



TOWN OF
BRECKENRIDGE

Town Council Regular Meeting
Tuesday, February 28, 2023, 7:00 PM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS HOLDING HYBRID MEETINGS. This meeting will be held in person at Breckenridge Town Hall and will also be broadcast live over Zoom. Log-in information is available in the calendar section of our website: www.townofbreckenridge.com. If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 547-3127, at least 72 hours in advance of the meeting.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - FEBRUARY 14, 2023

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

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

B. BRECKENRIDGE TOURISM OFFICE UPDATE

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2023

1. *COUNCIL BILL NO. 2, SERIES 2023 - AN ORDINANCE CREATING LAND USE DISTRICT 46 AND PLACING 8.8 ACRES OF THE STILLSON PROPERTY IN THE NEW LAND USE DISTRICT 46. (A portion of TR 6-77 Sec 31 Qtr 4 Mining Claim(s) cont 38.868 acres STILLSON PATCH PLACER MYRTLE ANNIE LODGE MS#1466, 8.8 acres, more or less)*
2. *COUNCIL BILL NO. 3, SERIES 2023 - A BILL FOR AN ORDINANCE TO REDUCE SINGLE USE PLASTICS AND IN CONNECTION THEREWITH ESTABLISHING FINES AND PENALTIES*
3. *COUNCIL BILL NO. 4, SERIES 2023 - A BILL FOR AN ORDINANCE TO EXEMPT RECYCLED PAPER CARRYOUT BAG FEE FROM SALES TAX CODE*
4. *COUNCIL BILL NO. 5, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3, PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM REQUIREMENTS*

5. *COUNCIL BILL NO. 6, SERIES 2023 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT*

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2023

1. *COUNCIL BILL NO. 7, SERIES 2023 - A BILL FOR AN ORDINANCE FOR POLICY 3A PERTAINING TO DENSITY AND MAKING CONFORMING AMENDMENTS*
2. *COUNCIL BILL NO. 8, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE RELATING TO NONCONFORMING STRUCTURES*
3. *COUNCIL BILL NO. 9, SERIES 2023 - A BILL FOR AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH GONDOLA LOT PROPERTIES LLC*
4. *COUNCIL BILL NO. 10, SERIES 2023 - A BILL FOR AN ORDINANCE ESTABLISHING THE AUTHORITY AND USE OF THE VALLEY BROOK CEMETERY*

B. RESOLUTIONS, SERIES 2023

1. *RESOLUTION NO. 6, SERIES 2023 - A RESOLUTION MAKING SUPPLEMENTAL AND REDUCED APPROPRIATIONS TO THE 2023 TOWN BUDGET*
2. *RESOLUTION NO. 7, SERIES 2023 - A JOINT RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE AND THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO ESTABLISHING A NEW METHODOLOGY TO DETERMINE THE PRICE OF ONE "TRANSFERABLE DEVELOPMENT RIGHT" (TDR) SOLD BY THE TOWN AND THE COUNTY PURSUANT TO THE "AMENDED INTERGOVERNMENTAL AGREEMENT CONCERNING TRANSFERRED DEVELOPMENT RIGHTS" DATED AND EFFECTIVE APRIL 10, 2007*
3. *RESOLUTION NO. 8, SERIES 2023 - A RESOLUTION AUTHORIZING THE TOWN OF BRECKENRIDGE TO EXERCISE AN OPTION TO EXTEND THE TERM OF THE CONTRACT BETWEEN THE UNITED STATES AND THE TOWN OF BRECKENRIDGE FOR WATER STORAGE SPACE IN GREEN MOUNTAIN RESERVOIR FOR 40 YEARS UNTIL APRIL 30, 2065*

C. OTHER

VII. PLANNING MATTERS

- A. PLANNING COMMISSION DECISIONS
- B. PLANNING COMMISSION APPOINTMENT

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

- A. CAST/MMC (Mayor/Town Manager)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (Bergeron)
- C. BRECKENRIDGE TOURISM OFFICE (Carleton)
- D. BRECKENRIDGE HISTORY (Saade)
- E. BRECKENRIDGE CREATIVE ARTS (Rankin)
- F. BRECKENRIDGE EVENTS COMMITTEE (Owens)
- G. CHILD CARE ADVISORY COMMITTEE (Beckerman)
- H. WORKFORCE HOUSING COMMITTEE (Carleton/Rankin)
- I. SOCIAL EQUITY ADVISORY COMMISSION (Saade)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

A. SCHEDULED MEETINGS FOR FEBRUARY, MARCH AND APRIL

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of February 14, 2023, to order at 7:00pm. The following members answered roll call: Todd Rankin, Kelly Owens, Carol Saade, Dick Carleton, Jay Beckerman and Mayor Mamula. Jeffrey Bergeron was absent.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – JANUARY 24, 2023

With no changes or corrections to the meeting minutes of January 24, 2023, Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

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

IV) COMMUNICATIONS TO COUNCIL

A) PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Mamula opened Public Comment.

Sarah Furey, a local resident, stated she has lived here for almost 20 years and is frustrated by the sale of a recent deed-restricted home. She stated she and her partner were told this home was only accepting all-cash offers, and there was a bidding war on appliances and a garden shed for up to \$35,000 in additional cash. She stated she doesn't know how it is fair that someone can come in and buy a deed-restricted home for all cash. She also stated this has happened before, the system is broken, and this is not working for the community.

Mayor Mamula thanked her for her comments, mentioned that Council would be looking into this issue, and closed public comment.

V) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2023 - PUBLIC HEARINGS

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2023

1) COUNCIL BILL NO. 3, SERIES 2023 - A BILL FOR AN ORDINANCE TO REDUCE SINGLE USE PLASTICS AND IN CONNECTION THEREWITH ESTABLISHING FINES AND PENALTIES

Mayor Mamula read the title into the minutes. Jessica Burley, Sustainability Coordinator, stated this ordinance would raise the carryout bag fee to \$0.25, and ban plastic beverage less than half gallon in size (with some exceptions) and carryout containers, among other things as discussed in the work session. Single use condiments will continue to be opt-in and that change will be made for second reading.

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

Council Member Saade moved to approve COUNCIL BILL NO. 3, SERIES 2023 - A BILL FOR AN ORDINANCE TO REDUCE SINGLE USE PLASTICS AND IN CONNECTION THEREWITH ESTABLISHING FINES AND PENALTIES.

Council Member Beckerman seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

2) COUNCIL BILL NO. 4, SERIES 2023 - A BILL FOR AN ORDINANCE TO EXEMPT RECYCLED PAPER CARRYOUT BAG FEE FROM SALES TAX CODE

Mayor Mamula read the title into the minutes. Jessica Burley, Sustainability Coordinator, stated this ordinance would exempt the carryout bag fee from sales tax.

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

Council Member Saade moved to approve COUNCIL BILL NO. 4, SERIES 2023 - A BILL FOR AN ORDINANCE TO EXEMPT RECYCLED PAPER CARRYOUT BAG FEE FROM SALES TAX CODE.

Council Member Owens seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

- 3) COUNCIL BILL NO. 5, SERIES 2023 - COUNCIL BILL NO. 5, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3, PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM REQUIREMENTS

Mayor Mamula read the title into the minutes. James Phelps, Public Works Director, stated this ordinance will amend code to provide authority to the Town to impose penalties for failure to comply with backflow program requirements.

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

Council Member Saade asked Phelps to note concerns from a third-party tester about specifications in section three of the bill. If needed, Phelps stated that section will be addressed in second reading.

Council Member Carleton moved to approve COUNCIL BILL NO. 5, SERIES 2023 - COUNCIL BILL NO. 5, SERIES 2023 - A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3, PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM REQUIREMENTS.

Council Member Rankin seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

- 4) COUNCIL BILL NO. 6, SERIES 2023 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT
Mayor Mamula read the title into the minutes. Matt Hulsey, Public Works Assistant Director, stated this ordinance would allow the Town Manager to enter into an agreement with Xcel to grant easements for the purpose of installing electric vehicle chargers.

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

Council Member Rankin moved to approve COUNCIL BILL NO. 6, SERIES 2023 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT.

Council Member Carleton seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

- B) RESOLUTIONS, SERIES 2023
1) RESOLUTION NO. 3, SERIES 2023 - A RESOLUTION PROVIDING TOWN ATTORNEY ASSISTANT FOR MUNICIPAL PROSECUTION AND ESTABLISHING RATES

Mayor Mamula read the title into the minutes. Kirsten Crawford, Town Attorney, stated this resolution would appoint Judge Ron Carlson to cover some dates in municipal court as a back-up judge.

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

Council Member Owens moved to approve RESOLUTION NO. 3, SERIES 2023 - A RESOLUTION PROVIDING TOWN ATTORNEY ASSISTANT FOR MUNICIPAL PROSECUTION AND ESTABLISHING RATES. Council Member Rankin seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

- 2) RESOLUTION NO. 4, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT A GRANT REQUEST TO THE COLORADO DEPARTMENT OF LOCAL AFFAIRS (DOLA) INNOVATIVE AFFORDABLE HOUSING INCENTIVES GRANT
Mayor Mamula read the title into the minutes. Deputy Town Manager, Shannon Haynes, stated this resolution would authorize the Town to submit a grant for the purpose of affordable housing funding.

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

Council Member Beckerman moved to approve RESOLUTION NO. 4, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT A GRANT REQUEST TO THE COLORADO DEPARTMENT OF LOCAL AFFAIRS (DOLA) INNOVATIVE AFFORDABLE HOUSING INCENTIVES GRANT. Council Member Owens seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

- 3) RESOLUTION NO. 5, SERIES 2023 - RESOLUTION APPROVING COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION ON BEHALF OF THE FAMILY AND INTERCULTURAL RESOURCE CENTER
Mayor Mamula read the title into the minutes. Shannon Haynes stated this resolution would partner with FIRC on this grant and requires a resolution in support of the application.

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

Council Member Rankin moved to approve RESOLUTION NO. 5, SERIES 2023 - RESOLUTION APPROVING COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION ON BEHALF OF THE FAMILY AND INTERCULTURAL RESOURCE CENTER. Council Member Owens seconded the motion.

The motion passed 6-0. Council Member Bergeron was absent.

- 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 during the afternoon Work Session.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

Reports of Mayor and Council Members were covered during the afternoon Work Session.

- A. CAST/MMC
B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE
C. BRECKENRIDGE TOURISM OFFICE
D. BRECKENRIDGE HISTORY

- E. BRECKENRIDGE CREATIVE ARTS
- F. BRECKENRIDGE EVENTS COMMITTEE
- G. CHILD CARE ADVISORY COMMITTEE
- H. WORKFORCE HOUSING COMMITTEE
- I. SOCIAL EQUITY ADVISORY COMMISSION

X) OTHER MATTERS

Council member Owens stated that at the end of the month the SNAP/Medicaid money is going to run out and FIRC is in dire need. She proposed that the Town move \$100,000 from the nicotine money to donate to the FIRC. Council supported that proposal and will make an appropriation for that amount at the next meeting.

XI) SCHEDULED MEETINGS

- A) SCHEDULED MEETINGS FOR JANUARY, FEBRUARY AND MARCH

XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:19pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor

DRAFT



Memo

To: Town Council
From: Michelle Dollmaier, Planner III
Date: February 21, 2023, for meeting of February 28, 2023
Subject: New Land Use District 46 for Stillson/Stables Village (Second Reading)

Attached for Council's review is the proposed new Land Use District 46, which will apply to the area within the Stables Village project.

