted, upon application of the  
43 aggrieved party. The procedure for review shall be as nearly as possible the same

1 as now provided for review of findings by writ of certiorari in accordance with  
2 rule 106(a)(4) of the Colorado rules of civil procedures.

3  
4 Section 19. Section 3-1-30 of the Breckenridge Town Code is amended to read as  
5 follows:

6  
7 3-1-30: COLLECTION AND REFUND OF DISPUTED TAX:

8  
9 Should a dispute arise between the purchaser and seller as to whether or not any  
10 sale or commodity or service is exempt from taxation hereunder, nevertheless, the  
11 seller shall collect and the purchaser shall pay such tax, and the seller thereupon  
12 issues to the purchaser a receipt or certificate, on forms prescribed by ~~financial~~  
13 ~~services manager~~ **finance director**, showing the names of the seller and  
14 purchaser, the items purchased, the date, price, amount of tax paid, and a brief  
15 statement of the claim of the exemption. The purchaser may thereafter apply to  
16 the ~~financial services manager~~ **finance director** to determine the question of  
17 exemption, subject to review by the courts, as herein provided.  
18

19 Section 20. Section 3-1-31 of the Breckenridge Town Code is amended to read as  
20 follows:

21  
22 3-1-31: REFUNDS:

23  
24 A. A refund shall be made, or credit allowed, for the sales tax so paid under  
25 dispute by any purchaser or user who claims an exemption pursuant to section 3-  
26 1-4 of this chapter. Such refund shall be made by ~~financial services manager~~  
27 **finance director** after compliance with the following conditions precedent:  
28 Applications for refund must be made within sixty (60) days after the purchase of  
29 the goods or services whereon an exemption is claimed and must be supported by  
30 the affidavit of the purchaser accompanied by the original paid invoice or sales  
31 receipt and certificate issued by the seller and shall be made upon such forms as  
32 shall be prescribed therefor.  
33

34 B. Upon receipt of such application, ~~financial services manager~~ **finance**  
35 **director** shall examine the same with due speed and shall give notice to the  
36 applicant in writing of his decision thereon. Aggrieved applicants, within thirty  
37 (30) calendar days after such decision is mailed to them, may petition the  
38 ~~financial services manager~~ **finance director** for a hearing on the claim in the  
39 manner provided in section 3-1-41 of this chapter and may either appeal to the  
40 district court in the manner provided in section 3-1-42 of this chapter or to the  
41 department of revenue in the manner provided in section 3-1-43 of this chapter.  
42 The right of any person to a refund under this chapter shall not be assignable, and  
43 except as provided in subsection C of this section, such application for refund

1 must be made by the same person who purchased the goods or services and paid  
2 the tax thereon as shown in the invoice of the sale thereof.

3  
4 C. A refund shall be made or a credit allowed by the ~~financial services manager~~  
5 **finance director** to any person entitled to an exemption where such person  
6 establishes that: 1) a tax was paid by another person, the purchaser, on a purchase  
7 made on behalf of the person entitled to an exemption; 2) a refund has not been  
8 granted to such purchaser; and 3) the person entitled to the exemption paid or  
9 reimbursed such purchaser for such tax. The burden of proving that sales,  
10 services, and commodities on which tax refunds are claimed are exempt from  
11 taxation under this chapter or were not at retail shall be on the person making  
12 such claim under such reasonable requirements of proof as set forth in the rules  
13 and regulations prescribed therefor. No such refund shall be made or credit  
14 allowed in an amount greater than the tax paid less the expense allowance on such  
15 purchase retained by the vendor pursuant to section 3-1-9 of this chapter.

16  
17 D. Such application for refund under subsection C of this section shall be made on  
18 forms furnished by the finance department. Upon receipt of such application and  
19 proof of the matters contained therein, ~~financial services manager~~ **finance**  
20 **director** shall give notice to the applicant by order in writing of his decision  
21 thereon. Aggrieved applicants within thirty (30) calendar days after such decision  
22 is mailed to them, may petition the ~~financial services manager~~ **finance**  
23 **director** for a hearing on the claim in the manner provided in section 3-1-41 of  
24 this chapter and may either appeal to the district court in the manner provided in  
25 section 3-1-42 of this chapter or to the department of revenue in the manner  
26 provided in section 3-1-43 of this chapter. Any applicant for a refund under the  
27 provisions of this subsection, or any other person, who makes any false statement  
28 in connection with an application for a refund of any taxes is guilty of a violation  
29 of this chapter and shall be punished in the manner provided by state law.

30  
31 E. Claims for tax monies paid in error or by mistake shall be made within three  
32 (3) years after the date of purchase of the goods or services for which the refund is  
33 claimed and shall be processed for refund in accordance with the rules and  
34 regulations prescribed therefor under subsection D of this section, except that the  
35 proceeds of any such claim for a refund shall first be applied by the finance  
36 department to any tax deficiencies or liabilities existing against the claimant  
37 before allowance for such claim by the finance department, and further except  
38 that if such excess payment of tax monies in any period is discovered as a result  
39 of an audit by the finance department, and deficiencies are discovered and  
40 assessed against the taxpayer as a result of such audit, then such excess monies  
41 shall be first applied against any deficiencies outstanding to the date of the  
42 assessment but shall not be applied to any future tax liabilities.



1 F. If any person is convicted under the provisions of this section, such conviction  
2 shall be prima facie evidence that all refunds received by such person during the  
3 current year were obtained unlawfully, and the ~~financial services manager~~ **finance**  
4 **director** is empowered to bring appropriate action for recovery of such refunds. A  
5 brief summary statement of the above described penalties shall be printed on each  
6 form application of a refund.

7  
8 G. The right of any person to obtain a refund pursuant to this chapter shall not be  
9 assignable.

10  
11 Section 21. Section 3-1-32 of the Breckenridge Town Code is amended to read as  
12 follows:

13  
14 3-1-32: RECOVERY OF TAXES, PENALTY AND INTEREST:

15  
16 A. All sums of money paid by the purchaser to the retailer as taxes imposed by  
17 this chapter shall be and remain public money, the property of the town, in the  
18 hands of such retailer, and shall hold the same in trust for the sole use and benefit  
19 of the town until paid to the ~~financial services manager~~ **finance director**, and for  
20 failure to so pay to the ~~financial services manager~~ **finance director**, such retailer  
21 shall be punished as provided herein.

22  
23 B. 1. If any person neglects or refuses to make a return in payment of the sales tax  
24 or to pay any sales tax as required by this chapter, then the ~~financial services~~  
25 ~~manager~~ **finance director** shall make an estimate, based upon such information as  
26 may be available, of the amount of taxes due for the period for which the taxpayer  
27 is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars  
28 (\$15.00) for such failure or ten percent (10%) thereof, whichever is greater, and  
29 interest on such delinquent taxes at the rate imposed under section 3-1-38 of this  
30 chapter, plus one-half percent (1/2%) per month from the date when due, not  
31 exceeding eighteen percent (18%) in the aggregate.

32 2. Promptly thereafter, the ~~financial services manager~~ **finance director** shall give  
33 to the delinquent taxpayer written notice of such estimated taxes, penalty, and  
34 interest, which notice shall be sent by first class mail directed to the last address  
35 of such person on file with the finance department. Such estimate shall thereupon  
36 become a notice of deficiency. Within twenty (20) calendar days after the notice  
37 of deficiency is mailed, the taxpayer may petition the ~~financial services manager~~  
38 **finance director** for a hearing in the manner provided in section 3-1-41 of this  
39 chapter and either may appeal to the district court as provided in section 3-1-42 of  
40 this chapter or to the department of revenue as provided in section 3-1-43 of this  
41 chapter.

42  
43 C. 1. If any taxes, penalty, or interest imposed by this chapter and shown due by  
44 returns filed by the taxpayer or as shown by assessments duly made as provided in

1 this section are not paid within five (5) days after the same are due, then the  
2 ~~financial services manager~~ **finance director** may issue a notice, setting forth the  
3 name of the taxpayer, the amount of the tax, penalties and interest, the date of the  
4 accrual thereof, and that the town claims a first and prior lien therefor on the real  
5 and personal property of the taxpayer, including, without limitation, the goods,  
6 inventory (stock in trade) and business fixtures of such taxpayer.

7 2. Said notice shall be on forms furnished by the finance department and shall be  
8 verified by the ~~financial services manager~~ **finance director** or any duly qualified  
9 agent of the ~~financial services manager~~ **finance director** whose duties are the  
10 collection of such tax, and may be filed in the office of the county clerk and  
11 recorder in which the taxpayer owns real or tangible personal property, and the  
12 filing of such notice shall create a lien on such property in that county and  
13 constitute notice thereof. After said notice has been filed, or concurrently  
14 therewith, or at any time when taxes due are unpaid, whether such notice shall  
15 have been filed or not, the ~~financial services manager~~ **finance director** may issue  
16 a warrant directed to any duly authorized revenue collector, or to the sheriff of the  
17 county, commanding him to levy upon, seize, and sell sufficient of the real and  
18 personal property of the tax debtor found within his county to satisfy the amount  
19 due together with interest, penalties, and costs, as may be provided by law. Any  
20 such sales shall be made free and clear of all liens and encumbrances.

21  
22 D. Such revenue collector or the sheriff shall forthwith levy upon sufficient of the  
23 property of the taxpayer or any property used by such taxpayer in conducting his  
24 retail business, and said property so levied upon shall be sold in all respects with  
25 like effect and in the same manner as prescribed by law with respect to executions  
26 against property upon judgment of a court of record, and the remedies of  
27 garnishment shall apply. The sheriff shall be entitled to such fee in executing such  
28 warrants as are allowed by law for similar services.

29  
30 E. Any lien for taxes as shown on the records of the county clerks and recorders  
31 as provided in this section, upon payment of all taxes, penalties, and interest  
32 covered thereby shall be released by the ~~financial services manager~~ **finance**  
33 **director** in the same manner as mortgages and judgments are released.

34  
35 F. The ~~financial services manager~~ **finance director** may also treat any such taxes,  
36 penalties, and interest due and unpaid as a debt due to the town from the vendor.  
37 The return of the taxpayer of the assessment made by the ~~financial services~~  
38 ~~manager~~ **finance director**, as provided in this chapter, shall be prima facie proof  
39 of the amount due. Such debt may be collected by civil action brought against the  
40 vendor in a court of competent jurisdiction, and in such action the town shall be  
41 entitled to recover from the vendor, in addition to the tax, penalties and interest,  
42 its reasonable attorney fees incurred in the prosecution of such action.  
43

1 G. In any action affecting the title to real estate or the ownership or rights to  
2 possession of personal property, the town may be made a party defendant for the  
3 purpose of obtaining an adjudication or determination of its lien upon the property  
4 involved therein. In any such action, the service of summons upon the ~~financial~~  
5 ~~services manager~~ **finance director** or any person in charge of the office of the  
6 ~~financial services manager~~ **finance director** shall be sufficient service and shall be  
7 binding upon the town.  
8

9 H. The ~~financial services manager~~ **finance director** is authorized to waive, for  
10 good cause shown, any penalty assessed as provided in this chapter, and any  
11 interest imposed in excess of the rate determined pursuant to subsection B of this  
12 section shall be deemed a penalty.  
13

14 Section 22. Section 3-1-35 of the Breckenridge Town Code is amended to read as  
15 follows:  
16

17 3-1-35: AUTHORITY OF FINANCIAL SERVICES MANAGER FINANCE  
18 DIRECTOR TO REQUIRE IMMEDIATE PAYMENT OF TAX:  
19

20 Notwithstanding the provisions of section 3-1-7 of this chapter with respect to the  
21 time for the payment of sales tax due to the town, whenever it appears from the  
22 records of the finance department or otherwise that sales tax due to the town has  
23 not been paid, or has not been paid in a timely fashion, the ~~financial services~~  
24 ~~manager~~ **finance director**, after notice and hearing, shall have the authority to  
25 require the payment to the town of the tax due under this chapter on a daily or  
26 weekly basis, as the ~~financial services manager~~ **finance director** shall determine  
27 to be required to adequately assure that the tax due under this chapter will be paid  
28 to the town. The ~~financial services manager~~ **finance director** shall give the vendor  
29 at least ten (10) days' notice of the time and place of such hearing. Notice shall be  
30 mailed to the vendor at the address shown on the town sales tax license. The  
31 ~~financial services manager~~ **finance director** shall further have the authority to  
32 require payment of such tax on a daily or weekly basis into a separate account  
33 maintained by the vendor solely for payment of sales tax and accessible only to  
34 parties approved by the ~~financial services manager~~ **finance director**. Failure to  
35 comply with any order of the ~~financial services manager~~ **finance director** lawfully  
36 entered pursuant to this section shall be sufficient grounds for the revocation of  
37 the vendor's sales tax license as provided in section 3-1-26 of this chapter.  
38

39 Section 23. Section 3-1-36 of the Breckenridge Town Code is amended to read as  
40 follows:  
41

42 3-1-36: TAX LIEN; EXEMPTION FROM LIEN:  
43

1 A. 1. Except as provided in subsection A2 of this section, the sales tax imposed  
2 pursuant to section 3-1-5 of this chapter shall be a first and prior lien upon the real  
3 and personal property of or used by the taxpayer, including, without limitation,  
4 the goods, inventory (stock in trade) and business fixtures of such taxpayer, and  
5 shall take precedence over the other liens, encumbrances, security interest and  
6 claims of whatsoever kind or nature.

7 2. Any retailer or person in possession shall provide a copy of any lease  
8 pertaining to the assets and property described in subsection A1 of this section to  
9 the ~~financial services manager~~ **finance director** within ten (10) days after seizure  
10 by the town of such assets and property. The ~~financial services manager~~ **finance**  
11 **director** shall verify that such lease is bona fide and notify the owner that such  
12 lease has been received by the ~~financial services manager~~ **finance director**. The  
13 ~~financial services manager~~ **finance director** shall use his or her best efforts to  
14 notify the owner of the real or personal property which might be subject to the  
15 lien created in subsection A1 of this section. The real or personal property of an  
16 owner who has made a bona fide lease to a retailer shall be exempt from the lien  
17 created in subsection A1 of this section: a) if such property can reasonably be  
18 identified from the lease description, or b) if the lessee is given the option to  
19 purchase in such lease and has not exercised such option to become the owner of  
20 the property leased. This exemption shall become effective from the date of the  
21 execution of the lease. Such exemption shall also apply if the lease is recorded  
22 with the clerk and recorder of Summit County. Motor vehicles which are properly  
23 registered in this state, showing the lessor as owner thereof, shall be exempt from  
24 the lien created in subsection A1 of this section; except that such lien shall apply  
25 to the extent that the lessee has an earned reserve, allowance for depreciation not  
26 to exceed fair market value, or similar interest which is or may be credited to the  
27 lessee. Where the lessor and lessee are blood relatives or relatives by law or have  
28 twenty five percent (25%) or more common ownership, a lease between such  
29 lessee and such lessor shall not be considered as bona fide for the purpose of this  
30 subsection A2.

31 3. Any retailer who sells out his business or stock of goods, or quits business,  
32 shall be required to make out the return as provided in this chapter within ten (10)  
33 days after the date he sold his business or stock of goods, or quit business, and his  
34 successor in business shall be required to withhold sufficient purchase money to  
35 cover the amount of said taxes due and unpaid until such time as the former  
36 owner produces a receipt from the ~~financial services manager~~ **finance**  
37 **director** showing that the taxes have been paid or a certificate that no taxes are  
38 due.

