



**TOWN OF
BRECKENRIDGE**

Town Council Regular Meeting
Tuesday, September 24, 2019, 7:00 PM
Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - SEPTEMBER 10, 2019

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

A. CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2019 - PUBLIC HEARINGS

1. *COUNCIL BILL NO. 27, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE "BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE," CONCERNING OCCUPANCY LIMITS FOR ACCOMMODATION UNITS*
2. *COUNCIL BILL NO. 28, SERIES 2019 - AN ORDINANCE AMENDING SECTION 11-6-2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE EXCEPTIONS TO THE REQUIREMENT THAT A LICENSE AGREEMENT MUST BE OBTAINED TO USE TOWN-OWNED REAL PROPERTY*

VI. NEW BUSINESS

- A. FIRST READING OF COUNCIL BILLS, SERIES 2019
- B. RESOLUTIONS, SERIES 2019
- C. OTHER

VII. PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC (MAYOR MAMULA)

- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BERGERON)
- C. BRECKENRIDGE TOURISM OFFICE (MS. WOLFE)
- D. BRECKENRIDGE HERITAGE ALLIANCE (MS. OWENS)
- E. BRECKENRIDGE CREATIVE ARTS (MR. GALLAGHER)
- F. BRECKENRIDGE EVENTS COMMITTEE (MS. GIGLIELLO)
- G. WATER TASK FORCE (MR. GALLAGHER)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

- A. SCHEDULED MEETINGS FOR SEPTEMBER, OCTOBER & NOVEMBER

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of September 10, 2019 to order at 7:00pm. The following members answered roll call: Mr. Bergeron, Ms. Owens, Mr. Gallagher, Mr. Carleton, Ms. Wolfe, Ms. Gigliello and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES - AUGUST 27, 2019

With no changes or corrections to the meeting minutes of August 27, 2019 Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

Mr. Holman stated there was one change to the agenda, which was to add as an Emergency Ordinance Council Bill No. 29, Series 2019, repealing Ordinance No. 27, Series 2018. Mayor Mamula declared the agenda approved as amended.

IV) COMMUNICATIONS TO COUNCIL

A) CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Mamula opened Citizen's Comment.

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

B) BRECKENRIDGE TOURISM OFFICE UPDATE

Ms. Lucy Kay, Director of the BTO, stated they surveyed people at Oktoberfest and found an even demographic split among participants, with occupancy up throughout the weekend. She also stated the Net Promoter Score was 85% overall, recycling efforts were successful, and they hired extra cleaning and recycling staff to divert over 23% of the waste stream. She further stated there was a known trash issue Monday morning in the Plaza, and the Yeti initiative appealed to kids especially. Ms. Kay stated the integration of Town departments with the BTO was very beneficial for these efforts, and BTO staff worked hard.

Ms. Kay stated the BTO would like to put more teeth in the Special Events Permit Application program, and will discuss that in future meetings. Also, the BTO has won more national recognition with an award, and the Colorado Water Plan will need additional funding and the State will be looking for some of that to come from tourism.

Mr. Holman reminded Council of the Sustainability Goal related to zero-waste events.

Mayor Mamula asked about the timing of Oktoberfest weekend, and BTO staff will look into why it was moved to an earlier date this year.

V) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2019 - PUBLIC HEARINGS

1) COUNCIL BILL NO. 25, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 3H OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE SALE OF DOGS AND CATS BORN OR RAISED IN INHUMANE COMMERCIAL BREEDING FACILITIES

Mayor Mamula read the title into the minutes. Ms. Haynes stated this ordinance would ban all businesses from selling dogs and cats raised in the manner defined in this ordinance. She further stated there was one change from first reading, which is in the memo and concerns definitions in the ordinance.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 25, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 3H OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE SALE OF DOGS AND

CATS BORN OR RAISED IN INHUMANE COMMERCIAL BREEDING FACILITIES. Ms. Gigliello seconded the motion.

The motion passed 7-0.

- 2) COUNCIL BILL NO. 26, SERIES 2019 - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO CHRISTIE HEIGHTS PARTNERSHIP AND CUCUMBER CREEK ASSOCIATES LLC (Tract A, Christie Heights Subdivision Filing No. 2)

Mayor Mamula read the title into the minutes. Mr. Berry stated there were no changes to this ordinance from first reading.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 26, SERIES 2019 - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO CHRISTIE HEIGHTS PARTNERSHIP AND CUCUMBER CREEK ASSOCIATES LLC (Tract A, Christie Heights Subdivision Filing No. 2). Mr. Carleton seconded the motion.

The motion passed 7-0.

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2019

- 1) COUNCIL BILL NO. 27, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE "BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE," CONCERNING OCCUPANCY LIMITS FOR ACCOMMODATION UNITS

Mayor Mamula read the title into the minutes. Mr. Waldes stated this ordinance would establish occupancy limits for Short Term Rental units in Breckenridge. He further stated the Summit County Assessors' information would be the basis of the room counts.