After receiving feedback from Council at the January 24, 2023 meeting, the Land Use District map has been revised to better match the concept plan that was presented to Council at the January 10, 2023 work session. The area for LUD 46 has been reduced from 8.8 acres to 8.4 acres, which can still accommodate the proposed density of 8 UPA.

An additional map has been included in the packet that overlays LUD 46 on the proposed Stables Village concept plan to give context to the size of the area.

Staff will be available to answer any questions.

COUNCIL BILL NO. XX

Series 2023

AN ORDINANCE CREATING LAND USE DISTRICT 46 AND PLACING APPROXIMATELY 8.4 ACRES OF THE STILLSON PROPERTY IN THE NEW LAND USE DISTRICT 46.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Findings. The Town Council has heard and considered the evidence presented in support of and in opposition to the adoption of this ordinance. Based upon the evidence presented to the Town Council in connection with its consideration of this ordinance, as more fully set forth in the record of the proceedings in this matter, the Town Council of the Town of Breckenridge, Colorado hereby finds and determines as follows:

1. By Ordinance No. 3, Series 1987, the Town Council adopted the Breckenridge Land Use Guidelines ("Land Use Guidelines").

2. The Land Use Guidelines contain provisions governing the development of real property located within the various Land Use Districts of the Town, and include a map of the various Land Use Districts described in the Land Use Guidelines.

3. In Section 9-1-15-1 of the Breckenridge Town Code, the Town Council adopted certain procedures to be followed to amend the Land Use Guidelines.

4. The amendment to the Land Use Guidelines made by this ordinance is quasi-judicial in nature.

5. The procedural requirements of Section 9-1-15-1 of the Breckenridge Town Code with respect to a proposed quasi-judicial amendment to the Land Use Guidelines have been fully satisfied. Without limiting the generality of the foregoing, the Town Council finds that a public hearing was held by the Town Council of the Town of Breckenridge on February 28, 2023 to consider the adoption of this ordinance. Notice of such hearing was published twice in the Summit County Journal, a newspaper of general circulation in the Town, the first publication occurring at least twelve (12) days prior to the hearing and the second occurring at least four (4) days prior to the hearing, all as required by Section 9 -1-15-1(B) of the Breckenridge Town Code. The Proof of Publication of such notice was admitted into evidence and made a part of the record in connection with the adoption of this ordinance. In addition to the newspaper notice, not less than twelve (12) days prior to the date of the public hearing the Director of the Department of Community Development mailed a copy of the text of the newspaper notice by first class mail to all owners of real property that would be affected by the adoption of this ordinance, also as required by Section 9 -1-15-1(C) of the Breckenridge Town Code. The Director's Certificate of Mailing was admitted into evidence and made a part of the record in connection with the adoption of this ordinance. All requirements for notice of a proposed quasi judicial amendment to the Land Use District Guidelines required by Section 9 -1-15-1(C) of the Breckenridge Town Code have been satisfied.

6. The change to the land use district designation for the hereinafter described real property is consistent with or in compliance with the Town's Comprehensive Plan, and all parts thereof; and the proposed change bears a reasonable relationship to the welfare of the community.

Section 2. Change of Land Use District Designation. The Land Use District designation for the approximately 8.4 acres of real property described in Exhibit A hereto and incorporated by reference is changed from Land Use District 1 and 15 to Land Use District 46. The Town staff is directed to change the Town's Land Use District Map to indicate that the above described property has been placed within Land Use District 46.

Section 3. Continued Effect of Land Use Guidelines. Except as specifically amended hereby, the Breckenridge Land Use Guidelines, as adopted by Ordinance No. 3, Series 1987, shall continue in full force and effect.

Section 4. Police Power Finding. The Town Council hereby finds, determines, and declares that this ordinance is necessary and proper to provide for the safety, preserve the

1 health, promote the prosperity, and improve the order, comfort and convenience of the Town of
2 Breckenridge and the inhabitants thereof.

3
4 Section 5. Authority. The Town Council hereby finds, determines, and declares that it
5 has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control
6 Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning
7 municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers);
8 (iv) Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
9 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
10 contained in the Breckenridge Town Charter.

11
12 Section 6. Effective Date. This ordinance shall be published and become effective as
13 provided by Section 5.9 of the Breckenridge Town Charter.

14
15 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
16 PUBLISHED IN FULL this 24 day of January 2023. A Public Hearing shall be held at the
17 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28th day of
18 February 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
19 Town.

20
21 TOWN OF BRECKENRIDGE, a Colorado
22 municipal corporation

23
24
25
26 By: _____/s/_____
27 Eric S. Mamula, Mayor

28
29 ATTEST:

30
31
32
33 _____/s/_____
34 Helen Cospolich, CMC,
35 Town Clerk

BRECKENRIDGE LAND USE GUIDELINES

DISTRICT #46

Desired Character and Function

District 46 is located west of the Lincoln Park at the Wellington Neighborhood Subdivision and along the west side of Stables Drive. Historically, the property was dredge mined and left as rock piles. The present physical characteristic of the area is barren land that was previously used as an equestrian center and for various governmental storage purposes.

The district will be used for workforce housing and allow medium density residential to accommodate either single family, duplex, or townhome developments.

Acceptable Land Uses and Intensities

Land Use Type:	Workforce housing, recreation and open space
Intensity of Use:	8 UPA for residential deed restricted development
Structural Type:	Single family, duplex, townhomes

General Design Criteria

Architectural Treatment

Architectural design that includes contemporary designs are preferred to facilitate the use of solar panels and other renewable energy sources. Design characteristics should be those that are used to achieve net zero energy goals of the Town.