39 4. If the purchaser of a business or stock of goods fails to withhold the purchase  
40 money as provided in subsection A3 of this section, and the taxes are due and  
41 unpaid after the ten (10) day period allowed, he, as well as the vendor, shall be  
42 personally liable for the payment of the taxes unpaid by the former owner.  
43 Likewise, anyone who takes any stock of goods or business fixtures of or used by  
44 any retailer under lease, title retaining contract, or other contract arrangement, by

1 purchase, foreclosure sale, or otherwise, takes the same subject to the lien for any  
2 delinquent sales taxes owned by such retailer and shall be liable for the payment  
3 of all delinquent sales taxes of such prior owner, not, however, exceeding the  
4 value of property so taken or acquired.  
5

6 B. Whenever the business or property of any taxpayer subject to this chapter shall  
7 be placed in receivership, bankruptcy, or assignment for the benefit of creditors,  
8 or seized under distraint for property taxes, all taxes, penalties, and interest  
9 imposed by this chapter and for which said retailer is in any way liable under the  
10 terms of this chapter shall be a prior and preferred claim against all the property  
11 of said taxpayer. No sheriff, receiver, assignee, or other officer shall sell the  
12 property of any person subject to this chapter under process or order of any court  
13 without first ascertaining from the ~~financial services manager~~ **finance director**  
14 the amount of any taxes due and payable under this chapter, and if there are any  
15 such taxes due, owing, or unpaid, it is the duty of such officer to first pay the  
16 amount of said taxes out of the proceeds of said sale before making payment of  
17 any monies to any judgment creditor or other claims of whatsoever kind or nature.  
18 For the purposes of this subsection B, “taxpayer” includes “retailer”.  
19

20 Section 24. Section 3-1-37 of the Breckenridge Town Code is amended to read as  
21 follows:  
22

23 3-1-37: NEGLIGENT OR INTENTIONAL TAX DEFICIENCY:  
24

25 If any part of the deficiency in payment of the sales tax is due to negligence or  
26 intentional disregard of authorized rules and regulations of the town with  
27 knowledge thereof, but without intent to defraud, there shall be added ten percent  
28 (10%) of the total amount of the deficiency, and interest in such case shall be  
29 collected at the rate imposed under section 3-1-38 of this chapter, in addition to  
30 the interest provided by section 3-1-39 of this chapter on the amount of such  
31 deficiency from the time the return was due, from the person required to file the  
32 return, which interest and addition shall become due and payable ten (10) days  
33 after written notice and demand to such person by the ~~financial services manager~~  
34 **finance director**. If any part of the deficiency is due to fraud with the intent to  
35 evade the tax, then there shall be added one hundred percent (100%) of the total  
36 amount of the deficiency, and in such case, the whole amount of the tax unpaid,  
37 including the additions shall become due and payable ten (10) days after written  
38 notice and demand by the ~~financial services manager~~ **finance director**, and an  
39 additional three percent (3%) per month on said amount shall be added from the  
40 date that the return was due until paid.  
41

42 Section 25. Section 3-1-39 of the Breckenridge Town Code is amended to read as  
43 follows:  
44

1 3-1-39: INTEREST ON UNDERPAYMENT, OVERPAYMENT,  
2 NONPAYMENT OR EXTENSIONS OF TIME FOR PAYMENT OF TAX:  
3

4 A. If any amount of sales tax is not paid on or before the last date prescribed for  
5 payment, then interest on such amount at the rate imposed under section 3-1-38 of  
6 this chapter shall be paid for the period from such last date to the date paid. The  
7 last date prescribed for payment shall be determined without regard to any  
8 extension of time for payment and shall be determined without any regard to any  
9 notice and demand for payment issued, by reason of jeopardy, prior to the last  
10 date otherwise prescribed for such payment. In the case of a tax in which the last  
11 date for payment shall be deemed to be the date that the liability for the tax arises,  
12 and in no event shall such date be later than the date that notice and demand for  
13 the tax is made by the ~~financial services manager~~ **finance director**.  
14

15 Section 26. Section 3-1-41 of the Breckenridge Town Code is amended to read as  
16 follows:  
17

18 3-1-41: HEARINGS BY ~~FINANCIAL SERVICES MANAGER~~ **FINANCE**  
19 **DIRECTOR**:  
20

21 A. If any person contests the ~~financial services manager~~ **finance director**'s  
22 deficiency notice or denial of a claim for refund, then he may apply to the  
23 ~~financial services manager~~ **finance director** by petition in writing within twenty  
24 (20) calendar days after such deficiency notice is mailed to him for a hearing and  
25 a correction of the amount of the tax so assessed, in which petition he shall set  
26 forth the reasons why such hearing should be granted and the amount by which  
27 such tax should be reduced. The ~~financial services manager~~ **finance director** shall  
28 notify the petitioner in writing of the time and place fixed by him for such  
29 hearing. After such hearing, the ~~financial services manager~~ **finance director** shall  
30 make such order in the matter as is just and lawful and shall furnish a copy of  
31 such order to the petitioner.  
32

33 B. Every decision of the ~~financial services manager~~ **finance director** shall be in  
34 writing, and notice thereof shall be mailed to the petitioner within ten (10) days,  
35 and all such decisions shall become final upon the expiration of thirty (30) days  
36 after notice of such decision shall have been mailed to the petitioner, unless  
37 proceedings are begun within such time for review thereof as provided in section  
38 3-1-42 or 3-1-43 of this chapter.  
39

40 Section 27. Section 3-1-42 of the Breckenridge Town Code is amended to read as  
41 follows:  
42

43 3-1-42: REVIEW BY DISTRICT COURT:  
44

1 A. If any person contests the ~~financial services manager~~ **finance director** final  
2 decision on a deficiency notice or claim for refund, he may proceed to have same  
3 reviewed by the district court. The procedure of review shall be in accordance  
4 with rule 106(a)(4) of the Colorado rules of civil procedures.  
5

6 B. Within fifteen (15) days after filing a notice of appeal as provided in this  
7 section, the taxpayer shall file with the district court a surety bond in twice the  
8 amount of the taxes, interest, and other charges stated in the final decision by the  
9 ~~financial services manager~~ **finance director** that are contested on appeal. The  
10 taxpayer may, at his option, satisfy the surety bond requirement by a savings  
11 account or deposit in or a certificate of deposit issued by a state or national bank  
12 or by a state or federal savings and loan association, in accordance with the  
13 provisions of section 11-35-101(1), Colorado Revised Statutes, equal to twice the  
14 amount of the taxes, interest and other charges stated in the final decision by the  
15 ~~financial services manager~~ **finance director**. The taxpayer may, at his option,  
16 deposit the disputed amount with the ~~financial services manager~~ **finance**  
17 **director** in lieu of posting a surety bond. If such amount is so deposited, no further  
18 interest shall accrue on the deficiency contested during the pendency of the  
19 action. At the conclusion of the action, after appeal to the supreme court or the  
20 court of appeals of the state or after the time for such appeal has expired, the  
21 funds deposited shall be, at the direction of the district court, either retained by the  
22 ~~financial services manager~~ **finance director** and applied against the deficiency or  
23 returned in whole or in part to the taxpayer with interest at the rate imposed  
24 pursuant to section 3-1-38 of this chapter. No claim for refund of amounts  
25 deposited with the ~~financial services manager~~ **finance director** need be made by  
26 the taxpayer in order for such amounts to be repaid in accordance with the  
27 direction of the district court.  
28

29 Section 28. Section 3-1-43 of the Breckenridge Town Code is amended to read as  
30 follows:  
31

32 3-1-43: ALTERNATIVE REVIEW BY DEPARTMENT OF REVENUE:  
33

34 In lieu of the procedure provided for in section 3-1-42 of this chapter, the  
35 taxpayer may elect a hearing on the ~~financial services manager~~ **finance director**'s  
36 final decision on a deficiency notice or claim for refund pursuant to procedure set  
37 forth in this section.  
38

39 A. As used in this section, "state hearing" means a hearing before the executive  
40 director of the department of revenue or a delegate thereof as provided in section  
41 29-2-106.1(3), Colorado Revised Statutes.  
42

43 B. When the ~~financial services manager~~ **finance director** asserts that sales taxes  
44 are due in an amount greater than the amount paid by a taxpayer, then the

1 ~~financial services manager~~ **finance director** shall mail a deficiency notice to the  
2 taxpayer by certified mail. The deficiency notice shall state the additional sales  
3 taxes due. The deficiency notice shall contain notification, in clear and  
4 conspicuous type, that the taxpayer has the right to elect a state hearing on the  
5 deficiency pursuant to section 29-2-106.1(3), Colorado Revised Statutes. The  
6 taxpayer shall also have the right to elect a state hearing on the ~~financial services~~  
7 ~~manager~~ **finance director**'s denial of such taxpayer's claim for a refund of sales  
8 tax paid.  
9

10 C. The taxpayer shall request the state hearing within thirty (30) days after the  
11 taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such  
12 hearing if he has not exhausted local remedies, or if he fails to request such  
13 hearing within the time period provided for in this subsection C. For purposes of  
14 this subsection C, "exhaustion of local remedies" means:

15 1. The taxpayer has timely requested in writing a hearing before the ~~financial~~  
16 ~~services manager~~ **finance director**, and the ~~financial services manager~~ **finance**  
17 **director** has held such hearing and issued a final decision thereon. Such hearing  
18 shall be informal, and no transcript, rules of evidence or filing of briefs shall be  
19 required, but the taxpayer may elect to submit a brief, in which case the ~~financial~~  
20 ~~services manager~~ **finance director** may submit a brief. The ~~financial services~~  
21 ~~manager~~ **finance director** shall hold such hearing and issue the final decision  
22 thereon within ninety (90) days after the ~~financial services manager~~ **finance**  
23 **director**'s receipt of the taxpayer's written request therefor, except that the town  
24 may extend such period if the delay in holding the hearing or issuing the decision  
25 thereon was occasioned by the taxpayer, but, in any such event, the ~~financial~~  
26 ~~services manager~~ **finance director** shall hold such hearing and issue the decision  
27 thereon within one hundred eighty (180) days of the taxpayer's request in writing  
28 therefor; or

29 2. The taxpayer has timely requested in writing a hearing before the ~~financial~~  
30 ~~services manager~~ **finance director**, and the ~~financial services manager~~ **finance**  
31 **director** has failed to hold such hearing or has failed to issue a final decision  
32 thereon within the time periods prescribed in subsection C1 of this section.  
33

34 D. If a taxpayer has exhausted his local remedies as provided in subsection C of  
35 this section, then the taxpayer may request a state hearing on such deficiency  
36 notice or claim for refund, and such request shall be made, and such hearing shall  
37 be conducted in the same manner as set forth in section 29-2-106.1(3) through (7),  
38 inclusive, Colorado Revised Statutes.  
39

40 E. If the deficiency notice or claim for refund involves only the ~~financial services~~  
41 ~~manager~~ **finance director**, then in lieu of requesting a state hearing, the taxpayer  
42 may appeal such deficiency or denial of a claim for refund to the district court as  
43 provided in section 29-2-106.1(8), Colorado Revised Statutes, if the taxpayer  
44 complies with the procedures set forth in subsection C of this section.



1  
2 F. No provision of this section shall prohibit the taxpayer from pursuing judicial  
3 review of a final decision of the ~~financial services manager~~ **finance director**  
4 otherwise provided in section 3-1-42 of this chapter.  
5

6 Section 29. Section 3-1-45 of the Breckenridge Town Code is amended to read as  
7 follows:  
8

9 3-1-45: NOTICE OF SALES AND USE TAX ORDINANCE AMENDMENT:  
10

11 A. In order to initiate a central register of sales and use tax ordinances for  
12 municipalities that administer local sales tax collection, the ~~financial services~~  
13 ~~manager~~ **finance director** of the town shall file with the Colorado municipal  
14 league prior to the effective date of this section a copy of the town sales tax  
15 ordinance reflecting all provisions in effect on the effective date of this section.  
16

17 B. In order to keep current the central register of sales and use tax ordinances for  
18 municipalities that administer local sales tax collection, the ~~financial services~~  
19 ~~manager~~ **finance director** of the town shall file with the Colorado municipal  
20 league prior to the effective date of any amendment a copy of each sales tax  
21 ordinance amendment enacted by the town.  
22

23 C. Failure of the town to file such ordinance or ordinance amendment pursuant to  
24 this section shall not invalidate any provision of the sales and use tax ordinance or  
25 any amendment thereto.  
26

27 Section 30. Section 3-1-46B of the Breckenridge Town Code is amended to read as  
28 follows:  
29

30 B. To knowingly and wilfully swear to or verify any false tax return or other  
31 statement filed with the ~~financial services manager~~ **finance director** as required  
32 by this chapter;  
33

34 Section 31. Section 3-7-4 of the Breckenridge Town Code is amended to read as follows:  
35

36 3-7-4: EXCEPTION; TOWN ATTORNEY, TOWN EMPLOYEES AND  
37 ENFORCEMENT PERSONNEL”  
38

39 A. Nothing in section 3-7-1 of this chapter shall be construed to prohibit the  
40 inspection of tax returns and related information by the town attorney, other legal  
41 representatives, the ~~financial services manager~~ **finance director**, other employees  
42 of the town with a need to know such information in connection with the  
43 performance of their duties, or law enforcement personnel of the town.  
44

1 B. Notwithstanding the provisions of this section, the ~~financial services manager~~  
2 **finance director** may furnish to the taxing officials of the state of Colorado, its  
3 political subdivisions, any other state, or political subdivision, or the United  
4 States, any information contained in tax returns and related documents filed  
5 pursuant to this title or in the report of an audit or investigation made with respect  
6 to a return, if the recipient jurisdiction agrees with the manager to grant similar  
7 privileges to the town and if such information is to be used by the jurisdiction  
8 only for tax purposes.  
9

10 Section 32. Section 3-9-5 of the Breckenridge Town Code is amended to read as follows:

11 3-9-5: RULES AND REGULATIONS:

12  
13  
14 The ~~financial services manager~~ **finance director** shall have the authority from  
15 time to time to adopt, amend, alter and repeal administrative rules and regulations  
16 as may be necessary for the proper administration of this chapter. Such  
17 regulations shall be adopted in accordance with the procedures established by title  
18 1, chapter 18 of this code.  
19

20 Section 33. The definition of “financial services manager” in Section 3-10-2 of the  
21 Breckenridge Town Code is amended to read as follows:  
22

23 24 25 26 27 28 29 30 31 32 33	<p><del>FINANCIAL SERVICES</del> <del>MANAGER</del> <b><u>FINANCE DIRECTOR:</u></b></p>	<p>The <del>financial services manager</del> <b><u>director</u></b> <b><u>of finance and information technology</u></b> of the town, or such person’s authorized representative <b><u>designee</u></b>.</p>
--	---	---

34 Section 34. Section 3-10-8 of the Breckenridge Town Code is amended to read as  
35 follows:  
36

37 3-10-8: REMITTANCE OF COLLECTED TAX:

38 A. Each ski area operator shall file a return each month with the ~~financial services~~  
39 ~~manager~~ **finance director** on or before the twentieth day of each month for the  
40 preceding month and remit to the ~~financial services manager~~ **finance director** all  
tax collected by such ski area operator during the preceding month.

B. The ~~financial services manager~~ **finance director** may, upon request of the ski  
area operator or other taxpayer, accept returns at such intervals as will, in the  
opinion of the ~~financial services manager~~ **finance director**, better suit the  
convenience of the ski area operator or other taxpayer and will not jeopardize the  
collection of the tax, including an annual tax return. If any ski area operator or  
other taxpayer who has been granted permission to file reports and pay tax on  
other than a monthly basis shall become delinquent, then authorization for such

1 alternative method of reporting may be revoked by the ~~financial services manager~~  
2 **finance director** or his or her authorized agent, and immediately following notice  
3 of revocation, the ski area operator or other taxpayer will be required to file  
4 reports and pay tax, interest, and penalties on a monthly basis for all unreported or  
5 unpaid tax in the same manner required by law under conditions that would  
6 prevail as if the ski area operator or other taxpayer had never been granted the  
7 alternate method of reporting and paying the tax.  
8

9 C. The tax return and tax remitted to the ~~financial services manager~~ **finance**  
10 **director** shall be made in such manner and upon such forms as the ~~financial~~  
11 ~~services manager~~ **finance director** may prescribe.  
12

13 Section 35. Section 3-10-9A of the Breckenridge Town Code is amended to read as  
14 follows:  
15

16 A. Returns filed pursuant to this chapter shall be preserved for a period of three  
17 (3) years from the date of filing with the ~~financial services manager~~ **finance**  
18 **director**, after which time the ~~financial services manager~~ **finance director** may  
19 order them destroyed.  
20

21 Section 36. Section 3-10-10 of the Breckenridge Town Code is amended to read as  
22 follows:  
23

24 3-10-10: RECORDS AND ACCOUNTS TO BE KEPT:  
25

26 Each ski area operator shall keep and preserve suitable records of all sales of  
27 taxable lift tickets sold, and such other books or accounts as may be necessary to  
28 determine the amount of tax for the collection or remittance of which the ski area  
29 operator is liable and responsible hereunder. It is the duty of each ski area  
30 operator to keep and preserve all such books, invoices, and other records for a  
31 period of three (3) years following the date the taxes were due to the town. Such  
32 items shall be open for investigation by the ~~financial services manager~~ **finance**  
33 **director**. When a ski area operator fails or refuses to file a return the tax may be  
34 assessed by the ~~financial services manager~~ **finance director** and collected without  
35 regard to the statute of limitations.  
36

37 Section 37. Section 3-10-13 of the Breckenridge Town Code is amended to read as  
38 follows:  
39

40 3-10-13: ADMINISTRATION BY ~~FINANCIAL SERVICES~~  
41 **MANAGER FINANCE DIRECTOR**; RULES AND REGULATIONS:  
42

43 The administration of all provisions of this chapter is vested in and shall be  
44 exercised by the ~~financial services manager~~ **finance director**, who shall prescribe

1 forms and formulate and promulgate reasonable rules and regulations in  
2 conformity with this chapter for the making of returns, the ascertainment,  
3 assessment, and collection of taxes imposed, and the proper administration and  
4 enforcement thereof.