Mayor Mamula opened the public hearing.

Mr. David Wilcox, representing Summit Mountain Rentals, stated in most cases the County considers a loft a bedroom and he would like Council to consider lofts as bedrooms. He also asked how some properties would be exempt from these restrictions, and Mr. Holman stated exempt properties would be required to have a 24-hour front desk in those locations.

Council asked how the Sanitation District defines a loft, and staff stated they didn't believe it is counted as a bedroom. Mayor Mamula stated they would look at that issue for second reading.

Mr. Holman also stated violations would stay with the license on the unit, and if the unit changed owners the violations would go away.

Ms. Trace Kaker, representing PMI Breck, stated she believes a loft should be considered a sleeping area.

Mr. Jason Buszta, a property manager, handed out printed images with bunkrooms, where multiple people can fit in one room. He also asked how this ordinance will be audited and enforced? Mr. Buszta also asked about registering accurate occupancy on the Air B&B website, and Mr. Holman stated staff will look into that.

There were no additional comments and the public hearing was closed.

Mr. Bergeron stated he isn't averse to looking at this more, but he believes Council is pretty close to its goals for this ordinance. Mr. Carleton stated he wants to see what the County and the Sanitation District say about lofts. Ms. Gigliello stated she'd like to look into Air BnB question raised by Mr. Buszta. Ms. Wolfe stated she'd also like

to see what the Sanitation District says, and what a safe definition of a loft is in our building code. Mr. Gallagher stated he is disappointed that we keep punting on these issues, and he believes we aren't doing enough about it. Ms. Owens stated she feels like the bunkroom examples seem like a hotel situation, and while she is okay looking more at lofts, maybe there would be something to limit occupancy in a studio with a loft. Mayor Mamula stated he would like more information from staff, and possibly a variance situation that would make sense. He further stated he is more concerned with the short-term rentals that used to be long-term rentals than the other types of units. Mr. Bergeron stated he is willing to look at the Sanitation District and lofts, and he feels we have made big steps to address the issues with Short Term Rentals.

Mr. Holman stated he believes the Sanitation District bases PIFs on bedrooms and restrooms, and Ms. Wolfe stated lofts would have to meet safety standards if they are to be considered bedrooms.

Mr. Bergeron moved to approve COUNCIL BILL NO. 27, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE "BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE," CONCERNING OCCUPANCY LIMITS FOR ACCOMMODATION UNITS. Mr. Gallagher seconded the motion.

The motion passed 7-0.

- 2) COUNCIL BILL NO. 28, SERIES 2019 - AN ORDINANCE AMENDING SECTION 11-6-2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE EXCEPTIONS TO THE REQUIREMENT THAT A LICENSE AGREEMENT MUST BE OBTAINED TO USE TOWN-OWNED REAL PROPERTY

Mayor Mamula read the title into the minutes. Mr. Holman stated this ordinance would amend Town Code to require a license agreement for certain business that is conducted on Town property. He further stated this ordinance is necessary due to the recent discovery that a local business was valeting cars to a paid Town parking lot.

Mayor Mamula opened the public hearing.

There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 28, SERIES 2019 - AN ORDINANCE AMENDING SECTION 11-6-2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE EXCEPTIONS TO THE REQUIREMENT THAT A LICENSE AGREEMENT MUST BE OBTAINED TO USE TOWN-OWNED REAL PROPERTY. Mr. Carleton seconded the motion.

The motion passed 7-0.

- 3) COUNCIL BILL NO. 29, SERIES 2019 - AN EMERGENCY ORDINANCE REPEALING ORDINANCE NO. 27, SERIES 2018 (City Market Expansion)
- Mayor Mamula read the title into the minutes. Mr. Berry stated this emergency ordinance would repeal the ordinance that approved a development agreement for a City Market Expansion in 2018 due to inaction of the other party.

Mayor Mamula opened the public hearing.

There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 29, SERIES 2019 - AN EMERGENCY ORDINANCE REPEALING ORDINANCE NO. 27, SERIES 2018 (City Market Expansion). Ms. Gigliello seconded the motion.

The motion passed 7-0.

- B) RESOLUTIONS, SERIES 2019
- C) OTHER

VII) PLANNING MATTERS

A) PLANNING COMMISSION DECISIONS

Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

VIII) REPORT OF TOWN MANAGER AND STAFF

Reports of Town Manager and Staff were covered in the afternoon work session.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

Reports of the Mayor and Council Members were covered in the afternoon work session.

- A. Cast/MMC
- B. Breckenridge Open Space Advisory Committee
- C. Breckenridge Tourism Office
- D. Breckenridge Heritage Alliance
- E. Breckenridge Creative Arts
- F. Breckenridge Events Committee
- G. Water Task Force

X) OTHER MATTERS

Mr. Holman stated there will be Fiber Forum on September 12.