Building Heights

Structures in excess of 35 feet above grade are prohibited. Building heights will be determined through the development review process of the Town.

Building Setbacks

The Development Code should be used to provide general guidelines, however specific setbacks, lot sizes, and block designs should be developed within a site-specific master plan that recognizes the unique characteristics necessary to create an affordable and livable neighborhood and encourages creativity and flexibility.

Pedestrian Circulation

Sidewalks should be installed along Stables Drive and connect to nearby sidewalks of Bridge Street and neighboring subdivisions. Facilitating pedestrian connections is critical to creating a sense of community and place. Internal pedestrian circulations systems should

connect to the existing Wellington Trail and the Wellington Bike Park, which in turn provide connections to the backcountry and downtown.

Vehicular Circulation

This District will have two accesses off Stables Drive and circulate as a half circle with a central alley. The traffic on these roads must be managed in order to ensure safe and efficient movement of traffic to and from this area and traffic calming methods should be implemented as necessary to maintain slow speeds in this residential neighborhood.

Limited Public Transit stops along Wellington Road and French Gulch Road are provided adjacent to the District, which are located in combination with pedestrian and bicycle paths, and/or located at neighborhood focal points.

District Improvements

Utility Improvements

Water Facilities: Distribution lines exist within this District, and were developed as a component of development of the first phase of Wellington Neighborhood. Water supply and treatment capabilities can support the full development of this District. Depending upon the final design of the water distribution system some houses may be required to provide sprinkler systems for fire protection.

Sanitation Facilities: Collection lines exist within the District, and were developed as a component of the Lincoln Park and Wellington Neighborhoods. Adequate treatment capacity exists to accommodate full District development.

Natural Gas, Electricity, Telecommunication, Cable Television, Fiber Optic: Distribution lines for these utilities exist within the district. Utilities are adequate to serve the District at its full development. Installation of any new distribution lines must be underground and meet specifications of individual utility companies. Appropriate easements shall be provided for all new lines. An overhead transmission line exists behind the District, and its location and impacts should be taken into consideration when developing any Site Specific Master Plans.

Capital Improvements

In the event that a traffic study recommends improvements to the transportation system, such improvements should be undertaken over a period of time as the District is developed and installed prior to the impacts occurring that necessitated their installation. To the extent possible, and consistent with maintaining the affordability of the housing within the District, developers of this District should

be encouraged to participate in the costs of improving the transportation systems, based on the roughly proportional impacts created by the development.

Drainage Improvements

Given the District's acceptable uses and intensities, a surface drainage plan should be prepared prior to any future development. Potential effects on adjacent properties and Districts should be specifically reviewed.

Relationships to Other Districts

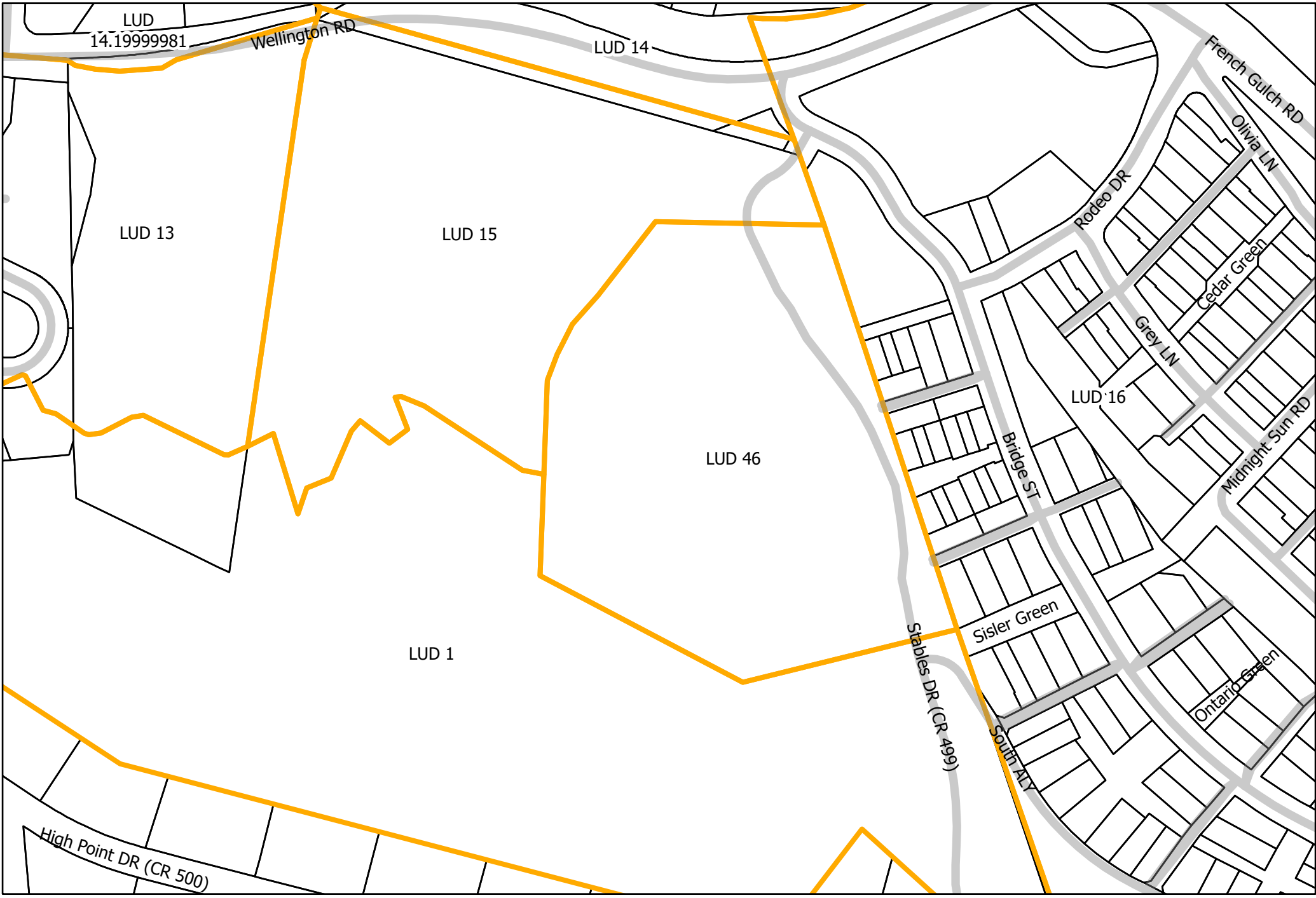
Portions of this District directly abut Land Use District 1 and 15. Given the existing and future uses of this District, compatibility conflicts should not occur as the use of District 46 for residential uses should not create any negative impacts. The District is compatible with the residential uses within adjacent Land Use District 16, which encompasses the Lincoln Park and Wellington Neighborhoods. The District is topographically lower and does not interfere with the hillside backdrop and the recreational uses associated with LUD 1.