5  
6 Section 38. The following definitions in Section 4-1-2 of the Breckenridge Town Code  
7 are amended to read as follows:  
8

ADMINISTRATIVE LICENSE: A license issued by the ~~financial services manager~~ **finance director** pursuant to section 4-1-8-2 of this chapter.

~~FINANCIAL SERVICES MANAGER~~ **FINANCE DIRECTOR**: The ~~financial services manager~~ **director of finance and information technology** of the town, or such person's designee.

LICENSE: A license issued by the ~~financial services manager~~ **finance director** pursuant to this chapter.

LICENSED PREMISES: A premises for which a license has been issued by the ~~financial services manager~~ **finance director** pursuant to this chapter.

LICENSEE: A person to whom a license has been issued by the ~~financial services manager~~ **finance director** pursuant to this chapter.

9  
10 Section 39. Section 4-1-5A of the Breckenridge Town Code is amended to read as  
11 follows:  
12

13 4-1-5: ISSUANCE OF LICENSE:  
14

15 A. The ~~financial services manager~~ **finance director** shall issue a license under this  
16 chapter upon presentation of a completed application therefor and payment of the  
17 fee required by section 4-1-4 of this chapter.

18 1. The ~~financial services manager~~ **finance director** shall issue a license for a  
19 single-family accommodation unit under this chapter only to the owner of such  
20 single-family accommodation unit.  
21

22 Section 40. Section 4-1-7 of the Breckenridge Town Code is amended to read as follows:

1  
2 4-1-7: DENIAL OF LICENSE:  
3

4 A. An application for the initial issuance or renewal of an annual business license  
5 shall be denied by the ~~financial services manager~~ **finance director**:

- 6 1. If the business for which the license is sought is an unlawful business;  
7 2. If the applicant is not qualified to engage in such business under applicable  
8 federal, state or local law; or  
9 3. If the applicant or, in the event of an applicant which is other than a natural  
10 person, if any principal of the applicants, owes to the town any unpaid and  
11 delinquent tax of any kind. As used in this subsection, the term “principal” means:  
12 a) as to a corporation, any officer, director, or shareholder owning fifty percent  
13 (50%) or more of the issued and outstanding capital stock of the corporation, b) as  
14 to any general partnership, any partner, c) as to any limited partnership, any  
15 general partner, and d) as to any limited liability company, any manager or  
16 member owning more than fifty percent (50%) interest in the entity. The term  
17 “delinquent” means the nonpayment of any tax obligation owed to the town  
18 within sixty (60) days of the date such obligation is due.  
19

20 B. Before denying an application the ~~financial services manager~~ **finance**  
21 **director** shall cause a hearing to be held using the general procedures provided for  
22 the revocation of a license in section 4-1-10-1 of this chapter. In the event an  
23 application is denied, the ~~financial services manager~~ **finance director** shall deliver  
24 to the applicant a written order of denial stating the reason for denial, together  
25 with a refund of the license fee submitted with the application.  
26

27 Section 41. Section 4-1-8-1 of the Breckenridge Town Code is amended to read as  
28 follows:  
29

30 4-1-8-1: SPECIAL CONDITIONS OF LICENSE; SINGLE-FAMILY  
31 ACCOMMODATION UNITS:  
32

33 A. Special Conditions: In addition to the other requirements of this chapter, the  
34 owner of a single-family accommodation unit licensed pursuant to this chapter  
35 shall, as a condition of such license, be subject to the following requirements:  
36 1. The motor vehicles of all occupants of the single-family accommodation unit  
37 shall be parked only on the site of the single-family accommodation unit, or in a  
38 town designated parking area located off of the site of the single-family  
39 accommodation unit. No motor vehicles shall be parked on the lawn or  
40 landscaped areas of a single-family accommodation unit, or in the public street or  
41 right of way adjacent to the single-family accommodation unit. No person shall be  
42 permitted to stay overnight in any motor vehicle which is parked at a single-  
43 family accommodation unit. Further, all motor vehicles parked at a single-family

1 accommodation unit shall comply with the requirements and be subject to the  
2 limitations of section 9-3-11 of this code.

3 2. No privately owned, nongovernmental vehicle with a passenger capacity of  
4 sixteen (16) persons or more shall be used to transport persons to or from a single-  
5 family accommodation unit, or parked upon the premises of a single-family  
6 accommodation unit.

7 3. The storage and disposal of all trash and garbage from a single-family  
8 accommodation unit shall comply with the requirements of title 5, chapter 2 of  
9 this code.

10 4. While occupying a single-family accommodation unit, no person shall: a)  
11 make, cause or control unreasonable noise upon the single-family accommodation  
12 unit which is audible upon a private premises that such occupant has no right to  
13 occupy in violation of subsection 6-3C-1A2 of this code, or b) violate title 5,  
14 chapter 8 of this code.

15 5. No single-family accommodation unit shall be operated in such a manner as to  
16 constitute a nuisance pursuant to title 5, chapter 1 of this code.

17 6. The licensee shall provide to the ~~financial services manager~~ **finance**  
18 **director** the name, address and telephone number of any current management  
19 company, rental agency or other person employed or engaged by the licensee to  
20 manage, rent or supervise the single-family accommodation unit. It shall be the  
21 duty of the licensee to update such information throughout the term of the license  
22 so that the ~~financial services manager~~ **finance director** always has the correct and  
23 current information.

24 7. At the time of the issuance of the license the licensee shall provide to the  
25 ~~financial services manager~~ **finance director** the name, address and telephone  
26 number of a local contact person who is authorized by the licensee to receive  
27 communications from the town concerning the single-family accommodation unit.  
28 The local contact person may be a management company, rental agent or other  
29 person employed or engaged by the licensee to manage, rent or supervise the  
30 single-family accommodation unit. The local contact person shall maintain a  
31 residence or permanent place of business within the town. The designated local  
32 contact person may be changed by the licensee from time to time throughout the  
33 term of the license. To effect such change, the licensee shall notify ~~financial~~  
34 ~~services manager~~ **finance director** of the change in writing and shall, at the same  
35 time, provide the ~~financial services manager~~ **finance director** with the name,  
36 address and telephone number of the licensee's replacement contact person. Any  
37 replacement contact person shall meet the requirements of this subsection A7.  
38

39 B. Owner Liable: Compliance with the special conditions set forth in subsection  
40 A of this section shall be the nondelegable responsibility of the owner of a single-  
41 family accommodation unit; and each owner of a single-family accommodation  
42 unit shall be strictly liable for complying with the conditions set forth in  
43 subsection A of this section.  
44

1 C. Licensee To Receive Special Conditions: At the time of the issuance of a  
2 license, the ~~financial services manager~~ **finance director** shall provide the licensee  
3 with a copy of the special conditions set forth in subsection A of this section.  
4

5 D. Licensee To Post License And Special Conditions: The licensee shall post a  
6 copy of the license and the special conditions set forth in subsection A of this  
7 section in a conspicuous location in the single-family accommodation unit. The  
8 license and the special conditions shall remain continuously posted in the single-  
9 family accommodation unit throughout the term of the license.  
10

11 E. Licensee To Provide Management Company With Special Conditions: The  
12 licensee shall provide any management company, rental agency or other person  
13 employed or engaged by the licensee to manage, rent or supervise the single-  
14 family accommodation unit with a copy of the special conditions set forth in  
15 subsection A of this section.  
16

17 F. Revocation Or Suspension Of License: The failure of the licensee of a single-  
18 family accommodation unit to comply with the special conditions set forth in  
19 subsection A of this section shall constitute grounds for the suspension or  
20 revocation of the license. Any action to suspend or revoke the license shall be  
21 conducted by the ~~financial services manager~~ **finance director** in accordance with  
22 section 4-1-10-1 of this chapter.  
23

24 Before an action is commenced to suspend or revoke a license for a single-family  
25 accommodation unit, the ~~financial services manager~~ **finance director** shall first  
26 provide the licensee with a written warning that an apparent violation of the  
27 special conditions of subsection A of this section has occurred, and the licensee  
28 shall be given a reasonable opportunity to cure such apparent violation. A copy of  
29 such warning notice shall also be sent to any management company, rental agency  
30 or other person employed or engaged by the licensee to manage, rent or supervise  
31 the licensed premises who has been properly identified by the licensee pursuant to  
32 subsection A6 of this section and to the local contact person identified by the  
33 licensee pursuant to subsection A7 of this section. Not more than one written  
34 warning shall be required to be sent during the term of each license.  
35

36 Section 42. Section 4-1-8-2 of the Breckenridge Town Code is amended to read as  
37 follows:  
38

39 4-1-8-2: ADMINISTRATIVE LICENSE:  
40

41 The ~~financial services manager~~ **finance director** may issue an administrative  
42 business and occupational license to an applicant if doing so would be in the best  
43 interest of the town because either: a) the town is the applicants only customer  
44 within the town limits; or b) the only location within the town limits at which the

1 applicant does business is a town owned facility. All provisions of this chapter  
2 shall apply to an administrative business and occupational license issued pursuant  
3 to this chapter unless the ~~financial services manager~~ **finance director** determines  
4 otherwise; provided, however, there shall be no license fee required in connection  
5 with such license. The ~~financial services manager~~ **finance director** may issue  
6 administrative regulations governing administrative business and occupational  
7 licenses issued pursuant to this section.  
8

9 Section 43. Section 4-1-10 of the Breckenridge Town Code is amended to read as  
10 follows:

11  
12 4-1-10: ADMINISTRATION AND ENFORCEMENT:

13  
14 A. Administration: The administration of the annual business licenses required by  
15 this chapter shall be vested in the ~~financial services manager~~ **finance director** who  
16 is authorized to do the following:

- 17 1. Collect license fees;
- 18 2. Adopt all forms and prescribe the information to be given therein;
- 19 3. Promulgate and enforce all reasonable rules and regulations necessary to the  
20 operations and enforcement of this chapter. Such administrative rules and  
21 regulations shall be adopted in accordance with the procedures established by title  
22 1, chapter 18 of this code;
- 23 4. Investigate and determine the eligibility of each applicant for an annual  
24 business license;
- 25 5. Investigate, determine and order the revocation or suspension of an annual  
26 business license for violation by the licensee of a provision of this chapter;
- 27 6. Examine at any time those records of each licensee which the ~~financial services~~  
28 ~~manager~~ **finance director** determines are necessary to verify license requirements  
29 provided the contents of such records shall remain confidential and not a part of  
30 the public records.

31  
32 B. Enforcement: The town may seek an injunction pursuant to section 1-8-10 of  
33 this code, or other applicable law, to restrain a person from engaging in business  
34 on premises within the town who has not obtained an annual business license  
35 under this chapter or whose license is revoked or suspended, and this remedy shall  
36 be in addition to all other remedies prescribed in this chapter by law.

37  
38 C. Presumption Of Continued Use: With respect to a license issued under this  
39 chapter to the owner of an accommodation unit, ~~financial services manager~~  
40 **finance director** shall be entitled to presume that such unit will continue to be  
41 rented as an accommodation unit in the next license year, thereby obligating such  
42 person to obtain a license for such unit under this chapter, until such time as the  
43 owner of such unit submits information to the ~~financial services manager~~ **finance**



1 director, under oath, which demonstrates that such unit will not be rented as an  
2 accommodation unit.

3  
4 D. Obligation To Provide Information: It shall be unlawful for any owner of real  
5 property within the town to fail or refuse to provide to the ~~financial services~~  
6 ~~manager~~ finance director upon request information sufficient to permit the  
7 ~~financial services manager~~ finance director to determine if such person is  
8 required to obtain a license pursuant to this chapter. Any person convicted of  
9 violating the provisions of this subsection shall be punished as provided in  
10 subsection 4-1-11B of this chapter.

11  
12 Section 44. Section 4-1-10-1 of the Breckenridge Town Code is amended to read as  
13 follows:

14  
15 4-1-10-1: SUSPENSION OR REVOCATION OF LICENSES; PAYMENT OF FINE IN  
16 LIEU OF SUSPENSION:

17  
18 A. A license issued pursuant to this chapter may be revoked by the ~~financial~~  
19 ~~services manager~~ finance director after hearing for the following reasons:  
20 1. Fraud, misrepresentation or a false statement of material fact contained in the  
21 license application;  
22 2. Any violation of the provisions of this chapter; or  
23 3. As to any person required to have a town sales tax license pursuant to title 3,  
24 chapter 1 of this code, proof that such license has been revoked by the ~~financial~~  
25 ~~services manager~~ finance director in accordance with section 3-1-26 of this code.

26  
27 In connection with the suspension of a license, the ~~financial services manager~~  
28 finance director may impose reasonable conditions.

29  
30 B. Notice of a hearing to be held pursuant to this chapter shall be given by the  
31 ~~financial services manager~~ finance director in writing to the licensee at the  
32 address shown on the license application, the management company, rental  
33 agency or other person employed or engaged by the licensee to manage, rent or  
34 supervise the licensed premises who has been properly identified by the licensee  
35 pursuant to subsection 4-1-8-1A6 of this chapter, and to the local contact person  
36 identified by the licensee pursuant to subsection 4-1-8-1A7 of this chapter. Such  
37 notice shall set forth the grounds for the hearing, and the time and place of the  
38 hearing. Such notice shall be mailed to the licensee, the management company,  
39 rental agency or other person employed or engaged by the licensee to manage,  
40 rent or supervise the licensed premises who has been properly identified by the  
41 licensee pursuant to subsection 4-1-8-1A6 of this chapter, and to the local contact  
42 person identified by the licensee pursuant to subsection 4-1-8-1A7 of this chapter,  
43 postage prepaid, at least twenty (20) days prior to the date set for the hearing. At

1 the hearing the licensee may appear with or without counsel and present such  
2 evidence as may be relevant.  
3

4 C. In deciding whether a license should be suspended or revoked in accordance  
5 with this section, and in deciding what conditions to impose in the event of a  
6 suspension, if any, the ~~financial services manager~~ **finance director** shall consider:  
7 1) the nature and seriousness of the violation; 2) corrective action, if any, taken by  
8 the licensee; 3) prior violation(s), if any, at the licensed premises by the licensee  
9 and the effectiveness of prior corrective action, if any; 4) the likelihood of  
10 recurrence; 5) all circumstances surrounding the violation; 6) whether the  
11 violation was wilful; 7) the length of time the license has been held by the  
12 licensee; 8) the number of violations by the licensee within the applicable twelve  
13 (12) month period; 9) previous sanctions, if any, imposed against the licensee; and  
14 10) other factors making the situation with respect to the licensee or the licensed  
15 premises unique.  
16

17 D. If the ~~financial services manager~~ **finance director** determines after a hearing  
18 that cause exists for the imposition of a sanction against a licensee of a single-  
19 family accommodation unit pursuant to section 4-1-8-1 of this chapter, the  
20 ~~financial services manager~~ **finance director** shall impose the following sanction  
21 against the licensee:

First violation within 12 months:		Suspension of license for 30 days. Licensee may pay administrative fine of \$200.00 within 3 days of entry of suspension order in lieu of serving suspension.
Second violation within 12 months:		Suspension of license for 60 days. Licensee may pay administrative fine of \$500.00 within 3 days of entry of suspension order in lieu of serving suspension.
Third violation within 12 months:		Suspension of license for 90 days. Licensee may pay administrative fine of \$999.00 within 3 days of entry of suspension order in lieu of serving suspension.
Fourth and each subsequent violation within 12 months:		Suspension for such period of time as <del>financial services manager</del> <b><u>finance director</u></b> may determine, not to exceed 1 year, or revocation of license. In determining what sanction to impose, the <del>financial services manager</del> <b><u>finance director</u></b> shall consider the factors set forth in subsection C of this section. For a fourth and each subsequent violation occurring within a 12 month period, no administrative fine may be accepted by the <del>financial services manager</del> <b><u>finance director</u></b> in lieu of the licensee serving a suspension or revocation.