XI) SCHEDULED MEETINGS

A) SCHEDULED MEETINGS FOR SEPTEMBER AND OCTOBER

XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:45pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor



Memo

To: Breckenridge Town Council
From: Brian Waldes, Finance Director
Date: 9.16.19
Subject: Short Term rental Occupancy Ordinance

The purpose of this memo is to explain the provisions of the attached short term rental (STR) occupancy ordinance that is presented for second reading.

Background

The occupancy ordinance was presented for first reading at the 9.10.19 regular meeting.

The ordinance establishes;

1. Occupancy limits are set at 2 persons per bedroom plus 4, with the exception of studios, which shall be considered 0 bedrooms and as such allow 4 persons.
2. Advertisements for STR units are required to display the occupancy limit
3. A revised fine schedule for violations of this ordinance.

The accommodations compliance administrator will amend business license invoices and the business licenses form for accommodations units to show the number of bedrooms for a particular unit per Summit County Assessor data. This will eliminate any confusion as far as what occupancy number the licensee should post on their advertisement per (2) above. Our invoices to license holders will clearly display both the number of bedrooms listed on the Assessor's website and the resulting number of overnight occupants permitted.

If the ordinance is approved, we will bring to Council administrative rules and regulation to establish some of the required enforcement mechanisms, such as the use of the assessor's site as the system of record for bedroom counts. The admin regs will also address the fact that any dispute over the number of bedrooms for a particular residence must be addressed with the County.

Council approved the ordinance described above on first reading, with the understanding some small changes would be made for second reading. The attached ordinance reflects those changes. They are;

1. Removal of the 12 month lookback window for violations of the occupancy ordinance. This only applies to violations of the occupancy provisions and not the 'parking, trash, noise' violations.
2. A revised fine schedule that reflect the same logic as the STR Administration fee, i.e. larger properties are subject to higher fines than smaller units.

Council also asked staff to analyze the potential impacts of including a provision granting additional occupancy for loft spaces. In the Breckenridge Town Code, lofts are defined as;

Loft: A habitable room or floor in a building that is open to the room or floor directly below, which may or may not qualify as a mezzanine. Lofts may be either habitable space or non-habitable space. A habitable loft within a dwelling unit provided with a closet or where a bathroom on the same level can be directly accessed without passing through a sleeping room, will be considered a sleeping room for the purposes of section 907.2.11, emergency escape and rescue, section 1029 single and multi-station smoke alarms and section 908.7 carbon monoxide alarms.

And, to qualify as a sleeping room, a loft must meet the further requirements below;

Potential Sleeping Room: A room or space within a dwelling unit having a floor area of at least 70 square feet and a ceiling height of at least 5 feet, will be considered a sleeping room as follows:

In a building defined as a dwelling or lodging house, any space or room having two of the following factors shall be considered a sleeping room. In a building defined as an apartment house or hotel, any room or space having one of the following factors shall be considered a sleeping room:

a. Has walls and doors to separate it from other habitable spaces.

b. Meets the definition of a loft.

c. Has a closet or similar provision for clothes storage.

d. Has a full or partial bathroom connected to the space or room, or has a path of travel to a full or partial bathroom which does not first pass through a habitable space.

Rooms or spaces determined by these criteria to be sleeping rooms, regardless of any names, labels, or intended uses proposed by the building designer or owner, shall have: (i) emergency escape and rescue openings pursuant to the section 1029 of the international building code; (ii) smoke detectors pursuant to section 907 of the international building code; and (iii) carbon monoxide detectors pursuant to article 45 of title 38, C.R.S.

To be able to fully account for lofts and potential sleeping rooms in our roughly 2,450 STR properties that would be subject to the occupancy ordinance, staff would need some time to develop provisions for owner self-reporting of lofts as sleeping areas and inspections of such units when necessary. The County Assessor's database would not serve for this purpose, and the Town would be responsible for building a new database with loft information included.

Staff would request that, should Council desire to proceed with a provision granting additional occupancy for qualified lofts as sleeping rooms, that the attached ordinance be continued to give us time to develop the rules, processes, and procedures that this change would require. There would also be substantial staff time required going forward to administer a qualified loft allowance.

Next Steps

The Occupancy ordinance is submitted for approval on second reading without the provision for lofts as sleeping rooms provision. Should it be approved as submitted, the ordinance will go into effect after the requisite waiting period. Finance will then inform STR license holders of the new requirements through the billing process described above.

If the decision is made to add provisions for lofts, staff requests to table the ordinance until such time as we can develop the required processes to administer that change.

1 **FOR WORKSESSION/SECOND READING – SEPT. 24**

2
3 Additions To The Ordinance As Approved on First Reading Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. 27

7
8 Series 2019

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE
11 TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE “BUSINESS AND
12 OCCUPATIONAL LICENSES AND TAX ORDINANCE,” CONCERNING OCCUPANCY
13 LIMITS FOR ACCOMMODATION UNITS

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

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18 Section 1. Section 4-1-2 of the Breckenridge Town Code is amended by the addition of
19 the following definition:

20

OCCUPANCY LIMIT:	The maximum number of persons permitted to reside overnight in an accommodation unit.
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22 Section 2. Section 4-1-8-1A9 of the Breckenridge Town Code is amended to read as
23 follows:

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25 9. The occupancy limit for all accommodation units except studios shall be two
26 (2) persons per bedroom plus four (4) additional persons. The occupancy limit for
27 studio accommodation units shall be a total of four (4) persons. The number of
28 bedrooms in an accommodation unit shall be based upon the records of the
29 Summit County Assessor used for general property tax assessment.
30 Accommodation units described in section 4-1-4-1B of this chapter are exempt
31 from the limits of this section.