Land Exchange Policy



No land under Federal jurisdiction was identified within this District.

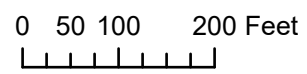
Annexation Suitability

All property within this District is located within the Town of Breckenridge.



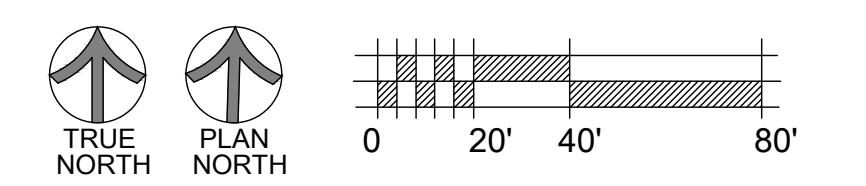
Proposed Land Use Districts
Including LUD 46
Exhibit A

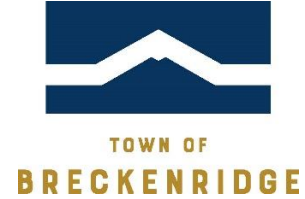
-  Parcels
-  Proposed LUDs





1 OVERALL SITE PLAN
A1.1 SCALE: 1"=40.0'





Memo

To: Town Council
From: Jessie Burley, Sustainability + Parking Manager
Date: 2/20/2023
Subject: Second Reading – Reduction of single use plastics and recycled paper carryout bag fee

At the February 14, 2023 Town Council Meeting, Staff was directed to bring back the Plastics Pollution ordinance for second reading with the following three changes:

1. Remove prohibition on single use condiments after July 1, 2024– continue to require “skip the stuff”.
2. Provide for exemptions on plastic beverage container prohibition related to milk, dietary and infant formulas.
3. Allow for to-go lids to prevent spills and comply with the current State requirement for to-go alcoholic beverages.

The purpose of this ordinance is to comply with provisions in Colorado HB 21-1162 and to expand regulations to limit single use plastics in order to meet the material management goals adopted in the SustainableBreck Plan (2022). Specifically, the ordinance:

1. Requires customers opt-in to single-use plastic service ware and condiments at retail food establishments.
2. Raises the recycled carryout bag fee to 25 cents and requires carryout bags to be 100% recycled content. The first 60% of the fees collected are remitted to the Town and the remaining 40% can be kept by the store for certain uses. Business with remaining inventory of 40% recycled content paper bags can use them until depleted.
3. Immediately bans all plastic beverage containers in any Town facility, park, or special event permitted by the Town.
4. Establishes a ban on polystyrene containers in retail food establishments beginning January 1, 2024 and other plastic carryout containers beginning July 1, 2024.
5. Prohibits all businesses from selling plastic beverage containers less than half gallon in size as well as offering plastic service ware beginning July 1, 2024. Exemptions for milk, dietary and infant formulas.
6. Establishes penalties.

It is Staff's recommendation that Council approve this ordinance on second reading.

4 **A BILL FOR AN ORDINANCE TO REDUCE SINGLE USE PLASTICS AND IN**
5 **CONNECTION THEREWITH ESTABLISHING FINES AND PENALTIES.**
6
7

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

11 **Section 1.** That title 5, chapter 12, entitled "DISPOSABLE BAG FEE" is hereby
12 repealed and replaced in its entirety with the following language underlined to read as follows:
13
14

15 CHAPTER 12
16 REDUCTION OF SINGLE USE PLASTICS AND
17 RECYCLED PAPER CARRYOUT BAG FEE

18 5-12-1: DEFINITIONS:

19 As used in this Chapter, the following words shall have the following meanings. Where terms
20 are not defined, they shall have their ordinarily accepted meanings within the context that they
21 are used.

22 BUSINESS: means any commercial enterprise or establishment, including sole proprietorships,
23 joint ventures, partnerships, corporations or any other legal entity whether for profit or not for
24 profit. The definition of business is specifically intended to include both minor festival events
25 and major festival events.

26 CONTAINER: means a receptacle upon which or inside which food may be placed for
27 consumption, whether or not the receptacle can be fully closed. Container includes hinged food
28 containers, plates, bowls, bottles, cups, and trays.

29 COMPOSTABLE PLASTIC BAG: Any bag made of a thin, flexible plastic material, including but
30 not limited to plant based, cellulosic, polylactic (PLA), or bioplastic. May contain labeling such as
31 compostable, degradable, biodegradable, or oxo-biodegradable.