1  
2 E. If a license is suspended by the ~~financial services manager~~ **finance director**,  
3 upon the timely payment of the optional administrative fine as set forth above, the  
4 suspension order shall be deemed to have been satisfied. If a licensee shall elect  
5 not to pay the optional administrative fine as set forth above, the order of  
6 suspension shall become effective immediately, and no business shall be  
7 conducted by the licensee at the licensed premises during the period of  
8 suspension.  
9

10 F. If the ~~financial services manager~~ **finance director** suspends or revokes a  
11 business and occupational tax license, the aggrieved licensee may appeal said  
12 suspension or revocation to the town council by filing a letter of appeal with the  
13 town manager within twenty (20) days after the date of mailing of the ~~financial~~  
14 ~~services manager~~ **finance director**'s order of suspension or revocation. The  
15 ~~financial services manager~~ **finance director**'s suspension or revocation of the  
16 license shall be stayed until the appeal has been determined by the town council.  
17 The town council shall conduct a de novo hearing on the appeal at a regular or  
18 special town council meeting held within thirty (30) days of date of the filing of  
19 the letter of appeal, unless the licensee agrees to a longer time. Notice of the de  
20 novo hearing shall be given to the licensee by the ~~financial services manager~~  
21 **finance director** at least twenty (20) days before the hearing. The burden of proof  
22 in the appeal shall be on the town. At the appeal, the licensee may appear with or  
23 without counsel and present such evidence as may be relevant. The strict rules of  
24 evidence shall not apply to the de novo hearing. If the town council finds by a  
25 preponderance of the evidence that grounds for suspension or revocation of the  
26 license exist as specified in this chapter, the town council may order the license  
27 suspended or revoked; provided, however, that if the license is for a single-family  
28 accommodation unit, the town council shall adhere to the provisions of subsection  
29 D of this section. If the town council finds by a preponderance of the evidence  
30 that no grounds exist for the suspension or revocation of the license, the appeal  
31 shall be sustained, and the ~~financial services manager~~ **finance director**'s order of  
32 suspension or revocation shall be set aside. The town council's decision shall be  
33 final, subject to the right of the licensee to contest the matter in an appropriate  
34 court action commenced under rule 106(a)(4) of the Colorado rules of civil  
35 procedure. For purposes of determining the time limit for the commencement of  
36 an action under rule 106(a)(4) of the Colorado rules of civil procedure, the town  
37 council's decision shall be deemed to be final upon the council's issuance of a  
38 written order of suspension or revocation of a license.  
39

40 G. A person whose license has been revoked under this section may not apply for  
41 a new license for the same premises a period of one year from the date the  
42 revocation took effect.  
43

1 H. No portion of a license fee previously paid by a licensee shall be refunded if  
2 such license is suspended or revoked.

3  
4 Section 45. Section 4-3-1(A) of the Breckenridge Town Code is amended to read as  
5 follows:

6  
7 A. A completed application for an optional premises license or optional premises  
8 for a hotel and restaurant license on forms to be provided by the town clerk  
9 together with an application fee in the amount required by law shall be submitted  
10 to the town clerk no later than thirty (30) days prior to the date for consideration  
11 by the liquor and marijuana licensing authority.

12  
13 Section 46. The definition of “Liquor Licensing Authority” in Section 4-4-1 of the  
14 Breckenridge Town Code is amended to read as follows:

15  
LIQUOR AND MARIJUANA  
LICENSING AUTHORITY:

The town of Breckenridge liquor and  
marijuana licensing authority created  
pursuant to title 2, chapter 5 of this  
code.

16  
17 Section 47. Section 4-4-2 of the Breckenridge Town Code is amended to read as follows:

18  
19 4-4-2: SUSPENSION OR REVOCATION; FINE:

20  
21 A. Whenever a decision of the liquor and marijuana licensing authority,  
22 suspending a license or permit becomes final, whether by failure of the licensee to  
23 appeal the decision or by exhaustion of all appeals and judicial review, the  
24 licensee may, before the operative date of the suspension, petition the liquor and  
25 marijuana licensing authority for permission to pay a fine in lieu of the license  
26 or permit suspension for all or part of the suspension period. Upon the receipt of  
27 the petition, the liquor and marijuana licensing authority may, in its sole  
28 discretion, stay the proposed suspension and cause any investigation to be made  
29 that it deems desirable and may, in its sole discretion, grant the petition if it is  
30 satisfied that:

31  
32 1. Public welfare and morals would not be impaired by permitting the licensee to  
33 operate during the period set for suspension and that the payment of the fine will  
34 achieve the desired disciplinary purposes;

35  
36 2. The books and records of the licensee are kept in such a manner that the loss of  
37 sales of alcoholic beverages which the licensee would have suffered had the  
38 suspension gone into effect can be determined with reasonable accuracy.  
39

1 B. The fine accepted shall be equivalent to twenty percent (20%) of the retail  
2 licensee's estimated gross revenues from sales of alcoholic beverages during the  
3 period of the proposed suspension; except that the fine shall be not less than two  
4 hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

5  
6 C. Payment of any fine pursuant to the provisions of this section shall be in the  
7 form of cash, certified check or cashier's check made payable to the town clerk  
8 and shall be deposited in the general fund of the town.

9  
10 D. Upon payment of the fine pursuant to this section, the liquor **and marijuana**  
11 licensing authority shall enter its further order permanently staying the imposition  
12 of the suspension.

13  
14 E. In connection with any petition pursuant to this section, the authority of the  
15 liquor **and marijuana** licensing authority is limited to the granting of such stays  
16 as are necessary for it to complete its investigation and make its findings and, if it  
17 makes such findings, to the granting of an order permanently staying the  
18 imposition of the entire suspension or that portion of the suspension not otherwise  
19 conditionally stayed.

20  
21 F. If the liquor **and marijuana** licensing authority does not make the findings  
22 required in subsection A of this section and does not order the suspension  
23 permanently stayed, the suspension shall go into effect on the operative date  
24 finally set by the liquor **and marijuana** licensing authority.

25  
26 Section 48. The definition of "Liquor Licensing Authority" in Section 4-5-2 of the  
27 Breckenridge Town Code is amended to read as follows:

28  
29  
30 LIQUOR **AND MARIJUANA**  
31 LICENSING AUTHORITY:

The town of Breckenridge liquor **and**  
**marijuana** licensing authority created  
pursuant to title 2, chapter 5 of this  
code.

32  
33 Section 49. Section 4-5-8 of the Breckenridge Town Code is amended to read as follows:

34  
35 4-5-8: DURATION OF TEMPORARY PERMIT:

36  
37 A temporary permit issued pursuant to this chapter shall be valid only until such  
38 time as the application for the license to the applicant is granted or denied for one  
39 hundred twenty (120) days, whichever shall first occur; except that if the  
40 application to transfer the license has not been granted or denied within the one  
hundred twenty (120) day period and the applicant demonstrates good cause, the  
liquor **and marijuana** licensing authority may, in its discretion, extend the  
validity of said permit for an additional period not to exceed sixty (60) days.

1  
2 Section 50. Section 4-5-10 of the Breckenridge Town Code is amended to read as  
3 follows:

4  
5 4-5-10: CANCELLATION, REVOCATION, OR SUMMARY SUSPENSION  
6 OF TEMPORARY PERMIT:

7  
8 A temporary permit may be canceled, revoked or summarily suspended by the  
9 liquor and marijuana licensing authority if it determines that there is probable  
10 cause to believe that the applicant has violated any provision of the Colorado beer  
11 code<sup>1</sup> or the Colorado liquor code<sup>2</sup>, whichever statutes govern the license of the  
12 licensed premises, or any rule or regulation adopted by the department of revenue  
13 pursuant thereto, or any town ordinance governing the operation of licensed  
14 premises, or if the applicant has failed to truthfully disclose those matters required  
15 pursuant to the application forms required by the department of revenue or the  
16 town.

17  
18 <sup>1</sup>Article 46 of title 12, C.R.S.

19 <sup>2</sup>Article 47 of title 12, C.R.S.

20  
21 Section 51. The definition of “Liquor Licensing Authority” in Section 4-10-2 of the  
22 Breckenridge Town Code is amended to read as follows:

23  
24 LIQUOR AND MARIJUANA  
25 LICENSING AUTHORITY:

The town of Breckenridge liquor and  
marijuana licensing authority created  
pursuant to title 2, chapter 5 of this  
code.

26  
27 Section 52. Section 4-10-4 of the Breckenridge Town Code is amended to read as  
28 follows:

29  
30 4-10-4: APPLICATION:

31 A retail liquor store or liquor licensed drugstore licensee who wishes to conduct  
32 tastings shall submit an application to the liquor and marijuana licensing  
33 authority on forms supplied by the liquor and marijuana licensing authority.  
34 Such application shall be accompanied by a nonrefundable annual fee of twenty  
35 five dollars (\$25.00).

36  
37 Section 53. Section 4-13-11(A) of the Breckenridge Town Code is amended to read as  
38 follows:

39 A. A permit issued under this chapter is not a special events liquor license. If  
40 alcoholic beverages are to be served at the special event, the permittee must

1 obtain the required permit or approval from the town clerk or the town of  
2 Breckenridge liquor and marijuana licensing authority.

3  
4 Section 54. Section 4-14-16D of the Breckenridge Town Code is amended to read as  
5 follows:

6  
7 D. The ~~financial services manager~~finance director; and

8  
9 Section 55. The definition of “Financial Services Manager” in Section 5-12-6 of the  
10 Breckenridge Town Code is amended to read as follows:

11  
~~FINANCIAL SERVICES~~                      The ~~financial services manager~~director  
~~MANAGER~~FINANCE DIRECTOR:    of finance and information  
technologyof the town, or such person’s  
designee.

12  
13 Section 56. Section 5-12-9E and 5-12-9F of the Breckenridge Town Code are amended to  
14 read as follows:

15  
16 E. Every retail store providing disposable bags subject to the disposable bag fee  
17 shall be liable and responsible for the payment of the amount outlined in  
18 subsection D of this section to the town, and shall file a report each month on  
19 forms prescribed by the ~~financial services manager~~finance directorbefore the  
20 twentieth day of each month for the preceding month.

21 1. All sums of money collected by retail stores for the disposable bag fee imposed  
22 by this chapter minus the “retained percent” are intended exclusively for use as  
23 outlined in subsection G of this section. Each retail store required to collect and  
24 remit the disposable bag fee shall hold such monies in trust until paying them to  
25 the town.

26  
27 F. The disposable bag fee shall be administered by the ~~financial services~~  
28 ~~manager~~finance director. The ~~financial services manager~~finance director is  
29 authorized to adopt administrative rules pursuant to title 1, chapter 18 of this code  
30 to implement this chapter, prescribe forms and provide methods of payment and  
31 collection, and otherwise implement requirements of this chapter.

32  
33 Section 57. Section 5-12-12 of the Breckenridge Town Code is amended to read as  
34 follows:

35  
36 5-12-12: AUDITS AND COLLECTION OF THE DISPOSABLE BAG FEE:

37  
38 A. Each retail store shall maintain accurate and complete records of the  
39 disposable bag fees collected, the number of disposable bags provided to  
40 customers, the form and recipients of any notice required pursuant to this chapter,

1 and any underlying records, including any books, accounts, invoices, or other  
2 records necessary to verify the accuracy and completeness of such records. It shall  
3 be the duty of each retail store to keep and preserve all such documents and  
4 records, including any electronic information, for a period of three (3) years from  
5 the end of the calendar year of such records.  
6

7 B. If requested, each retail store shall make its records available for audit by the  
8 ~~financial services manager~~ **finance director** during regular business hours for the  
9 town to verify compliance with the provisions of this chapter. All such  
10 information shall be treated as confidential commercial documents.  
11

12 C. If any person fails, neglects, or refuses to collect or pay the disposable bag fee,  
13 or underpays the disposable bag fee, ~~financial services manager~~ **finance**  
14 **director** shall make an estimate of the fees due, based on available information,  
15 and shall add thereto penalties, interest, and any additions to the fees. ~~financial~~  
16 ~~services manager~~ **finance director** shall serve upon the delinquent retail store  
17 personally, by electronic mail or by first class mail directed to the last address of  
18 the retail store on file with the town, written notice of such estimated fees,  
19 penalties, and interest, constituting a notice of final determination, assessment,  
20 and demand for payment (also referred to as “notice of final determination”) due  
21 and payable within thirty (30) calendar days after the date of the notice. The retail  
22 store may request a hearing on the assessment as provided in section 5-12-13 of  
23 this chapter.  
24

25 D. If payment of any amount of the disposable bag fee due to the town is not  
26 received on or before the applicable due date, penalty and interest charges shall be  
27 added to the amount due in the amount of:

- 28 1. A penalty of ten percent (10%) of total due;
  - 29 2. Interest charge of one percent (1%) of total penalty per month.
- 30

31 Section 58. Section 5-12-13 of the Breckenridge Town Code is amended to read as  
32 follows:  
33

34 5-12-13: HEARINGS:  
35

36 A. A retail store may request a hearing on any proposed fee imposed under this  
37 chapter after receiving a notice of final determination, by filing a written request  
38 for hearing within thirty (30) calendar days of the date of mailing of the notice of  
39 final determination. The request for hearing shall set forth the reasons for and  
40 amount of changes in the notice of final determination that the retail store seeks  
41 and such other information as the ~~financial services manager~~ **finance**  
42 **director** may prescribe.  
43



1 B. The ~~financial services manager~~ **finance director** shall conduct the hearing  
2 under the procedures prescribed by title 1, chapter 19 of this code, except that the  
3 ~~financial services manager~~ **finance director** shall notify the retail store in writing  
4 of the time and place of the hearing at least ten (10) days before it is scheduled,  
5 unless the retail store agrees to a shorter time. The hearing shall be held within  
6 sixty (60) days of the date of receipt of the request for a hearing, unless the retail  
7 store agrees to a later date.  
8

9 Section 59. Except as specifically amended by this ordinance, the  
10 Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall  
11 continue in full force and effect.  
12

13 Section 60. Any additional references to the “Town of Breckenridge Authority”  
14 contained in the Breckenridge Town Code after the adoption of this ordinance shall be  
15 administratively changed by the Town Clerk to read the “Town of Breckenridge Liquor and  
16 Marijuana Licensing Authority” pursuant to her editorial powers described in Section 1-1-4 of  
17 the Breckenridge Town Code.  
18

19 Section 61. Any additional references to the “Financial Services Manager” contained in  
20 the Breckenridge Town Code after the adoption of this ordinance shall be administratively  
21 changed by the Town Clerk to read the “Finance Director” pursuant to her editorial powers  
22 described in Section 1-1-4 of the Breckenridge Town Code.  
23

24 Section 62. The Town Council finds, determines, and declares that it has the power to  
25 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX  
26 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.  
27

28 Section 63. This ordinance shall be published and become effective as provided by  
29 Section 5.9 of the Breckenridge Town Charter.  
30

31 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
32 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2017. A Public Hearing shall be held at the  
33 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
34 \_\_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
35 Town.  
36

37 TOWN OF BRECKENRIDGE, a Colorado  
38 municipal corporation  
39

40  
41  
42 By: \_\_\_\_\_  
43 Eric S. Mamula, Mayor  
44

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ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC,  
Town Clerk

To: Breckenridge Town Council  
Cc: Rick Holman – Town Manager  
From: James Phelps – Interim Director Public Works  
Subject: Solid Waste Collection and Disposal Ordinance – First Reading  
Date: 01/04/17 (For Jan. 10th – TC Work Session)

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The purpose of this memo is to provide Town Council with information for the Solid Waste Collection and Disposal Ordinance. The ordinance identifies the Summit County Resource Allocation Park (SCRAP) as an important public resource and further designates the SCRAP as Summit County’s exclusive solid waste disposal site, including recycling materials. The ordinance will ensure all collected solid waste materials go to the SCRAP for processing and revenue collection. This will support ongoing SCRAP operations and will ensure that the collection of solid waste materials from Breckenridge be accounted for as part of Summit County’s integrated and comprehensive solid waste management program. The SCRAP Solid Waste Fund is dependent of the waste materials generated in Summit County. The transport of waste materials outside of Summit County SCRAP would substantially reduce SCRAP revenue and a variety of solid waste programs that are currently offered of Summit County.