32
33 Section 3. Section 4-1-8-3A3 of the Breckenridge Town Code is amended to read as
34 follows:

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36 3. An advertisement offering to rent an accommodation unit must prominently
37 display: (1) the Town’s business and occupational license number in the
38 advertisement as, “Breckenridge Business License No. [insert number]”; and (ii)
39 the occupancy limit for the accommodation unit as, “Maximum overnight
40 occupancy [insert number]. The failure to prominently display the required
41 information in any advertisement of accommodation shall be a violation of this
42 section. Accommodation units described in section 4-1-4-1B of this chapter are
43 exempt from the requirements of this section.
44

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

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4 D1. Except as provided in subsection D2, below, if the Finance Director
5 determines after a hearing that cause exists for the imposition of a sanction
6 against a licensee of an accommodation unit pursuant to section 4-1-8-1 of this
7 chapter, the Finance Director shall impose the following sanction against the
8 licensee:
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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 Finance Director may determine, not to exceed 1 year, or revocation of license. In determining what sanction to impose, the Finance Director 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 Finance Director in lieu of the licensee serving a suspension or revocation.

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11 2. If the Finance Director determines after a hearing that cause exists for the
12 imposition of a sanction against a licensee of an accommodation unit for a
13 violation of section 4-1-8-1A9 of this chapter, the Finance Director shall impose
14 the following sanction against the licensee:
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18 **DELETED TEXT SHOWN AT END OF ORDINANCE**
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<u>Occupancy Fine Structure</u>		<u>Studio</u>	<u>1 bdrm</u>	<u>2 bdrm</u>	<u>3 bdrm</u>	<u>4+ bdrm</u>
<u>First violation</u>	<u>Suspension of license for 30 days. Licensee may pay administrative fine based on bedroom count within 3 days of entry of suspension order in lieu of serving suspension.</u>	<u>\$ 180</u>	<u>\$ 210</u>	<u>\$ 245</u>	<u>\$ 705</u>	<u>\$ 1,060</u>
<u>Second violation</u>	<u>Suspension of license for 60 days. Licensee may pay administrative fine based on bedroom count within 3 days of entry of suspension order in lieu of serving suspension.</u>	<u>\$ 450</u>	<u>\$ 530</u>	<u>\$ 610</u>	<u>\$ 1,765</u>	<u>\$ 2,650</u>
<u>Third violation and each subsequent violation</u>	<u>Suspension for such period of time as Finance Director may determine, not to exceed 1 year, or revocation of license. In determining what sanction to impose, the Finance Director shall consider the factors set forth in subsection C of this section. For a third and each subsequent violation, no administrative fine may be accepted by the Finance Director in lieu of the licensee serving a suspension or revocation.</u>	<u>No Fine Option</u>				

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2 Section 5. The Town Council finds, determines, and declares that it has the power to
3 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
4 of the Colorado Constitution, and, particularly, Section 12.1 of the Breckenridge Town Charter.
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6 Section 6. This ordinance shall be published as required by Section 5.9 of the
7 Breckenridge Town Charter and shall become effective on January 1, 2020.
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9 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
10 PUBLISHED IN FULL this ____ day of ____, 2019. A Public Hearing shall be held at the
11 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
12 ____, 2019, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
13 Town.
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15 TOWN OF BRECKENRIDGE, a Colorado
16 municipal corporation
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20 By: _____
21 Eric S. Mamula, Mayor

1 ATTEST:

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5 _____
Helen Cospolich

6 Town Clerk

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400-3-8\Occupancy Limit Ordinance (09-17-19)(Second Reading)

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1 Deleted Text in Section 2 on Page 2:
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- First violation within 12 months—

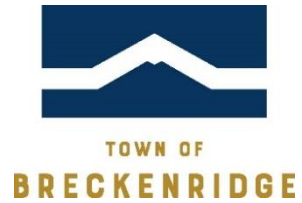
 - Suspension of license for 30 days. Licensee may pay administrative fine of \$999.00 within 3 days of entry of suspension order in lieu of serving suspension.—
- Second violation within 12 months—

 - Suspension of license for 60 days. Licensee may pay administrative fine of \$1,999.00 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 \$2,650.00 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 Finance Director may determine, not to exceed 1 year, or revocation of license. In determining what sanction to impose, the Finance Director 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 Finance Director in lieu of the licensee serving a suspension or revocation.—