32 CUSTOMER: Any person who makes a retail purchase from store.

1 EXPANDED POLYSTYRENE: means blown polystyrene, commonly known as styrofoamtm,
2 and any other expanded or extruded foam consisting of thermoplastic petrochemical materials
3 utilizing a styrene monomer and processed by techniques that may include:
4 (a) for expandable bead polystyrene, fusion of polymer spheres;
5 (b) injection molding;
6 (c) foam molding; and
7 (d) for extruded foam polystyrene, extrusion blow molding.
8 FARMERS' AND ARTISANS' MARKET: A market at which local farmers and artisans sell their
9 products and crafts directly to consumers.
10 FOOD: means any raw, cooked, or processed edible substance, ice, beverage, or ingredient
11 used or intended for use or for sale, in whole or in part, for human consumption.
12 FINANCE DIRECTOR: The Finance Director of the town, or such person's designee.
13 PLASTIC: means a synthetic material made from linking monomers through a chemical reaction
14 to create a polymer chain that can be molded or extruded at high heat into various solid forms
15 that retain their defined shapes during their life cycle and after disposal.
16 PLASTIC BEVERAGE CONTAINER: means a beverage container less than half gallon in size
17 and may or may not contain a lid. "Plastic beverage container" does not mean medical products
18 or dietary or infant formulas.
19 POINT OF SALE: means a check-out stand, cash register, or other point at which a sales
20 transaction occurs in a store or retail food establishment or, for products that are ordered
21 remotely from a store or retail food establishment and delivered, the location where the products
22 are delivered.
23 POSTCONSUMER RECYCLED CONTENT: Any material that would otherwise be destined for
24 solid waste disposal, having completed its intended end use and product life cycle.
25 Postconsumer recycled material does not include materials and byproducts generated from
26 original manufacturing and fabrication process.
27 READY-TO-EAT FOOD: means food that is cooked or otherwise prepared in advance for
28 immediate consumption.

1 RECYCLED PAPER CARRYOUT BAG: means a bag that is one hundred percent recycled
2 material other post-consumer content furnished to a customer at a store or retail food
3 establishment at the point of sale for use by the customer to transport or carry purchased items.

4 Recycled carryout bag does not include:

5 (i) a bag made of paper when the paper has a basis weight of thirty pounds or less;

6 (ii) a bag that a pharmacy provides to a customer purchasing prescription medication; (iii) a bag
7 that a customer uses inside a store to:

8 (a) package loose or bulk items, such as fruits, vegetables, nuts, grains, candy, or greeting
9 cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans,
10 mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;

11 (b) contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that,
12 if they were to come in contact with other items, could dampen or contaminate the other items;
13 or

14 (c) contain unwrapped prepared foods or bakery goods; or

15 (iv) a laundry, dry cleaning, or garment bag.

16 RETAIL FOOD ESTABLISHMENT: means a retail operation that stores, prepares, or packages
17 food for human consumption or serves or otherwise provides food for human consumption to
18 consumers directly or indirectly through a delivery service, whether such food is consumed on
19 or off the premises or whether there is a charge for such food. "Retail food establishment" does
20 not mean:

21 (a) Any private home;

22 (b) Private boarding houses;

23 (c) Hospital and health facility patient feeding operations licensed by the Colorado department
24 of public health and environment;

25 (d) Child care centers and other child care facilities licensed by the department of human
26 services;

27 (e) Hunting camps and other outdoor recreation locations where food is prepared in the field
28 rather than at a fixed base of operation;

- 1 (f) Food or beverage wholesale manufacturing, processing, or packaging plants, or portions
2 thereof, that are subject to regulatory controls under state or federal laws or regulations;
- 3 (g) Motor vehicles used only for the transport of food;
- 4 (h) Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and
5 nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws
6 related to food and food labeling;
- 7 (i) Establishments that handle only nonpotentially hazardous prepackaged food and operations
8 serving only commercially prepared, prepackaged foods requiring no preparation other than the
9 heating of food within its original container or package;
- 10 (j) Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for
11 sale;
- 12 (k) Automated food merchandising enterprises that supply only prepackaged nonpotentially
13 hazardous food or drink or food or drink in bottles, cans, or cartons only, and operations that
14 dispense only chewing gum or salted nuts in their natural protective covering;
- 15 i. The donation, preparation, sale, or service of food by a nonprofit or charitable organization in
16 conjunction with an event or celebration if such donation, preparation, sale, or service of food;
- 17 ii. Does not exceed the duration of the event or celebration or a maximum of fifty-two days
18 within a calendar year; and
- 19 iii. Takes place in the county in which such nonprofit or charitable organization resides or is
20 principally located.
- 21 (m) A home, commercial, private, or public kitchen in which a person produces food products
22 sold directly to consumers pursuant to the "Colorado Cottage Foods Act", section 25-4-1614.
- 23 REUSABLE CARRYOUT BAG means a carryout bag that is designed and manufactured for at
24 least one hundred twenty-five uses, can carry at least twenty-two pounds over a distance of one
25 hundred seventy-five feet, has stitched handles, and is made of cloth, fiber, or other fabric or a
26 recycled material such as polyethylene terephthalate (pet). "Reusable carryout bag" does not
27 include bags made of biologically based polymers such as corn or other plant sources; except
28 that a carryout bag made of hemp is a reusable carryout bag if it is designed and manufactured
29 in accordance with the above specifications.

1 SINGLE-USE FOOD SERVICEWARE means all types of single-use items provided by a retail
2 food establishment or third-party delivery platform, including, but not limited to, utensils,
3 chopsticks, napkins, , straws, stirrers, splash sticks, and cocktail sticks, designed for a single-
4 use. Single-use food service ware does not include lids for to-go cups.

5 SINGLE-USE CONDIMENT means packaged, single-serving condiments, such as relishes,
6 spices, sauces, confections, or seasonings, that requires no additional preparation and that is
7 used on a food item. This includes, but is not limited to, ketchup, mustard, mayonnaise, soy
8 sauce, salsa, syrup, jam, jelly, salt, sweeteners, pepper, or chile pepper.