The ordinance will amend Title 4 of the Breckenridge Town Code by adopting a new Chapter 16, to be entitled “Solid Waste Collection and Disposal”. The ordinance will designate the Summit County Resource Allocation Park (SCRAP) as the Exclusive Solid Waste Disposal Site for all solid waste generated within the Town. The ordinance also establishes the Summit County Manager’s Office for Administration of and the designated licensing authority for solid waste hauler licenses. The licensing decisions will be subject to review by the Breckenridge Town Council. Additionally, the ordinance adoption will require each solid waste hauler operating within the Town of Breckenridge to obtain an annual license, offer recycling services as separate from solid waste collection, and provide an annual report of the weight (tons) of solid waste, and recyclable materials by commodity, collected and transported from within the Town.

Staff will be present to answer any questions that Town Council may have.

1                   ***FOR WORKSESSION/FIRST READING – JAN. 10***

2  
3   COUNCIL BILL NO. \_\_\_\_

4  
5   Series 2017

6  
7                   AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE  
8 BY ADOPTING A NEW CHAPTER 16, TO BE ENTITLED “SOLID WASTE COLLECTION  
9 AND DISPOSAL;” DESIGNATING THE SUMMIT COUNTY RESOURCE ALLOCATION  
10 PARK (SCRAP) AS THE EXCLUSIVE SOLID WASTE DISPOSAL SITE FOR ALL SOLID  
11 WASTE GENERATED WITHIN THE TOWN; REQUIRING EACH SOLID WASTE HAULER  
12 OPERATING WITHIN THE TOWN TO OBTAIN AN ANNUAL LICENSE; AND  
13 PROVIDING DETAILS OF THE TOWN’S PROGRAM FOR THE LICENSING OF SOLID  
14 WASTE HAULERS

15  
16 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
17 COLORADO:

18  
19                   Section 1. Title 4 of the Breckenridge Town Code is amended by the addition of a new  
20 Chapter 16, to be entitled “Solid Waste Collection and Disposal,” which shall read in its entirety as  
21 follows:

22  
23   CHAPTER 16

24  
25   SOLID WASTE COLLECTION AND DISPOSAL

26  
27 SECTION:

- 28  
29 4-16-1: Short Title  
30 4-16-2: Authority  
31 4-16-3: Findings  
32 4-16-4: Intent  
33 4-16-5: Definitions  
34 4-16-6: License Required; Exemptions  
35 4-16-7: Licensing Process  
36 4-16-8: Duties of Licensee  
37 4-16-9: Renewal of License  
38 4-16-10: Suspension or Revocation of License  
39 4-16-11: Review of Decisions  
40 4-16-12: Designated Disposal Site  
41 4-16-13: Penalties; Injunctive Relief  
42 4-16-14: No Town Liability  
43

2017 SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE

1 4-16-1: SHORT TITLE: This Chapter shall be known and may be cited as the “2017 Town Of  
2 Breckenridge Solid Waste Collection and Disposal Ordinance.”

3  
4 4-16-2: AUTHORITY: The Town Council finds, determines, and declares that it has the power to  
5 adopt this Chapter pursuant to:

- 6  
7 A. Section 31-15-103, C.R.S. (concerning municipal police powers).
- 8  
9 B. Section 31-15-401(1)(a), C.R.S. (concerning the power to pass and enforce all  
10 necessary police ordinances).
- 11  
12 C. Section 31-15-401(1)(b), C.R.S. (concerning the promotion of health or the  
13 suppression of disease).
- 14  
15 D. Section 31-15-401(1)(c), C.R.S. (concerning the power to declare what is a  
16 nuisance and to abate the same).
- 17  
18 E. Section 31-15-401(1)(d)(I), C.R.S. (concerning the power to compel removal of  
19 rubbish).
- 20  
21 F. Section 31-15-501(1)(c), C.R.S. (concerning municipal regulation of business).
- 22  
23 G. Section 30-15-401, C.R.S. (concerning waste services).
- 24  
25 H. Section 30-20-107, C.R.S. (concerning the power to designate an exclusive waste  
26 disposal site and facility for the municipality).
- 27  
28 I. The authority granted to home rule municipalities by Article XX of the Colorado  
29 Constitution.
- 30  
31 J. The powers contained in the Breckenridge Town Charter.

32 4-16-3: FINDINGS: The Town Council adopts this Chapter based upon the following findings of  
33 fact:

- 34  
35 A. The Town is a home rule municipality with those powers authorized by Article XX,  
36 Section 6, of the Colorado Constitution.
- 37  
38 B. The Colorado General Assembly has declared that the proper disposal of solid  
39 waste is a matter of mixed statewide and local concern. “Optimal solid waste  
40 management . . . should include . . . local efforts . . . focused toward the reduction  
41 of the volume . . . of the waste stream . . . through source reduction, recycling,  
42 composting, and similar waste management strategies.” The General Assembly  
43 also recognized that “improper disposal of solid wastes poses significant public  
44 health risks, environmental hazards, and long-term liability for the citizens of the  
45 state.” Section 30-20-100.5, C.R.S.

2017 SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE

- 1 C. The Town is empowered by Section 31-15-401(1)(d)(I), C.R.S., “[t]o provide for  
2 and compel the removal of . . . rubbish of all kinds from lots and tracts of land  
3 within such municipalities . . . upon such notice, and in such manner as such  
4 municipalities prescribe by ordinance . . . .”
- 5 D. The Town is empowered by Section 30-20-107, C.R.S., to designate and approve  
6 by ordinance a solid waste disposal site and facility as its exclusive solid waste  
7 disposal site and facility, and thereafter such site and facility shall be used for the  
8 disposal of discarded solid waste generated from within its jurisdiction.
- 9 E. The Town is authorized by Section 31-15-103, C.R.S., “to make and publish  
10 ordinances not inconsistent with the laws of this state, from time to time, for  
11 carrying into effect or discharging the powers and duties conferred by this title,  
12 which are necessary and proper to provide for the safety, preserve the health,  
13 promote the prosperity, and improve the morals, order, comfort, and convenience  
14 of such municipality and the inhabitants thereof not inconsistent with the laws of  
15 this state.”
- 16 F. The Summit County Resource Allocation Park (“SCRAP”) is the only licensed  
17 solid waste disposal facility located in Summit County and is operated by the  
18 County in conjunction with the County’s recycling, composting, and other solid  
19 waste management programs and facilities on County-owned property within the  
20 Summit County Resource Allocation Park Planned Unit Development.
- 21 G. The Town has the legal authority to adopt ordinances regulating solid waste  
22 disposal, including the performance of solid waste hauling services in the Town.
- 23 H. Persons or companies in the business of hauling discarded solid waste, including  
24 recyclable materials, within the Town, through their collection and transportation  
25 activities, are able to supply the Town with information necessary for long-term  
26 solid waste management planning and therefore should be required to submit  
27 annual information about their hauling activities to the Town.
- 28 I. The Town has entered into an Intergovernmental Agreement Regarding Collection,  
29 Transportation and Disposal of Solid Waste in Summit County, Colorado dated  
30 \_\_\_\_\_, 2017, in order to cooperate in the development and  
31 implementation of a licensing and regulation program regarding the provision of  
32 trash hauling services and other community environmental and solid waste  
33 management goals stated therein.
- 34 J. As required by Section 30-20-107, C.R.S., prior to adopting this Chapter the Town  
35 Council held a public hearing to review the disposal method to be used at the  
36 Summit County Resource Allocation Park (SCRAP), as well as the fees to be  
37 charged for such disposal method. The Town Council finds such disposal method

2017 SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE

1 and fees to be reasonable and necessary and in the best interest of the public health,  
2 safety, and welfare.

3 4-16-4: INTENT: It is the intent of this Chapter to:  
4

- 5 A. Promote the state and local solid waste management goals referenced in Section  
6 4-16-3, as well as other applicable solid waste laws, rules, regulations and policies;
- 7 B. Encourage more recycling of certain discarded solid waste materials;
- 8 C. Accurately measure the volume of wastes entering the waste stream to assist in  
9 designing programs to reduce those volumes, and otherwise obtain information for  
10 long-term solid waste management planning;
- 11 D. Protect the health, safety and welfare of the public by providing for the long term  
12 viability of the Summit County Resource Allocation Park (SCRAP);
- 13 E. Maintain and enhance the quality of the environment, conserve natural resources  
14 and prevent pollution by providing a comprehensive and effective program to  
15 regulate solid waste in the Town; and
- 16 F. Protect the health, safety, welfare and well-being of the citizens and property  
17 owners within the Town.

18 4-16-5: DEFINITIONS: For the purpose of this Chapter the following words, terms, and phrases  
19 have the following meanings:  
20

APPLICANT: A person who has submitted an application for license pursuant to this Chapter.

APPLICATION: An application for license submitted pursuant to this Chapter.

DAY: A calendar day, unless otherwise indicated.

GOOD CAUSE (for the purpose of refusing or denying a license renewal under this Chapter):

- A. The licensee has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this Chapter; or any other law applicable to licensee; or
- B. The licensee has failed to comply with the terms, conditions, or provisions of its solid waste hauler license issued pursuant to this Chapter.

LICENSEE: The person to whom a solid waste hauler license has been issued pursuant to this Chapter.

RECYCLABLE MATERIALS:	Solid waste from any residential, commercial, or other source that is collected separately for the purpose of such material being re-processed into new or different products or packaging materials, provided that such material have been designated by the licensing authority as recyclable.
RECYCLING:	The process of recovering useful materials from solid waste, including items for reuse.
SOLID WASTE:	All putrescible and non-putrescible solid wastes discarded from any source including recyclable materials. The term “solid waste” shall exclude liquid wastes, sewage, sewage sludge, septic tank or cesspool pumpings; sand, asphalt, concrete, gravel, rock, dirt or other segregated construction materials to be used or reused in any construction project; timber, wood chips or vegetative matter hauled from the property where it is cut; agricultural wastes, solid or dissolved materials in irrigation return flows; industrial discharges which are point sources subject to licenses under the provisions of the Colorado Water Quality Control Act; materials handled at facilities licensed pursuant to the provisions on radiation control in Article 11 of Title 25, C.R.S.; exploration and production waste as defined in Section 34-60-103(4.5), C.R.S., except as such wastes may be deposited at a commercial solid waste facility; excluded scrap metal that is being recycled; shredded circuit boards that are being recycled; discarded or abandoned vehicles or parts thereof; residential appliances; materials used as fertilizers or for other productive purposes; household hazardous wastes; and hazardous materials as defined in the rules and regulations adopted by the Hazardous Materials Transportation Act of 1987.
SOLID WASTE HAULER:	Any person in the business of collecting, transporting to a landfill, disposal site, transfer station or other like facility, or disposing of solid waste, for a fee or other compensation.
SOLID WASTE HAULER LICENSE (OR LICENSE):	A solid waste hauler license issued pursuant to this Chapter.
SUMMIT COUNTY RESOURCE ALLOCATION PARK (SCRAP):	The solid waste disposal site and facility owned and operated by Summit County, Colorado government, located at 639 Landfill Road, Dillon, Colorado 80435. The County’s solid waste drop off facility located at 284 Coyne Valley Road in

2017 SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE



the Town is part of the SCRAP, and the depositing of solid waste at the Coyne Valley Road facility shall be treated as depositing such solid waste at the SCRAP.

TOWN MANAGER: The Town Manager of the Town of Breckenridge.

TRANSFER STATION: A facility at which refuse, awaiting transportation to disposal site, is transferred from one type of containerized collection receptacle and placed into another or is processed for compaction. "Refuse" means all forms of solid waste, including garbage, rubbish, trash, recyclable materials, and similar material.

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4-16-6: LICENSE REQUIRED; EXEMPTIONS:

- A. No person shall operate as a solid waste hauler within the Town without a current solid waste hauler license.
- B. A solid waste hauler license is non-transferable and non-assignable. Any attempt to transfer or assign a license voids the license.
- C. Each licensee shall offer recycling services to its customers.
- D. The following are not required to obtain a solid waste hauler license:
  - 1. A demolition, construction, or landscaping contractor who produces and transports solid waste in the course of its performance of a project, where the waste produced is merely incidental to the particular demolition or construction work being performed by such contractor. However, any such solid waste shall be disposed of at the Summit County Resource Allocation Park (SCRAP) as required by Section 4-16-12B.
  - 2. A civic, community, benevolent or charitable nonprofit organization that collects, transports, and markets solid waste for resource recovery solely for the purpose of raising funds for a charitable, benevolent, or civic activity.
  - 3. A property owner or agent thereof who transports solid waste left by a tenant upon such owner's property, so long as such property owner does not collect, transport, or dispose of solid waste for compensation for tenants on a regular or continuing basis. However, any such solid waste shall be disposed of at the Summit County Resource Allocation Park (SCRAP) as required by Section 4-16-12B.

- 1           4.     Furniture or appliance vendors and their delivery agents who deliver  
2           furniture or appliances sold by such vendor and dispose of the purchaser's  
3           used furniture or appliances being replaced by such purchase.
  
- 4           5.     A person who transports his or her own solid waste, or who transports solid  
5           waste for another person without compensation. However, any such solid  
6           waste shall be disposed of at the Summit County Resource Allocation Park  
7           (SCRAP) as required by Section 4-16-12B.
  
- 8           6.     Haulers engaged solely in the transport of discarded materials that are  
9           expressly excluded from the definition of solid waste in Section 4-16-5.

10 4-16-7: LICENSING PROCESS:

- 11           A.     The Summit County Manager's Office is designated as the licensing authority for  
12           solid waste hauler licenses, with licensing decisions subject to review by the Town  
13           Council as provided in this Section.  
14
  
- 15           B.     A solid waste hauler license shall be valid for one (1) year from the date of approval  
16           unless otherwise specified in such license, and may be renewed as provided in  
17           Section 4-16-9.
  
- 18           C.     An application for a solid waste hauler license shall be submitted to the licensing  
19           authority along with a completed Solid Waste Hauling License Self-Certification  
20           Form. At time of license application or renewal, each solid waste hauler shall  
21           provide and attest to the truthfulness of the information requested in the Solid  
22           Waste Hauling License Self-Certification Form. An example of such form is  
23           included as **Exhibit A** to this Chapter.
  
- 24           D.     Within thirty (30) days of receipt of a completed application, the staff of the  
25           licensing authority shall review the application and make a recommendation to the  
26           licensing authority. The licensing authority may make such additional  
27           investigations as deemed necessary and shall refer all applications to the Town  
28           Manager for comment.
  