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Memo

To: Mayor and Town Council Members
From: Tim Berry, Town Attorney
Date: 9/17/2019
Subject: Council Bill No. 28 (License Agreement Required to Conduct Business on Town Real Property)

The second reading of Council Bill No. 28 is scheduled for your meeting on September 24th. The ordinance establishes a requirement that a person who wants to conduct a business activity on Town real property must first enter into a license agreement with the Town. 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 – SEPT. 24**

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3 **NO CHANGE FROM FIRST READING**

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

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8 COUNCIL BILL NO. 28

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10 Series 2019

11
12 AN ORDINANCE AMENDING SECTION 11-6-2 OF THE BRECKENRIDGE TOWN CODE
13 CONCERNING THE EXCEPTIONS TO THE REQUIREMENT THAT A LICENSE
14 AGREEMENT MUST BE OBTAINED TO USE TOWN-OWNED
15 REAL PROPERTY

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

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20 Section 1. Section 11-6-1 of the Breckenridge Town Code is amended by the addition of
21 the following definitions:
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BUSINESS ACTIVITY:

Means conduct of any aspect of a business, concession, or service in order to provide goods or services to any person for compensation. Business activity is a nonpublic use of town real property.

23
24 Section 2. Section 11-6-2 of the Breckenridge Town Code is amended to read as follows:

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26 B. This Section A ~~section~~ does not apply to:

- 27
28 1. Use of Town real property by the Town.
29 2. Landscaping materials, including, but not limited to, grass, trees, shrubs and flowers,
30 which materials may be placed within a Town right-of-way without a license agreement
31 or other authorization. The Town shall have no liability to any person for the loss,
32 damage or destruction of any landscaping materials placed within Town right-of-way.
33 3. Use of Town real property pursuant to a valid agreement, including, but not limited to,
34 an easement, a lease, or a permit issued by the Town.
35 4. Use of Town real property when such property is made available by the Town for use
36 by the general public; **provided, however, a license agreement is required to conduct**
37 **a business activity on Town real property, even if such property is open to the**
38 **general public.**
39 5. Use of Town real property as permitted by law.
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Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2019. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of _____, 2019, 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, CMC,
Town Clerk



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: September 18, 2019
Subject: Planning Commission Decisions of the September 17, 2019 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, September 17, 2019:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS:

1. Grand Colorado Peak 8 Building 3 Employee Housing Change, PL-2019-0359, 1595 Ski Hill Rd. A proposal to revise the Grand Colorado on Peak 8 Building 3 point analysis. Changes to the project affecting the points include the elimination of employee housing, an addition of a public pedestrian easement, a reduction in outdoor fireplaces, a reduction in the quantity of landscaping and the addition of public art. *Approved.*

CLASS C APPLICATIONS:

1. Long Residence Solar, PL-2019-0390, 213 S. French Street
A proposal to install a flush mounted solar array on a non-historic residence and on the non-primary elevations. *Approved.*

TOWN PROJECT HEARINGS: None.

OTHER: None.



Grand Colorado Peak 8
 Building 3 Employee
 Housing Change, 1595
 Ski Hill Rd.

King House Relocation, Addition,
 Restoration, Garage, Accessory
 Apartment, and Landmarking, 300 N.
 French Street

Long Residence Solar,
 213 S. French Street



Breckenridge South



PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 p.m. by Chair Giller.

ROLL CALL

Christie Mathews-Leidal	Jim Lamb	Ron Schuman - Absent
Mike Giller	Steve Gerard	
Dan Schroder	Lowell Moore	

APPROVAL OF MINUTES

With the change below, the September 3, 2019 Planning Commission Minutes were approved.

Mr. Gerard: One page 7, page 9 in the packet. Add: This view is buffered by a stand of pine trees.

APPROVAL OF AGENDA

With no changes, the September 17, 2019 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- No comments.

CONSENT CALENDAR:

1. Long Residence Solar, 213 S. French Street, PL-2019-0390

Mr. Schroder: About the graphic with huge green bubbles, I didn't know what those green bubbles are. (Mr. Giller: Trees.) So we are potentially blocking solar gain.

With no call ups, the Consent Calendar was approved as presented.

PRELIMINARY HEARINGS:

1. King House Relocation, Addition, Restoration, Garage, Accessory Apartment, and Landmarking; 300 N. French Street, PL-2019-0034

Mr. LaChance presented a proposal to relocate the historic circa 1890's house approximately 5 ft. towards the interior of the lot, construct an approximately 100 sq. ft. addition, install a basement and concrete foundation, conduct a full restoration of the house, designate the house as a Local Landmark, relocate the historic secondary structure (cabin) further towards the interior of the lot and conduct a full restoration, construct a detached 2-car garage and accessory apartment with new driveway, expand the existing driveway, and install a new fence and landscaping. The following specific questions were asked of the Commission:

1. Regarding Policy 22 (Relative), does the Commission agree two (2) additional trees (8' tall or 3" caliper) are required along the N. French St. right-of-way, otherwise negative two (-2) points are warranted?
2. Regarding Design Standards #60-62, does the Commission find that the total proposed fence height should be reduced to 3' or less, otherwise negative three (-3) points are warranted?
3. Regarding Priority Design Standard 71, does the Commission find that the plans should be revised to specify exposed original siding?
4. Does the Commission agree with staff's suggested point analysis?