9 STORE means a grocery store, supermarket, convenience store, liquor store, dry cleaner,
10 pharmacy, drug store, clothing store, or other type of retail establishment, a farmers' market,
11 roadside market or stand, festival, or other temporary vendor or event that includes temporary
12 vendors at which carryout bags are traditionally provided to customers. STORE includes a
13 small store that operates solely in Colorado, has three or fewer locations in the state, and is not
14 part of a franchise, corporation, or partnership that has physical locations outside of Colorado.

15 THIRD-PARTY DELIVERY PLATFORM means any person, website, mobile application, or
16 other internet service that offers or arranges for the sale of food and beverages prepared by,
17 and the same-day delivery or same-day pickup of food and beverages from retail food
18 establishments.

19 5-12-2: RESTRICTIONS ON THE USE OF SINGLE-USE PLASTIC BAGS:

20 Stores are prohibited from providing customers single-use plastic carryout bags.

21 5-12-3: OPT-IN FOR ACCESSORIES PROVIDED BY RETAIL FOOD
22 ESTABLISHMENTS OR THIRD PARTY DELIVERY PLATFORMS:

23 A. Retail food establishments shall not provide straws, single-use condiments and/or
24 single-use serviceware unless a customer requests them at the point of ordering whether online,
25 by phone, or in-person. The penalties established in section 5-12-11 below shall be applicable
26 only to retail food establishments but not individual employees.

27 B. Third-party delivery platforms shall not provide single-use condiments and/or single-use
28 serviceware unless a customer requests them.

29 C. This section shall not apply to:

1 1. Self-service stations inside retail food establishments or special events providing
2 for single-use condiments and single-use serviceware.

3 2. Prepackaged items that include single-use condiments and single-use
4 serviceware.

5 3. Meals provided as part of a social service to vulnerable populations, including
6 without limitation, meals provided by school systems, homeless shelters and programs that
7 deliver meals to the elderly.

8 4. Specific accessories used by third-party delivery platforms, including cup lids,
9 spill plugs, and trays, in order to prevent spills and deliver food and beverages safely.

10 5-12-4: RECYCLED PAPER CARRYOUT BAG FEE:

11 A. A store shall collect twenty-five (\$.25) cents for each recycled paper carryout bag
12 provided to a customer at the point of sale.

13 B. A store shall provide an itemized receipt with the number of recycled paper carryout
14 bags provided to a customer per each transaction.

15 C. If a store has paper carryout bags containing at least forty (40) percent postconsumer
16 recycled content remaining in their inventory on the effective date of this ordinance, a store may
17 provide the remaining inventory to customers until the inventory is gone; provided, however, the
18 store shall charge twenty-five (\$.25) cents per bag provided.

19 5-12-5: SIGNAGE:

20 Stores shall conspicuously display a sign in a location inside or outside the store that alerts
21 customers about the recycled paper carry out bag fee.

22 5-12-6: STORE COLLECTION, REMITTANCE, USES OF THE RECYCLED PAPER CARRY
23 OUT BAG FEE:

24 A. Unless the fees collected in any quarter total less than twenty (20) dollars, a
25 store shall remit 60% of the first twenty-five (\$.25) cents of the fee to the Town of Breckenridge
26 and the store shall retain 40% of the remaining portion of the twenty-five (\$.25) cents.

27 B. A store shall only use the retained portion of the bag fee for the following
28 purposes:

- 1 1. To provide educational information to customers about the fee;
- 2 2. To provide the signage required;
- 3 3. To train staff in the implementation and administration of the fee;
- 4 4. To improve or alter infrastructure or computer programs to allow for the
5 implementation, collection, administration of the fee;
- 6 5. To encourage the use of reusable bags, and/or promote the recycling of
7 paper bags; and/or,
- 8 6. To improve infrastructure to increase recycling.

9 5-12-7: TOWN RECYCLED PAPER CARRY OUT BAG FEE FUND AND USES:

10 A. Administration of the fund.

- 11 1. The fee shall be administered by the finance director and in a manner that separately
12 tracks the collection and expenditure of such fees.
- 13 2. The fees collected in accordance with this section shall not be used for general
14 municipal or governmental purposes or spending, nor shall the fund ever be transferred to or
15 become part of the Town's general fund.

16 B. All sums of money collected by the Town per this section are intended to be used
17 exclusively for the following purposes:

- 18 1. Staffing, administration and enforcement of the program;
- 19 2. Developing recycling, composting, or other waste diversion programs;
- 20 3. Educating and developing outreach for the entire community, including residents,
21 business, and visitors to the Town;
- 22 4. Purchasing and installing equipment, reusable bags, and other materials designed to
23 minimize bag pollution, including but not limited to, recycling containers, and waste receptacles.

24 5-12-8: BAN ON SINGLE USE PLASTICS AND POLYSTYRENE:

- 25 A. Single use plastic beverage containers are prohibited for sale or use in any building or
26 portion of a building that the Town owns or leases, any building or portion of the building leased
27 to the Town, any Town park, and any special event of the Town or under a permit issued by the
28 Town.

1 B. Beginning January 1, 2024, a retail food establishment in the Town of Breckenridge shall
2 be prohibited from selling or offering for sale any product in any container that is made of
3 polystyrene products, also known in certain nomenclature as the trademarked name of
4 Styrofoam®.

5 C. Beginning July 1, 2024, any business in the Town of Breckenridge shall be prohibited
6 from selling or offering for sale any plastic beverage containers and further shall be prohibited
7 from providing single-use plastic food serviceware.

8 D. Beginning July 1, 2024, any retail food establishment shall be prohibited from selling or
9 offering for sale all single use plastic containers.