- 29           E.     The licensing authority shall issue a solid waste hauler license if the application  
30           meets all applicable requirements and it makes all of the following findings:
  - 31           1.     The applicant has successfully completed the Solid Waste Hauling License  
32           Self-Certification Form and such form is true and accurate;
  - 33           2.     The applicant has paid the license fee in full at the time of application;
  - 34           3.     The applicant has submitted a complete list of all vehicles to be used for the  
35           collection, transportation, or disposal of solid waste within the Town along

1 with information that identifies such vehicles, including, but not limited to,  
2 the Department of Motor Vehicle registration forms and license plate  
3 numbers. Whenever a licensee desires to add or changes vehicles  
4 authorized to operate within the Town, the licensee shall submit a written  
5 request for a license amendment to the licensing authority, together with  
6 identifying information for each new vehicle to be included under such  
7 solid waste hauler license. The requested amendment shall be approved,  
8 conditionally approved, or denied in accordance with the provisions of this  
9 Section in the same manner as a new license application;

10 4. The applicant has provided adequate evidence of liability insurance in the  
11 amount shown on the Solid Waste Hauling License Self-Certification Form  
12 from a company authorized to do business in Colorado;

13 5. Granting the license will not result in a negative impact to the public's  
14 health, safety, and welfare and such license will promote the solid waste  
15 management goals of the Town and the community. In making such  
16 determination the licensing authority shall consider:

17 a. the character of the applicant, its officers, directors, or managers,  
18 including any prior license violations or criminal convictions;

19 b. the applicant's ability to provide solid waste hauling services in the  
20 Town in a manner consistent with the solid waste management goals  
21 of the Town;

22 c. the applicant's ability to operate in the Town's high alpine  
23 environment and, if the applicant has previously done business in  
24 the Town, any prior complaints received from citizens or property  
25 owners in the Town; and

26 d. any statement by the applicant regarding its business plan or efforts  
27 to support recycling, waste diversion, or other solid waste  
28 management goals of the Town.

29 F. The amount of the license fee shall not exceed the cost of administering the solid  
30 waste hauler licensing program. For 2017, the fee for a solid waste hauler license is  
31 twenty dollars (\$20). Commencing in 2018, the fee for a solid waste hauler licensee  
32 shall be fixed by the Town Council as part of its annual budget process for the next  
33 fiscal year. If, for any reason, the solid waste hauler license fee is not fixed by the  
34 Town Council as part of its annual budget process, the license fee for the preceding  
35 year shall continue in full force and effect until changed by the Town Council.

- 1 G. Once the licensing authority approves, conditionally approves, or denies an  
2 application for a solid waste hauler license, it shall promptly notify the applicant in  
3 writing of such decision and the basis therefore.
- 4 H. The applicant may appeal such decision to the Town Council in writing within ten  
5 (10) days of receiving such decision notwithstanding Section 1-19-13(B) of this  
6 Code. Any appeal shall including a written statement of the grounds for such appeal  
7 and any adverse effects that may result.
- 8 I. An appeal to the Town Council pursuant to this Section shall be processed in  
9 accordance with Chapter 19 of Title 1 of this Code.
- 10 J. The Town Council shall approve, conditionally approve, or deny an application  
11 within thirty (30) days of the conclusion of the public hearing on the applicant's  
12 appeal.
- 13 K. The Town Council shall issue a solid waste hauler license when, from a  
14 consideration of the application, the evidence received at the public hearing, and  
15 from such other information as may otherwise be obtained, the Town Council  
16 determines that the applicant is entitled to the issuance of such license under the  
17 standards set forth in this Chapter.
- 18 L. The Town Council shall deny an application for a solid waste hauler license under  
19 this Chapter if it determines that:
- 20 1. Information contained in the application, or supplemental information  
21 requested from the applicant, is found to be false in any material respect;
- 22 2. The applicant is not entitled to the solid waste hauler license under the  
23 standards set forth in this Chapter.
- 24 3. The operation of the proposed business operation is likely to:
- 25 a. create a substantial inconvenience or annoyance to the public; or  
26 b. cause a public nuisance.
- 27 4. The granting of the application will endanger public health or safety.
- 28 M. If the application is denied, the Town Council shall clearly set forth in writing the  
29 grounds for denial.
- 30 N. If the application is conditionally approved, the Town Council shall clearly set  
31 forth in writing the conditions of approval.
- 32 O. If an application is denied the application fee shall not be refunded.

1 4-16-8: DUTIES OF LICENSEE: It is the duty and obligation of each licensee to do the  
2 following:

- 3
- 4 A. Comply with all of the terms and conditions of the license.
- 5 B. Comply with all of the requirements of this Chapter.
- 6 C. Comply with all other Town ordinances that are applicable to the business for  
7 which the license was issued.
- 8 D. Submit an annual report on the weight (in tons) of solid waste, including recyclable  
9 materials by commodity, collected and transported from within the Town. The  
10 licensing authority shall be responsible for designating materials as recyclables for  
11 purposes of the reporting requirements of this Section. The initial list of recyclable  
12 materials is shown in **Exhibit B** to this Chapter, and such list may be changed from  
13 time to time by the licensing authority. Solid waste reports shall be submitted to the  
14 Director, Summit County Solid Waste Department, P.O. Box 3789, Dillon,  
15 Colorado 80435, by February 1st of each year for the period of the previous  
16 calendar year (January 1- December 31).
- 17 E. Indemnify and defend the Town, its officers, employees, insurers, and  
18 self-insurance pool from and against all liability, claims, and demands, on account  
19 of injury, loss, or damage, including without limitation, claims arising from bodily  
20 injury, personal injury, sickness, disease, death, property loss or damage, or any  
21 other loss of any kind whatsoever, arising out of in any manner connected with the  
22 operation of the business for which the license was issued. The licensee shall  
23 investigate, handle, respond to, and to provide defense for and defend against, any  
24 such liability, claims, or demands at the sole expense of the licensee, and bear all  
25 other costs and expenses related thereto, including court costs and attorneys' fees.  
26 The indemnity obligation of this Section E shall survive the expiration or  
27 revocation of the license, and shall continue to be fully enforceable thereafter,  
28 subject to any applicable statute of limitation.

29 4-16-9: RENEWAL OF LICENSE:

- 30
- 31 A. A licensee does not have a vested right or a property right in the renewal of its solid  
32 waste hauler license.
- 33 B. Each solid waste hauler license may be renewed as provided in this Section. The  
34 term of a renewal license shall be one (1) year, unless suspended or revoked as  
35 provided in Section 4-16-10.
- 36 C. An application for the renewal of an existing license shall be made to the licensing  
37 authority not less than forty-five (45) days prior to the date of expiration. No  
38 application for renewal shall be accepted by the licensing authority after the date of

1 expiration. The licensing authority may waive the forty-five (45) day time  
2 requirement set forth in this Section C if the applicant demonstrates an adequate  
3 reason.

4 D. The timely filing of a renewal application shall extend the current license until a  
5 final decision is made on the renewal application.

6 E. At the time of the filing of a renewal application the licensee shall pay a renewal fee  
7 in an amount fixed by the Town Council as part of its annual budget process.

8 F. The licensing authority may refuse to renew a license for good cause; provided,  
9 however, that the licensing authority shall not refuse to renew a license without  
10 holding a public hearing on the renewal application. If a public hearing on a  
11 renewal application is held, notice of such hearing shall be given to the licensee at  
12 least ten (10) days prior to the hearing.

13 G. The licensee may appeal any decision of the licensing authority conditionally  
14 approving or denying its renewal application to the Town Council in writing within  
15 ten (10) days of receiving such decision notwithstanding Section 1-19-13(B) of this  
16 Code. Any appeal shall including a written statement of the grounds for such  
17 appeal and any adverse effects that may result.

18 H. An appeal to the Town Council pursuant to this Section shall be processed in  
19 accordance with Chapter 19 of Title 1 of this Code.

20 I. The Town Council shall approve, conditionally approve, or deny a renewal  
21 application within thirty (30) days of the conclusion of the public hearing on the  
22 licensee's appeal.

23 4-16-10: SUSPENSION OR REVOCATION OF LICENSE:  
24

25 A. A solid waste hauler license may be suspended or revoked for any of the following  
26 reasons:

27 1. Fraud, misrepresentation, or a false statement of material fact contained in  
28 the license application.

29 2. A violation of any Town, state, or federal law or regulation pertaining to the  
30 operation of the business for which the license was issued.

31 3. A violation of any of the terms and conditions of the license.

32 B. The licensing authority shall hold a public hearing to consider whether to suspend  
33 or revoke a solid waste hauler license. A public hearing held by the licensing  
34 authority pursuant to this Section shall be held in accordance with Chapter 19 of  
35 Title 1 of this Code.

2017 SOLID WASTE COLLECTION AND DISPOSAL ORDINANCE

- 1 C. In connection with the suspension of a license, the licensing authority may impose  
2 reasonable conditions.
- 3 D. For the purpose of disciplinary action imposed pursuant to this Section, a licensee  
4 is responsible and accountable for the conduct of the licensee’s employees, agents,  
5 and contractors occurring in connection with the operation of the business for  
6 which a license has been issued.
- 7 E. In deciding whether a license should be suspended or revoked, and in deciding  
8 what conditions to impose in the event of a suspension, if any, the licensing  
9 authority shall consider all of the following:
- 10 1. The nature and seriousness of the violation.
- 11 2. Corrective action, if any, taken by the licensee.
- 12 3. Prior violation(s), if any, by the licensee.
- 13 4. The likelihood of recurrence.
- 14 5. All circumstances surrounding the violation.
- 15 6. Whether the violation was willful.
- 16 7. The number of previous violations by the licensee.
- 17 8. Previous sanctions, if any, imposed against the licensee.
- 18 F. The licensee may appeal any decision of the licensing authority suspending or  
19 revoking its license to the Town Council in writing within ten (10) days of  
20 receiving such decision. Any appeal shall including a written statement of the  
21 grounds for such appeal and any adverse effects that may result.
- 22 G. In connection with an appeal taken to the Town Council pursuant to this Section,  
23 Sections A – E of this Section shall apply equally to the Town Council.
- 24 H. No fee previously paid by a licensee in connection with the application shall be  
25 refunded if such license is suspended or revoked.

26 4-16-11: REVIEW OF DECISIONS:  
27

- 28 A. Any decision of the licensing authority pursuant to this Chapter that is not appealed  
29 to the Town Council shall be a final decision of the Town, and may be appealed to  
30 the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil  
31 Procedure.

1 B. Any decision of the Town Council pursuant to this Chapter shall be a final decision  
2 of the Town, and may be appealed to the district court pursuant to Rule 106(a)(4) of  
3 the Colorado Rules of Civil Procedure.

4 C. The applicant's or licensee's (as applicable) failure to timely appeal a decision  
5 issued by the licensing authority or the Town Council pursuant to this Chapter is a  
6 waiver the applicant's or licensee's right to contest such decision.

7 4-16-12: DESIGNATED DISPOSAL SITE:

8 A. The Town designates the Summit County Resource Allocation Park (SCRAP) as  
9 the exclusive solid waste disposal site and facility for all solid waste generated  
10 within the Town.

11 B. All solid waste generated within the Town shall be disposed of only at the Summit  
12 County Resource Allocation Park (SCRAP); provided, however, that upon request  
13 the licensing authority may exempt from this requirement, with or without  
14 conditions, a solid waste hauler who primarily transports only one category of  
15 recyclable material.

16 4-16-13: PENALTIES; INJUNCTIVE RELIEF: It shall be unlawful and a misdemeanor offense  
17 for any person to:

18  
19 A. Fail or refuse to make or file any record, report, or other document required to be  
20 made or filed by this Chapter, or to make any false or fraudulent record or report, or  
21 any false or fraudulent statement in any such document.

22 B. Operate as a solid water hauler anywhere within the Town without a valid solid  
23 waste hauler license, or to continue to do business during a period of suspension of  
24 such license or after such license is revoked.

25 C. Dispose of any solid waste generated within the Town at any location other than the  
26 designated disposal site as required by Section 4-16-12.

27 D. Any person convicted of having violated an offense described in this Section shall  
28 be punished as set forth in Chapter 4 of Title 1 of this Code.

29 E. If a business is required to have a solid waste hauler license issued pursuant to this  
30 Chapter the operation of such business within the Town without a valid solid waste  
31 hauler license may be enjoined by the Town in an action brought in any court of  
32 competent jurisdiction. In any case in which the Town prevails in a civil action  
33 initiated pursuant to this Section E, the Town may recover its reasonable attorney  
34 fees plus costs of the proceeding.



1 4-16-14: NO TOWN LIABILITY: The adoption of this Chapter and the issuance of solid waste  
2 hauler licenses pursuant to this Chapter shall not create any duty to any person. No person shall  
3 have any civil liability remedy against the Town, or its officers, employees or agents, for any  
4 damage or loss of any kind arising out of or in any way connected with the issuance of any solid  
5 waste hauler license pursuant to this Chapter. Nothing in this Chapter shall be construed to create  
6 any liability or to waive any of the immunities, limitations on liability, or other provisions of the  
7 Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or to waive any  
8 immunities or limitations on liability otherwise available to the Town, or its officers, employees or  
9 agents.

10  
11 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the  
12 various secondary Codes adopted by reference therein, shall continue in full force and effect.

13  
14 Section 3. This Chapter shall be published as provided by Section 5.9 of the Breckenridge  
15 Town Charter and shall become effective on \_\_\_\_\_, 2017.

16  
17 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
18 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2017. A Public Hearing shall be held at the  
19 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
20 \_\_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

21  
22 TOWN OF BRECKENRIDGE, a Colorado  
23 municipal corporation

24  
25  
26  
27 By: \_\_\_\_\_  
28 Eric S. Mamula, Mayor

29  
30 ATTEST:

31  
32  
33  
34 \_\_\_\_\_  
35 Helen Cospolich  
36 Town Clerk

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Exhibit "A"

Solid Waste Hauling License Self-Certification Form

Exhibit "A"

1 Exhibit "B"

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3 List of Materials Designated As Recyclables

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5 Materials may be collected in single stream or source separated form from residential  
6 customers covered by this ordinance and shall include the following:

- 7  
8 1. Materials: Aluminum cans, tin/steel cans, cardboard (OCC), paperboard, newspaper,  
9 magazines, catalogs, junk mail, office paper, and plastic containers #1 and #2 (may be  
10 collected separately or comingled in a single container.
- 11  
12 2. Glass: If glass is collected, it shall be collected in a separate container or stream and  
13 volumes tracked separately.
- 14  
15 3. Other Materials: Any other materials collected as recyclable shall be collected in  
16 source-separated containers.



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## MEMORANDUM

**TO: Town Council**

**FROM: Julia Puester, AICP, Planning Manager**

**DATE: January 3 for meeting of January 10, 2017**

**SUBJECT: Resolution: Memorandum of Understanding with the USFS for Protection of the Town's Municipal Water Source (Wildfire Prevention Planning and Restoration Efforts)**

---

### **Background**

The Town has only one water source, the Goose Pasture Tarn (Tarn), located in the Indiana Gulch watershed, just south of the Town boundary and adjacent, in part, to United States Forest Service (USFS) lands. Impacts on respective community water sources after the Hayman (Colorado Springs) and High Park (Fort Collins area) fires, combined with the decline in forest health after the pine beetle epidemic, have caused the Town to be on heightened alert concerning potential impacts should a wildfire occur near the Town's water source.

In 2010, the USFS created the Breckenridge Forest Health and Fuels Project, and in 2011 the Town followed that project by receiving a partial grant from the U.S Geological Survey (USGS) to study the potential risk of post wildfire sediment and debris flow volumes in Indiana Gulch. The Town then hired Tetra Tech to take these two studies and provide further analysis and recommendations to produce a Wildfire Prevention & Restoration Planning document to aid in both pre and post wildfire planning in areas that have high potential to affect the Tarn. The Town subsequently approached the USFS to determine the best course of action to have the Plan recognized by the USFS which resulted in this Memorandum of Understanding (MOU).

### **The Wildfire Prevention & Restoration Plan**

The purpose of this planning effort is to provide recommendations and measures that would likely reduce the effects of a wildfire should one occur near the Tarn. The Plan identifies measures that would reduce the impacts of ash, sediment and debris loading in the Tarn that if severe enough, would affect water availability. This Plan can be used by the USFS Burned Area Emergency Response Team (BAER) to accelerate Town, USFS and even private property recovery and restoration efforts within the watershed. This joint effort recognized by the MOU with the USFS, the property owner of much of the surrounding area of concern, is an important step towards this effort, providing for the ability of a rapid response by both parties should one become necessary.

Based on existing vegetation and topography, staff notes that private property outside of the Town boundary could also see debris deposit impacts should a wildfire occur in the area. Although this MOU does not address private property, the area covered in the Plan does. Staff has discussed options for these private property owners with the USDA Natural Resources Conservation Service (NRCS) regarding disbursing information for mitigation efforts and restoration grants. Should the Town Council approve this resolution, staff would move forward with communication efforts with private property owners in the areas of concern.