Commissioner Questions / Comments:

Ms. Leidal: Can we go back to the site plan, I appreciate we are reducing the flare to the driveway, but we are also increasing the width by two feet. Did staff consider using pavers in the front yard? If not, would we put pavers in the right of way or concrete strips. (Chapin: I do recall discussing that with engineering, but can not recall why that was not required; we will look

at that again.) Thank you. Just to reduce the paving in the perceived front yard. Also had a question about how we are measuring the relocating of the house and cabin. A portion of the cabin and the house are going to move five feet, and then the south-eastern portions are moving more than five feet. Why aren't we measuring like we do building height or setbacks? Why are we not measuring every single portion of the structure that is being moved? (Mr. LaChance: In other words, taking a diagonal measurement?) Right, go to the south east of the cabin, see how moving that is more than five feet? (Mr. LaChance: Perhaps Janet can speak to that. I'll look at that while Janet is presenting and respond afterwards.)

Mr. Giller: I'm struck with how well landscaped and vegetated that lot is now. I find it odd that there is an 8' spruce in the front yard that wouldn't be affected by the move, and why isn't it shown? I don't think they've thought thorough their trees on there, they have a lot to work with... they could have really great landscaping if they selectively thin. (Mr. LaChance: We should have a more accurate tree inventory for the final hearing.)

Applicant: Janet Sutterley, architect for the King House:

First, I wanted to tell Chapin that that was a great staff report. Well organized and concise. Thanks Chapin. I did want to go through some of the commissioner comments from last time because some of these need to be revisited. One was on the window separation, I know we will get to that with comments, we weren't quite sure staff and myself... I thought the window separation was with regard to those three windows. I would like a little clarification on that, specifically I heard Ron say he would like to see 6" between windows. My interpretation was that we wanted to go to 6". I have a couple of pictures of a house right across from the post office that has two banks of windows with what looks like 6" in between. I want to pass this along. I think there is precedent for that, and because this is our secondary structure sitting toward the back of the lot, I thought 6" would be enough.

There was a comment from Steve about restoring the window right of the door. The owners don't want to do that. Christie was talking about paver strips in the front, they did not want to do that. The other one was about the fence running across lot 9, and they would like to keep the fence running across there. The other thing, Mike, that was added was the ghosting of the door, which is addressed on the elevations you have there.

Landscaping: Chapin and I talked and we need two trees along the front but I agree we need more tree information. We might be able to save one of the trees since we are moving the house back. On the Northwest corner I do not think the aspen trees can be saved because they are so close to the house. I think we should take a hard look at which ones can be saved.

Horizontal siding: We should pull the siding off and see what condition it is in... it would be great to be able to restore the siding that is there. Some places will need to be replaced, but we will cross that bridge when we come to it.

Fence: So we've had discussions about this before, and here again I'm bringing some photographs. Typically, the posts will extend a little higher than the fence. It's not the supporting structure of the fence or all portions of the fence. A lot of the gates are higher and have round arches on them. I'm passing around photos so you can have a look at the condition. I would like to be able to have a little ball cap that extends past the fence two or three inches. I think it looks a lot better this way.

To address the questions: Christie, I see what you are saying on the five foot dimensions, maybe the building either stays at the existing angle, but we need to look at this. Mike, I agree on the tree comments you had.

Commissioner Questions / Comments:

Ms. Leidal: We talked about the reveal last time on the siding, plans show 4.5 to 5 inches and you were going to bring it down to 4 inches. (Janet: Didn't we decide the range would be 4-4.5. I went and measured some other historic houses.) Can you show that here? (Janet: Changed it on different project but forgot to here. I will.)

Mr. Gerard: Why increase the driveway? (Janet: Request by the owner to make the driveway wider.)

Ms. Leidal: Did you measure these fences or just take pictures? (Janet: The point was to show how the caps stick up. I hate to lower the whole height of the fence just so the posts can have a cap.)

Mr. LaChance: I haven't put a scale on this in regards to the movement of the cabin, I do see that that distance between the profile of the existing location and the proposed location is greater on the northeast corner. For Final Hearing we can require all of those distances to be specified to ensure they are all less than 5 ft.

The hearing was opened for public comment. There were none and public comment was closed.

Commissioner Questions / Comments:

Mr. Lamb: Trees: You are going to lose some, I agree with staff on the landscaping requirement. I agree with Janet on the fence, it would look kind of silly to have the post the same or lower than the fence. We are talking three inches. This is a good project.

Mr. Schroder: Talking about the trees, I think you should have a tree analysis done. I understand there isn't much across the right of way, and that the site plan doesn't represent the south side of the property, which is also right of way. 1 is floating. 2. Support posts a little higher. 3. I don't know if that is necessary to revise the plans. Add a note is a good way to go, we want to specify the original siding is exposed. 4. Agree.

Mr. Gerard: I liked the plan the last time it came in, I agree with Christie that we have to figure out what this movement is going to be. I still don't want to move it, less than five feet gets negative points, but it must be less than five feet. Chapin is right to get all corners measured before final hearing. I couldn't figure out the driveway and why it was drawn the way it was. I tried to find historical pictures, but I don't remember what the driveway was. I'm not in favor of the driveway being expanded 2'. I'm with Christie that they ought to be looking at pavers or something to maintain the appearance in the historic district. I don't think additional hardscape is warranted. Looking specifically at the four questions, 1. Some thinning and appropriate selection. 2. There is the fence and then there is the post. I think the more attractive post—not in favor of -3 points. 3. You will attempt to expose and restore the existing siding. 4. I agree in principal with the point analysis. It was a very good point analysis.

Ms. Leidal: Great project and I appreciate the improvements to the historic structure. I appreciate you addressing the siding. I still have a few concerns, including the paving in the front—would like to see pavers or concrete strips, not increasing the width of the driveway. 1. Need to know location of existing trees. Landscape plan with existing and proposed trees would be appreciated. I think two additional trees could easily fit on site. 3. Agree with rest of commissioners, -3 is not warranted for small increase in posts. 3. Yes, agree plans should specify original siding should be exposed and rehabilitated if possible. 4. Appreciate staff's analysis, and in regard to the point analysis, I just need more info about moving the historic structures and more info on the landscape plan. I suggest a Finding for Final Hearing in regards to how this Policy is being reviewed under Policy 9 Placement of Structures, and how this project is reducing the non-conformity.

Mr. Moore: I agree with my fellow Commissioners on the driveway. I want to see different material used and the existing width should stay where it is. Something other than concrete slab. 1. Landscape plan should account for existing trees and agree with staff on requirement for additional trees. 2. I agree with the proposed fence height, thanks for the pictures Janet. I would not give any negative points for that. 3. Appreciate that we can revisit the siding issue and agree with staff on requirement for exposing original siding. 4. Agree with the suggested point analysis.

Mr. Giller: Great project. I'm encouraged this has been in the applicant's family for generations. I think Janet's design corrects some of the last remodel's mistakes. Regarding the driveway, twelve feet is too wide. Brick pavers or something, but Steve is correct, we try very hard not to do that in the historical district. 1. Selective thinning rather than plopping three trees in the front

yard. 2. Posts can be taller than 3'. 3. I encourage you to do more selective demo and investigation to see what you are working with. Let's work with it. 4. I agree with the point analysis.

Ms. Sutterley asked about the windows. Any feedback on that issue?

Mr. Giller: 6" is adequate.

Mr. Gerard: If the original siding is to be exposed, I would be pushing for the window that was taken out, because there may be a place for it in the siding. I would ask them to re-think that window.

Mr. Schroder: Supportive of 6" as proposed.

Ms. Leidal: Appropriate as proposed.

Mr. Lamb: I agree with 6" spacing as appropriate.

Mr. Moore: Agree with spacing as proposed.

COMBINED HEARINGS:

1. Grand Colorado Peak 8 Building 3 Employee Housing Change (aka East Building and/or Building 804), 1595 Ski Hill Rd, PL-2019-0359

Mr. Kulick presented a proposal to revise the Grand Colorado Peak 8 Building 3 point analysis. Changes to the project affecting the point analysis include the elimination of employee housing, an addition of a public pedestrian easement, a reduction in outdoor fireplaces, a reduction in the quantity of landscaping and the addition of public art.

Commissioner Questions / Comments:

Mr. Giller: May we speak to policy 33R, I think there is a small type-o. There are two 33R's, I think this is just energy conservation. Correct that. In point analysis on third page, you talk about a water source heat pump system, can you speak to that? (Mike Dudick, Applicant: Recirculation from the ice rink.) Great, glad to hear that. 40% savings, is that all of your heat for the building? (Ms. Puester: Should we wait for applicant questions?) Yeah. (Mr. Kulick: They have submitted a preliminary energy analysis prior to their building permit and will have to hit a 40% saving from baseline on the final analysis prepared by the engineer prior to a certificate of occupancy being issued as well.)

Applicant presenting: Mike Dudick: You've heard about this project quite a bit. I'll just sit down unless you have a burning desire to hear me talk.

Mr. Giller: Can we finish the energy question? Conceptually, a 40% savings for everything on just the heat pump is ambitious if not optimistic. (Mr. Kulick: I think the heat pump is just one component they wanted to highlight.) (Ms. Puester: The building in its entirety and its systems are put into the engineering model and analysis. Matt can speak to that further in detail.)