Due to the Plan's length, staff has included a separate link to the document for review.

<http://www.townofbreckenridge.com/home/showdocument?id=11556>

**Staff Recommendation**

Staff recommends that the Town Council adopt the resolution and MOU attached to recognize these efforts and understanding made between the Town and the USFS.

Staff will be available at the meeting to answer any questions that the Town Council may have.

1                                   ***FOR WORKSESSION/ADOPTION – JAN. 10***

2  
3                                   RESOLUTION NO. \_\_\_\_

4  
5                                   Series 2017

6  
7                   A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE  
8                   USDA, FOREST SERVICE, WHITE RIVER NATIONAL FOREST, CONCERNING THE  
9                   PROTECTION OF THE TOWN’S MUNICIPAL WATER SUPPLY AND  
10                  INFRASTRUCTURE FOR INDIANA GULCH

11  
12                 WHEREAS, the health and condition of Colorado’s forest and watersheds affect the  
13                 Town’s water supplies; and

14  
15                 WHEREAS, forest and watershed restoration activities can help minimize sedimentation  
16                 impacts and maintain water quality for reservoirs, sources, and other water infrastructure by  
17                 reducing soil erosion and the risk of wildfires; and

18  
19                 WHEREAS, the Town and the USDA, Forest Service, White River National Forest  
20                 (“Forest Service”) believe that it would be beneficial to cooperate to proactively improve the  
21                 health and resiliency of forests and watersheds in areas that are critical for providing and  
22                 delivering water to the Town; and

23  
24                 WHEREAS, the Town and the Forest Service have prepared a Memorandum of  
25                 Understanding to document their cooperation with respect to certain key activities of mutual  
26                 concern, including, but not limited to:

27  
28                 A. The reduction of wildfire risks and severity of burns through forest thinning,  
29                 prescribed fire, and other forest health and restoration treatment;

30  
31                 B. The enhancement of areas where future wildfires may occur in priority areas of  
32                 concern around the watershed to reduce the impacts on water quality and effects of erosion and  
33                 sedimentation on Indiana Creek, Goose Pasture Tarn, and the Town’s water system operations;

34  
35                 C. The minimization of impacts to water quality, erosion, and sedimentation of Indiana  
36                 Creek and Goose Pasture Tarn caused by a severe burn fire in areas of concern by the  
37                 decommissioning, modification, or improvement of roads, erosion control management, forest  
38                 health, vegetation management, stream improvements, and other watershed restoration activities;  
39                 and

40  
41                 D. The provision of pre and post fire mitigation techniques mutually supported by the  
42                 Town and the Forest Service that will reduce the potential sedimentation of Indiana Gulch and  
43                 Goose Pasture Tarn.

44  
45                 ; and

1 WHEREAS, a copy of the proposed Memorandum of Understanding is marked **Exhibit**  
2 **“A”**, attached hereto and incorporated herein by reference; and  
3

4 WHEREAS, the Town Council has reviewed the proposed Memorandum of  
5 Understanding, and finds and determines that it would be in the best interests of the Town and its  
6 citizens for the Memorandum of Understanding to be approved.  
7

8 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
9 BRECKENRIDGE, COLORADO:  
10

11 Section 1. The Memorandum of Understanding between the Town and the USDA, Forest  
12 Service, White River National Forest, substantially in the form attached as **Exhibit “A”**, is  
13 approved, and the Town Manager is authorized to sign such document for and on behalf of the  
14 Town of Breckenridge.  
15

16 Section 2. This resolution is effective upon adoption.  
17

18 Section 3. Minor changes to or amendments of the approved Memorandum of  
19 Understanding may be made by the Town Manager if the Town Attorney certifies in writing that  
20 the proposed changes or amendments do not substantially affect the essential elements of the  
21 approved Memorandum of Understanding.  
22

23 RESOLUTION APPROVED AND ADOPTED this \_\_\_ day of \_\_\_, 2017.  
24

25 TOWN OF BRECKENRIDGE  
26  
27

28  
29 By: \_\_\_\_\_  
30 Eric S. Mamula, Mayor  
31

32 ATTEST:  
33  
34  
35

36 \_\_\_\_\_  
37 Helen Cospolich, CMC  
38 Town Clerk  
39

40 APPROVED IN FORM  
41  
42  
43

44 \_\_\_\_\_  
45 Town Attorney Date  
46

47 800-114\Resolution (12-21-16)

## EXHIBIT A

### MEMORANDUM OF UNDERSTANDING

#### **Between the TOWN OF BRECKENRIDGE, COLORADO and the USDA FOREST SERVICE, WHITE RIVER NATIONAL FOREST**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Town of Breckenridge, and the USDA, Forest Service, White River National Forest, hereinafter referred to as the “U.S. Forest Service.”

Background: The health and condition of Colorado’s forests and watersheds affects municipal water supplies for the Town of Breckenridge and surrounding communities. Forest and watershed restoration activities can help minimize sedimentation impacts and maintain water quality for reservoirs, sources and other water infrastructure by reducing soil erosion and the risk of wildfires.

Title: Wildfire planning and preparedness to protect the Town of Breckenridge municipal water supply and infrastructure for Indiana Gulch.

#### **I. PURPOSE:**

The purpose of this MOU is to document the cooperation between the parties to proactively improve the health and resiliency of forests and watersheds in areas critical for providing and delivering water to the Town of Breckenridge. To achieve this, the Town engaged a consultant, Tetra Tech, to develop a Plan which included an analysis of potential post mud and debris material flow based on a United States Geological Survey study that could be mobilized and redeposited from the high hazard watersheds to the main channel of Indiana Gulch. This Plan also includes recommendations for pre and post fire response in Areas of Concern. The Partners will work together, and through separate instruments, in accordance with the following provisions, around the Goose Pasture Tarn, and within Indiana Gulch, hereinafter referred to as Areas of Concern. Goals and activities include, but not limited to:

A. Reduce wildfire risk and severity of burns through forest thinning, prescribed fire, and other forest health and restoration treatments.

B. Enhance areas where future wildfires may occur in priority areas of concern around the watershed, to reduce the impacts on water quality and effects of erosion and sedimentation on Indiana Creek, Goose Pasture Tarn and water system operations. Restoration efforts would include, but not be limited to tree plantings, enhanced vegetative management planning, riparian vegetation improvements, emergency road access enhancements, and other rehabilitation activities suitable to the situation.

C. In the event of a severe burn fire in the Areas of Concerns, minimize any impacts to water quality, erosion and sedimentation of Indiana Creek and Goose Pasture Tarn through the decommissioning, modification or improvement of roads, erosion control and management, forest health, vegetation management, stream improvements, and other watershed restoration activities.

D. Provide pre and post fire mitigation techniques mutually supported by both the Town of Breckenridge and



the U.S. Forest Service that will reduce the potential sedimentation of Indiana Gulch and Goose Pasture Tarn.

## **II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:**

The U.S. Forest Service administers more than 14.5 million acres of National Forest System lands in Colorado, and nearly 90 percent of these lands lie in watersheds that contribute to public water supplies. Management of the public lands for forest and watershed health is the key to providing high quality water for municipal uses. In the Organic Administration Act of 1897, a principal purpose for establishment of the Forest Reserves (predecessor to the National Forest System) was to "secure favorable conditions of water flows."

The Town of Breckenridge provides high-quality water and promotes its efficient use to its approximately 5,000 customer accounts within the Town of Breckenridge and surrounding areas. The Town's public water system is funded by water rates and new tap fees (called plant investment fees in the Town's ordinances), not by taxes.

The Goose Pasture Tarn and Indiana Gulch are the sole source for the Town of Breckenridge water supply. The U.S. Forest Service has a shared interest in improving forest and watershed conditions in these watersheds to protect water supplies and water quality as well as to continue providing other public benefits such as forest health, fuels reduction, wildlife habitat and recreation opportunities.

To achieve mutual benefits in the Indiana Creek Watershed, the parties agree to work together to:

- A. Explore forest thinning or cutting units in areas of concern, tree planting, vegetation management, riparian vegetation improvements, find funding partners for road improvements, and other forest and watershed health treatments or restoration efforts on National Forest System lands, specific to the Areas of Concerns identified in the Wildfire Planning for Indiana Creek Watershed Report ;
- B. Develop a strategy that specifies treatment zones and planned activities within the Priority Watershed, management goals, and funding commitments in accordance with Provisions III and IV below;
- C. Identify mutually beneficial activities within the Areas of Concern and target accomplishments. Any funding provided by the Town of Breckenridge, other partners, or the U.S. Forest Service will be provided, as available and applicable, through separate, periodic financial agreements;
- D. Support the creation and continued refinement of assessments to identify where treatments will provide the greatest benefit in protecting municipal water supplies and other beneficial uses and management goals;
- E. Conduct monitoring to assess effectiveness and outcomes of forest and watershed treatments, and employ adaptive management strategies to continually improve the prioritization and implementation to maximize results;
- F. Coordinate with the USDA Natural Resources Conservation Service (NRCS) and other partners to provide education, technical support, and financial incentives to private landowners to facilitate forest, and watershed treatments on the private lands in and/or at the base of the Areas of Concern to complement the work conducted on the public lands;
- G. Engage other partners (including, but not limited to, other water providers, local municipalities, utility companies, ski resorts, the real estate industry, homeowners, homeowner associations, and volunteer-based organizations) to leverage additional funding and support;

H. Develop a shared communications and media campaign to increase public awareness and understanding of:

- The importance of forest health for municipal water supplies; and
- The environmental and economic benefits of a proactive approach to restoring forest and watershed health, including the reduced cost of providing safe and reliable drinking water to Town of Breckenridge customers in the long run;

I. Evaluate opportunities to coordinate fire prevention planning and suppression efforts that will mutually benefit the U.S. Forest Service and Town of Breckenridge with regards to the protection of Areas of Concern and U.S. Forest Service lands and resources in areas of shared interest and concern; and

J. Collaborate during Forest Plan revision updates to incorporate forest management planning strategies that will be consistent with water quality and supply uses in Areas of Concern.

In consideration of the above premises, the parties agree as follows:

### **III. TOWN OF BRECKENRIDGE SHALL:**

A. Support projects, grant applications and seek funding partners as projects are identified by the U.S. Forest Service related to Section I of this MOU.

B. Provide support for mutually beneficial projects, plans, and activities in Areas of Concern, as applicable and as funding is available, through separate agreements with the US. Forest Service and/or other partners. If/when any funds are made available, those Town of Breckenridge funds will be directed to the mutually agreed priorities and activities.

C. Update the Wildfire Planning for Indiana Creek Watershed Report as needed which can be utilized by the Town, U.S. Forest Service and Burn Area Emergency Response (BAER) Team as applicable.

### **IV. THE U.S. FOREST SERVICE SHALL:**

A. Adopt or otherwise incorporate the recommendations, as applicable, in the Wildfire Planning for Indiana Creek Watershed Report for use in the event of a severe burn in the Areas of Concern.

B. As funding and priorities allow, work with the Town of Breckenridge and NRCS to develop a prefire vegetation management plan including a fire model analysis to address the recommendations in the Wildfire Planning for Indiana Creek Watershed Report.

C. Explore feasibility of implementing the prefire vegetation management plan throughout the priority Areas of Concern and if feasible, identify timeframes and funding for such projects.

D. Oversee, administer, and monitor projects and activities performed on National Forest System lands including conducting planning and survey work as needed to ensure all work meets applicable laws and regulations. Conduct forest and watershed treatments, as applicable and contingent on personnel capacity, workload priority, and available federal funds and through separate instruments, throughout the Areas of Concern to complement the Town of Breckenridge funded treatments.

**V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:**

A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

<b>Cooperator Program Contact:</b> Rick Holman Town Manager Town of Breckenridge PO Box 168 Breckenridge, CO 80424 Telephone: 970-453-3166 Fax: 970-453-1513 Email: <a href="mailto:rickh@townofbreckenridge.com">rickh@townofbreckenridge.com</a>	<b>U.S. Forest Service Program Contact:</b> William Jackson White River National Forest, Dillon Ranger District 680 Blue River Parkway, PO Box 620 Silverthorne, CO 80498 Telephone: 970-262-3451 Fax: 970-468-7735 Email: <a href="mailto:wfjackson@fs.fed.us">wfjackson@fs.fed.us</a>
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B. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.

C. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or Town of Breckenridge from participating in similar activities with other public or private agencies, organizations, and the individuals.

D. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value. Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

E. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or the Town of Breckenridge is sufficient only if in writing and delivered in person, mailed, or

transmitted electronically by e-mail or fax. Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

F. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written notice signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.

G. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

H. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

I. USE OF U.S. FOREST SERVICE INSIGNIA. In order for the Town of Breckenridge to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.

J. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

K. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through December 7, 2022, at which time it will expire. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

L. AUTHORIZED REPRESENTATIVES. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

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RICK HOLMAN  
Town Manager  
Town of Breckenridge

Date

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SCOTT G. FITZWILLIAMS  
Forest Supervisor

Date



# Memo



**To:** Breckenridge Mayor and Town Council Members  
**From:** Helen Cospolich, Town Clerk  
**Date:** 1/4/2017  
**Subject:** Liquor and Marijuana Licensing Authority Interview

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One of Breckenridge's long-time Liquor and Marijuana Licensing Authority members, Turk Montepare, recently resigned from the Authority effective December 31, 2016. Mr. Montepare was nearing the end of a four-year term that expires at the end of December, 2017.

Attached please find a letter from sole applicant Gretchen Abernathy expressing interest in filling the remainder of Mr. Montepare's term. This volunteer Authority position was advertised in the Summit Daily News, in the Summit County Journal, and on the Town of Breckenridge website. Only one letter of interest was received by the deadline advertised.

Suggested interview questions will be provided.

Appointment may be made by motion and a sample motion follows.

**Sample Motion:**

"I move that we appoint Ms. Gretchen Abernathy to fulfill the remainder of the four-year term vacated by Mr. Montepare on the Breckenridge Liquor and Marijuana Licensing Authority."

to whom it may concern -

I am interested in serving on your Marijuana & Alcohol Licensing Board.

Name: Gretchen Abernathy  
P.O. 192 . 453-6893

Qualifications: Town Council in early 80's -

Plus i have consumed my share of alcohol and marijuana in the 46 years i have lived in Breckenridge .

: College education

: free time (self-employed .

Thanks -

Gretchen \_\_\_\_\_

**MEMORANDUM**

**To:** Town Council

**From:** Peter Grosshuesch, Director of Community Development

**Date:** January 4, 2017

**Re:** Planning Commission Decisions of the January 3, 2017, Meeting.

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**DECISIONS FROM THE PLANNING COMMISSION AGENDA OF January 3, 2017:**

CLASS C APPLICATIONS: None.

CLASS B APPLICATIONS:

1) Stella's Hungry Horse Large Vendor Cart Renewal (CK) PL-2016-0605, 327 North Main Street  
Renew existing large vendor cart permit for three years. *Approved.*

CLASS A APPLICATIONS: None.

TOWN PROJECT HEARINGS: None.

OTHER: None.





Stella's Hungry Horse  
 Large Vendor Cart Renewal  
 327 North Main Street



printed 3/25/2016  
 Town of Breckenridge and Summit County governments  
 assume no responsibility for the accuracy of the data, and  
 use of the product for any purpose is at user's sole risk.

# Breckenridge South



## PLANNING COMMISSION MEETING

The meeting was called to order at 6:00 pm by Chair Schroder.

### ROLL CALL

Mike Giller	Christie Leidal	Ron Schuman
Gretchen Dudney	Jim Lamb	Steve Gerard
Dan Schroder		

### APPROVAL OF MINUTES

With no changes, the December 6, 2016, Planning Commission Minutes were approved as presented.

### APPROVAL OF AGENDA

With no changes, the January 3, 2017, Planning Commission Agenda was approved.