Matt Stais, Architect: The original memo talked about 40% savings of baseline systems. What we've done with these buildings is take the latent heat from things like the restaurant, ice rink, etc., and there is a sophisticated system that pulls the heat out of these places and exchanges heat into areas that need it. I wanted to point out we are also going through the green globes energy assessment, compared to the code minimum.

Mr. Giller: All of that makes sense, please clean up the language in the point analysis. Thank you.

Commissioner Questions / Comments:

Mr. Schroder: Support as presented.

Mr. Gerard: We knew this was coming, I appreciate not trying to sneak in under old points. I'm never a fan of trying to crowd landscaping in just for the sake of crowding landscape. No problem

- with reducing landscaping. I wouldn't take away your two points for not over-landscaping. We know they aren't just ignoring employee housing, there is a substitute that is supported.
- Ms. Leidal: I agree with staff's review and point analysis and Mike's suggestion to clean up 33R in point analysis.
- Mr. Lamb: Good point that the employee housing is just being moved, and there is actually more. It is now a better project and I support it.
- Mr. Moore: I support the project and the point analysis and understand the employee housing.
- Mr. Giller: Great project, thank you, look forward to seeing this constructed.
- Mr. Schroder: My son thought the Ullr art was very cool.

Mr. Gerard made a motion to approve with a passing point analysis of 0 and the attached proposed findings, seconded by Mr. Schroder. The motion passed 6-0.

OTHER MATTERS:

1. Town Council Summary (Memo Only)

- Mr. Gerard: I'm noticing the employee housing project off Airport Road is just about done. It might be nice to go look at this pre-meeting, walk around and look inside one of the units.
- Mr. Schroder: I like that it is different but still blends nicely. Question on Block 11 future development.
- Mr. Truckey: Council has put a hold on Block 11 for the time being. One reason is we have to find parking space which will be displaced by the parking structure construction. I was just in a meeting today where we interviewed three finalists who are going to develop housing on the north McCain tract. Town won't play developer role, but they'll be under our guidance. That is moving forward, and will be coming to you all for review. (Mr. Moore: Use shuttle busses once parking is displaced?) There are already busses and they will just have to use more of them.

ADJOURNMENT:

The meeting was adjourned at 6:47pm.

Mike Giller, Chair



Scheduled Meetings

Shading indicates Council required 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.

September 2019

September 19th, 2019	3:00pm - 5:30pm	B&B Trailhead then RMU at 4:30pm	Mtn Bike with the Mayor, followed by Happy Hour
Sept. 19th - 22nd, 2019	All Day	Throughout Town	Breckenridge Film Festival
September 23rd, 2019	6:00pm - 10:00pm		FIRC Dinner
Tuesday, September 24, 2019	3:00pm / 7:00 pm	Town Hall Chambers	Second Meeting of the Month
September 26th, 2019	7:30am - 11:00am	Copper Mtn Resort	COO Breakfast
Sept. 30th - Oct. 4th	All Day	Park City Resort	MT2030 Conference

October 2019

Tuesday, October 8, 2019	3:00pm / 7:00 pm	Town Hall Chambers	First Meeting of the Month
Oct. 18th - 20th, 2019	All Day	Riverwalk Center	Still on the Hill / Craft Spirits Fest
Tuesday, October 22, 2019	3:00pm / 7:00 pm	Town Hall Chambers	Second Meeting of the Month
Oct. 31st - Nov. 2nd, 2019	All Day	Old Masonic Hall	Dia de los Muertos

Other Meetings

September 20th, 2019	Water Task Force Meeting	8:30am
September 23rd, 2019	Open Space & Trails Meeting	5:30pm
September 24th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
September 25th, 2019	Summit Stage Transit Board Meeting	8:15am
	Summit Combined Housing Authority	9:00am
September 26th, 2019	Transit Advisory Council Meeting	8:00am
	Breckenridge Tourism Office Board Meeting	8:30am
	RW&B Board Meeting	3:00pm
October 1st, 2019	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
October 2nd, 2019	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
October 3rd, 2019	Upper Blue Sanitation District	5:30pm
October 8th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	1:30pm
October 10th, 2019	I-70 Coalition	10:00am
October 15th, 2019	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm



Scheduled Meetings

Shading indicates Council required 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.

October 17th, 2019	QQ - Quality and Quantity - Water District	9:00am
October 21st, 2019	Breckenridge Creative Arts	4:00pm
	Open Space & Trails Meeting	5:30pm
October 22nd, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
October 23rd, 2019	Summit Stage Transit Board Meeting	8:15am
	Summit Combined Housing Authority	9:00am
October 24th, 2019	Transit Advisory Council Meeting	8:00am
	Breckenridge Tourism Office Board Meeting	8:30am
	Northwest CO Council of Governments	10:00am
	RW&B Board Meeting	3:00pm
October 24th - 25th, 2019	CAST	Noon
November 5th, 2019	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
November 6th, 2019	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
November 12th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	Noon
November 13th, 2019	Breckenridge Heritage Alliance	Noon
November 19th, 2019	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
TBD	Troll Committee Meeting	9:00am