### WORKSESSIONS:

#### 1) Joint Upper Blue Master Plan and TDR Program Overview (MT)

Mr. Truckey presented. The Planning Commission sometimes reviews projects where additional density is transferred to a development site via Transferable Development Rights (TDRs). Staff also will on occasion reference the policies of the Joint Upper Blue Master Plan (JUBMP). Given we have several recent appointments to the Commission, staff thought it would be helpful to provide an overview of the JUBMP and the TDR program.

#### **Joint Upper Blue Master Plan Overview**

In the early 1990s the towns of Breckenridge and Blue River, together with Summit County, started a cooperative planning effort to address land use and related issues, which were considered crucial to maintaining the special sense of community and quality of life in the Upper Blue Basin. After more than three years of discussion and numerous public meetings, the Joint Upper Blue Master Plan (JUBMP) was adopted by the three jurisdictions in 1997.

The JUBMP sets forth a common shared vision for the future, and informs citizens, landowners, and developers of the desired future for the basin as articulated by the adopting jurisdictions. Important land use and other growth-related issues are addressed in the JUBMP.

#### **TDR Program Overview**

The JUBMP sets the framework for a TDR program. Through a series of subsequent steps, the Town of Breckenridge and Summit County have implemented an Upper Blue TDR Program:

- The Town of Breckenridge and Summit County entered into an Intergovernmental Agreement concerning TDRs in 2000 (most recently updated in 2011) that outlines the TDR program. The program maps out TDR sending areas (mostly backcountry areas) and TDR receiving areas (mostly in the urbanized valley floor).
- In conjunction with the TDR program, Summit County rezoned several thousand acres of private mining claims to a Backcountry Zoning designation. The Backcountry Zone restricts the size of residences. A typical five acre claim is allowed a 900 square foot cabin. Thus, the potential for large homes in backcountry areas is limited and this makes the TDR program an attractive alternative to backcountry property owners.
- The County administers a TDR Bank on behalf of the County and Town. The TDR Bank makes development rights available to interested developers at a set price. The 2016 TDR price is \$49,110 per unit or SFE. Development rights in the TDR Bank come from density that was stripped off of TDR “sending” parcels in the Upper Blue backcountry that were previously acquired jointly by the County and Town open space programs. Developers also have the option to acquire development rights by purchasing

sending site density from private property owners. Twenty acres of backcountry land equals one development right.

- When a TDR transaction is proposed as part of a development proposal in Town, one development right is required to be transferred for each additional SFE of residential area requested or for each 1,000 square feet of additional commercial space requested.
- Since its inception, 36 separate TDR transactions have occurred in the Upper Blue Basin, involving the transfer of 79 units of density, and resulting in protection of 1,173 acres of backcountry land.
- The primary goal of the TDR program is to protect land in the Upper Blue backcountry. Certain high quality wetlands lots also qualify as TDR “sending” areas. A handful of wetlands lots have been involved in TDR transactions. In 2015, the Town tightened its rules regarding use of wetlands lots in TDR transactions so that only a quarter of any transaction could involve wetlands lots. This change was made to keep the focus of the TDR program on protection of backcountry areas. The Town of Breckenridge also allows, with some limitations, density to be transferred between properties in Town.
- The JUBMP provides a partial exemption from the requirement for TDRs for deed-restricted affordable housing projects. The Town has committed to transfer density from its own pool of Town-owned density to affordable housing projects at a one to four ratio (one unit transferred for every four units built).

*Commissioner Questions / Comments:*

Mr. Giller: What percent of those TDR units are residential? (Mr. Truckey: 80%.)

Ms. Dudney: Tell us how other Towns like Dillon, Silverthorne, etc fit into this? (Mr. Truckey: They do not. I think the County does have TDR programs with the other towns but I do not think much has been accomplished. Snake River TDR’s have gone into Keystone. You don’t see this in a lot of places countrywide. There is no set policy limitation in a lot of other municipalities.) Could you give us an example that JUBMP strives to reduce the overall build out? (Mr. Truckey: Conservation easements, master plans like the Delaware Flats (Highlands) they voluntarily extinguished some development rights. Main Street Station and so did the ski area with the Peak 8 Master Plan in conjunction with the gondola lots.) So is every piece of property a receiving zone if it fits? (Mr. Truckey: What we have ruled out is the Historic District and Land Use District 1. Anything else is potentially fair game but it comes down to a fit Test and Planning Commission Review.)

Ms. Leidel: Is the build out target going to be revised with the affordable housing units we are building? (Mr. Truckey: Yes; that was a big part of this last JUBMP update effort. Mr. Mamula was pushing this as a Town Council member when this was most recently revised. There is an impact on creating this additional density of workforce housing for free. So what we decided to do for affordable housing is transfer Town owned density from certain lots to the site being developed for housing. Its done at a 1:4 ratio. That ratio was established by the Town Council. They did not want to extinguish at a 1:1 ratio because they thought we would use up our density too quickly but wanted to account for and acknowledge that there are impacts caused by the workforce housing units.)

Mr. Lamb: Where are we without build out? (Mr. Truckey: Between 80 and 90% in the whole valley. I also want to mention that we did also work with the Town of Blue River during this but politically, it was a tough sell for them to take any action on. Same with the other Towns.)

Mr. Schroder opened the worksession to public comment.

Mr. Jeff Francis, representing a potential workforce housing development in the County on Baldy Mountain Road: We have a development that we are working up on Baldy Road. That was crystal clear in terms of how the program works and we are very appreciative. With regards to the outside of the town, our property is designated as a receiving site now. We wanted you guys to know that we are working on our affordable housing project where most of the occupants will likely be employees of the Town. We really appreciate

everything you guys are doing outside of the town limits with regards to the TDR program.

Mr. Truckey: To follow up, there are areas outside the Town where the County could authorize County to County Transfers.

Mr. Grosshuesch: We have a pretty close relationship with the County. They send us projects that are adjacent to the Town to comment on and we do the same with them. The basis for us to make comments on projects in the County is our development code. They typically do a pretty good job as to incorporating our comments and recommendations into their project. We have a good familiarity with their program and they do with ours. The backcountry program and the TDR program were a really big deal back in the day. It took three years to do the JUBMP. It morphed into the growth cap, the TDR program, and backcountry zoning. The elected officials wanted to see a lot of progressive planning in the valley. We accept TDR's coming in from across the Town boundary. We can account for 80% of the backcountry lots being locked up and are not going to be developed in the back country. There is hardly anyone else who is at that level in terms of maturity of a similar program.

**TOWN COUNCIL REPORT:**

Ms. Puester presented. There was a first reading of the Dipping Station landmarking and first reading for the Signage on Town Property. There were no changes to either of those. There was a discussion on SnackBar and Deli water plant investment fees (PIFS) by Staff in which we are trying to solidify the current administrative practices. Currently, it is just based off of precedent and really needs to be written in the code. The primary issue is the snack/bar deli PIF rate versus a full restaurant. A snack/bar deli has all disposable wear use which is bad practice, environmentally speaking, but is incentivized by a low PIF rate. Restaurant on the other hand can have dishwashing of plates, serving ware etc. however; the PIF rate is substantially higher. What we see is that this encourages disposable ware for many businesses. This said, whether it changes in some form or not, we need to at least get something in the code so the Town is not susceptible to law suits. We will be going back to the Council toward the end of February with some additional research and recommendations based on what we heard from Council in December.

**COMBINED HEARINGS:**

1) Stella's Hungry Horse Large Vendor Cart Renewal (CK) PL-2016-0605, 327 North Main Street  
Mr. LaChance presented on behalf of Mr. Kulick. Ms. Tara Griffith, owner and applicant, was also present. The owner of Stella's Hungry Horse is proposing to renew her existing large vendor cart permit at 327 North Main Street. No changes to the existing large vendor card or site plan are proposed with this application. This proposal is reviewed under Policy 49 (Absolute) Vendor Carts and is a renewal of Class B Development Permit #2013090. The permittee has abided by the conditions set forth by Permit #2013090, and staff is supportive of their renewal. This vendor cart is classified as a large vendor cart per Section 9-1-5 Definitions as it is more than 40 square feet (cart is 84 sq. ft.; by this ordinance it cannot exceed 100 sq. ft.) and will not be removed each day.

The proposal meets the requirements of Policy 49 (Absolute) Vendor Carts. One negative point is being assessed under Policy 33 (Relative) Energy Conservation for the outdoor fire pit, and one positive point is being assessed under Policy 18 (Relative) Parking for the shared driveway. This equates to a zero (0) balance on the Point Analysis. As this is a permit renewal, no change is proposed to the previously approved passing point analysis.

The Planning Department recommends approval of the development permit renewal for the Stella's Hungry Horse large vendor cart (PL-2016-0605) located at 327 North Main Street, with a passing point analysis of zero (0) points and the presented findings and conditions.

Applicant, Ms. Griffith: Nothing really new to add. It's been working out well.

Chair Schroder opened the hearing for public comment. There was no public comment and the hearing was closed.

Chair Schroder noted that there was a discrepancy between the staff report and the point analysis regarding a typographical error. Staff noted the correction.

*Commissioner Questions / Comments:*

Ms. Liedal: Is the gas fireplace there? (Ms. Griffith: It was approved at the first application 3 years ago; however, I don't use it anymore.)

Mr. Lamb: Looks good.

Ms. Dudney: In full support.

Ms. Leidal: Support.

Mr. Gerard: Support. It's a great small business.

Mr. Schroeder: Glad it working out, fully support.

Mr. Schuman: I like it, its been working well.

Mr. Schuman made a motion to approve the Stella's Hungry Horse Large Vendor Cart Renewal, PL-2016-0605, 327 North Main Street, with the presented point analysis showing a passing score of zero (0) points and the presented findings and conditions. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

**DEVELOPMENT CODE STEERING COMMITTEE UPDATE:**

Mr. Truckey: The Committee met on Dec. 14<sup>th</sup>. Ms. Leidal and Ms. Dudney are your representatives on this group. We talked more policies: 13/R Snow Removal and Storage. Basically our current standard is 25% of the paved area has to be set aside for snow storage. If you don't do so, negative points are assessed. We decided to keep that and change it so there are no positive points awarded. We even talked about making the 25% an Absolute policy. The architects on the Steering Committee said there are some sites that are very tight and they would prefer to have a Relative policy. We will also add a clause that if you have a snowmelt system, you don't have to have the 25%.

14/R: Storage: It came down to a discussion about multifamily residential. The code policy encourages the provision of storage but it only assigns negative points if you don't provide 5%. We said positive points should be awarded for providing it. Storage is ski lockers, recreational equipment, and so on, not clothing closets.

15/A: Refuse: We added a requirement for recycling space in the enclosure because we wanted to make sure people are providing this, as it is difficult to add later.

16/A: Internal Circulation: Part of that policy bans drive through windows downtown. If we had those on Main Street, that would create a major disruption of the downtown and disruption of the historical character which we want to keep. We do allow them outside of the downtown core and there are negative points assigned to them. They are kind of a suburban solution and the group was mixed on this. Is it really out of character on Airport Road? We decided not to change anything as far as that goes or make a recommendation for change.

18/R: Parking: We want to take a more comprehensive look at what parking requirements the uses really need. For example, we have a parking requirement of 1 space for 400 square feet of commercial/retail. We don't have a separate category for supermarkets, and 1:400 is not enough for them. If we see a redevelopment of City Market, we need to have a category for supermarkets. On the flipside, we have industrial and warehousing with no specific classification so by default, we use the closest category, which is retail at 1:400 which is way too much. We are going to come back and talk to the Steering Committee more about that once

we have time to research more.

*Commissioner Questions / Comments:*

- Mr. Lamb: How do you determine if something is other storage, like closets? (Ms. Dudney quoted code section.)
- Ms. Leidal: It says vehicles in the definition but we don't want to count the garage? (Mr. Truckey: The garage should technically be counted for the vehicle, but if there is extra room that could be counted as storage.) Do you want to provide specific percentages? (Ms. Puester: We could be specific or could set precedent for the amount of point awarded.)
- Mr. Schroeder: What did we give for Denison Placer? (Mr. Truckey: Nothing. There are no positive points in the code for that. There are negative points, but no positive.)
- Ms. Dudney: I have a question about making recycling 25%.
- Ms. Leidal: For that, you have to look at Title 5 Chapter 6 referenced. Recycling is already a requirement there. We have to have recycling, but we don't have a percentage for that.
- Mr. Schuman: I am having a heck of a time with all the properties I manage dedicating room for recycling. It is a mess currently. (Mr. Truckey: We recognize this and we are trying to prepare developers going forward.)
- Ms. Dudney: You are sizing the amount of trash you need and then you are seeing a requirement of the percentage of recycling?
- Mr. Lamb: You may not generate as much trash if you are recycling. (Mr. Grosshuesch: We may go to "Save as You Recycle" which may shift the stream to a higher percentage of recycling.)
- Ms. Dudney: We concluded that this may have to be revised in the future, but it doesn't mean that you should not try it. Don't define it, because things change.
- Mr. Lamb: Down the road, the trash versus recycling amounts will look a lot different that it does today.
- Mr. Giller: I don't think the drive throughs are something we want to encourage. If we allow it, we should keep a high number of negative points, like the negative 6.

**OTHER MATTERS:**

Ms. Puester discussed the upcoming February Saving Places Conference with the Commissioners. They are planning on changing the Ski Town Forum format to a dinner on Thursday rather than the typical Wednesday afternoon. I will send out more information.

**ADJOURNMENT:**

The meeting was adjourned at 8:04 pm.

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Dan Schroder, Chair



## Scheduled Meetings, Important Dates and Events

**Shading indicates Council attendance – others are optional**

*The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them. All Council Meetings are held in the Council Chambers, 150 Ski Hill Road, Breckenridge, unless otherwise noted.*

### **JANUARY 2017**

Tuesday, January 10, 2017; 2:00/7:00 pm	First Meeting of the Month
Wednesday, January 11 – Saturday, January 14; Times vary	Ullr Fest 2017
Tuesday, January 24, 2017; 3:00/7:00 pm	Second Meeting of the Month
Friday, January 27, 2017; 8:00-9:00 am; Starbucks & Breckenridge Ski Resort	Coffee Talk & Ski

### **FEBRUARY 2017**

Tuesday, February 14, 2017; 3:00/7:00 pm	First Meeting of the Month
Friday, February 17, 2017; 8:00-9:00 am; TBD	Coffee Talk
Tuesday, February 28, 2017; 3:00/7:00 pm	Second Meeting of the Month

### **MARCH 2017**

Tuesday, March 14, 2017; 3:00/7:00 pm	First Meeting of the Month
Friday, March 17, 2017; 8:00-9:00 am; TBD	Coffee Talk
Tuesday, March 28, 2017; 3:00/7:00 pm	Second Meeting of the Month

### **OTHER MEETINGS**

4 <sup>th</sup> Monday of the Month; 4:00 p.m.	Cultural Arts Advisory Committee; Riverwalk Center
1 <sup>st</sup> & 3 <sup>rd</sup> Tuesday of the Month; 6:00 p.m.	Planning Commission; Council Chambers
1 <sup>st</sup> Wednesday of the Month; 4:00 p.m.	Public Art Commission; 3 <sup>rd</sup> floor Conf Room
2 <sup>nd</sup> & 4 <sup>th</sup> Tuesday of the Month; 1:30 p.m.	Board of County Commissioners; County
2 <sup>nd</sup> Wednesday of the Month; 12:00 noon	Breckenridge Heritage Alliance
2 <sup>nd</sup> Tuesday of the month; 2:00 p.m.	Workforce Housing Committee
2 <sup>nd</sup> Thursday of the Month; 5:30 p.m.	Sanitation District
3 <sup>rd</sup> Monday of the Month; 5:30 p.m.	BOSAC; 3 <sup>rd</sup> floor Conf Room
3 <sup>rd</sup> Tuesday of the Month; 9:00 a.m.	Liquor Licensing Authority; Council Chambers
4 <sup>th</sup> Wednesday of the Month; 9:00 a.m.	Summit Combined Housing Authority
4 <sup>th</sup> Wednesday of the Month; 8:30 a.m.	Breckenridge Tourism Office; BTO Offices
4 <sup>th</sup> Thursday of the Month; 7:00 a.m.	Red White and Blue; Main Fire Station
1 <sup>st</sup> Wednesday of the Month; 3:00 p.m.	Childcare Advisory Committee; Town Hall

Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition, BEC