10 5-12-9: EXEMPTIONS:

11 This chapter does not apply to:

12 A. A bag brought into a store by a customer and used to transport goods from the store.

13 B. A bag that was previously used and made available to customers at a store.

14 C. A bag provided to a customer at no charge if the customer presents, at the time of
15 purchase, a benefit card or similar documentation reflecting participation in a federal, state,
16 county or Town income-qualified aid program, including but not limited to benefits delivered via
17 Electronic Benefits Transfer (EBT) such as the federal Supplemental Nutrition Assistant
18 Program (SNAP) or Supplemental Nutrition Program for Women, Infants and Children (WIC).

19 5-12-10: AUDITS; RECORDS; PENALTIES:

20 A. Each store shall maintain accurate and complete records of the recycled paper carryout bag
21 fees collected, the number of bags provided to customers, the form and recipients of any notice
22 required pursuant to this chapter, and any underlying records, including any books, accounts,
23 invoices, or other records necessary to verify the accuracy and completeness of such records. It
24 shall be the duty of each store to keep and preserve all such documents and records, including
25 any electronic information, for a period of three years from the end of the calendar year of such
26 records.

27 B. If requested, each store shall make its records available for audit by the finance director
28 during regular business hours for the Town to verify compliance with the provisions of this
29 chapter. All such information shall be treated as confidential commercial documents.

1 C. If any person fails, neglects, or refuses to collect or pay the bag fee, the finance director
2 shall make an estimate of the fees due, based on available information, and shall add thereto
3 penalties, interest, and any additions to the fees. The finance director shall serve upon the
4 delinquent store personally, by electronic mail or by first class mail directed to the last address
5 of the store on file with the town, written notice of such estimated fees, penalties, and interest,
6 constituting a Notice of Final Determination, Assessment, and Demand for Payment, (also
7 referred to as "Notice of Final Determination") due and payable within 30 calendar days after the
8 date of the notice.

9 D. If payment of any amount of the bag fee due to the Town is not received on or before the
10 applicable due date, penalty and interest charges shall be added to the amount due in the
11 amount of:

12 1. A penalty of ten percent (10%) of total due; and,

13 2. Interest charge of one (1%) percent of total penalty per month.

14 5-12-11: Fines and Penalties:

15 A. Upon the first violation, a one (1) time only written warning notice that a violation has
16 occurred shall be issued by the Town to store, business, and/or retail food establishment, as the
17 case may be. No monetary penalty shall be imposed for the first violation.

18 B. Upon a subsequent violation and conviction, the Town shall impose a penalty that shall
19 not exceed:

20 1. Fifty dollars (\$50.00) for the first violation after the written warning;

21 2. One hundred dollars (\$100.00) for the second violation in the same calendar year of the
22 first violation; and

23 3. Three hundred dollars (\$300.00) for the third and each subsequent violation in the same
24 calendar year of the earlier violations.

25 4. No more than one (1) penalty shall be imposed within a seven (7) day period.

26 5-12-12: APPEAL OF NOTICE OF FINAL DETERMINATION:

1 A. A store may request a hearing on any proposed fee imposed under this chapter after
2 receiving a notice of final determination, by filing a written request for hearing within thirty (30)
3 calendar days of the date of mailing of the notice of final determination. The request for hearing
4 shall set forth the reasons for and amount of changes in the notice of final determination that the
5 store seeks and such other information as the finance director may prescribe.

6 B. The manager or their designated hearing officer shall conduct the hearing under the
7 procedures prescribed by chapter 19 of title 1 of this code , except that the manager shall notify
8 the store in writing of the time and place of the hearing at least ten (10) days before it is
9 scheduled. The hearing shall be held within sixty (60) days of the date of receipt of the request
10 for a hearing, unless the Town and the store mutually agree to a later date or the hearing officer
11 otherwise has good cause to extend the time to hold a hearing.

12 C. The manager shall make a final decision and such decision shall be a final decision for
13 purposes of appeal to district court under C.R.C.P. Rule 106.

14 **Section 2.** The Town Council hereby finds, determines and declares that this ordinance
15 is necessary and proper to provide for the safety, preserve the health, promote the prosperity,
16 and improve the order, comfort and convenience of the Town of Breckenridge and the
17 inhabitants thereof.

18 **Section 3.** This ordinance shall be published and become effective as provided by
19 Section 5.9 of the Breckenridge Town Charter.

20
21 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
22 PUBLISHED IN FULL this 14th day of February, 2023. A Public Hearing shall be held at the
23 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28th day of
24 February 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
25 Town.

26 TOWN OF BRECKENRIDGE, a Colorado municipal corporation
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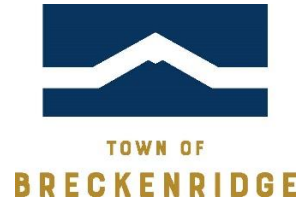
By: _____

Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,

Town Clerk



Memo

To: Town Council
From: Jessie Burley, Sustainability + Parking Manager
Date: 2/20/2023
Subject: Re: Recycled Paper Bag Carryout Fee Tax Code Exemption

This is the second reading of an ordinance that accompanies the plastics pollution bill and clarifies that the recycled paper carryout fee is exempt from the Town's sales tax code. This is consistent with the existing disposable bag fee.

Staff recommendations approval on second reading.

A BILL FOR AN ORDINANCE TO EXEMPT RECYCLED PAPER CARRYOUT BAG FEE FROM SALES TAX CODE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. That a new subsection EE is hereby added to section 3-1-4 entitled "ITEMS EXEMPT FROM TAX" and underlined to read as follows:

EE. The Breckenridge Recycled Paper Carryout Bag Fee established in chapter 12 of title 5.

Section 2. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 3. 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 14th day of February, 2023. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28th day of February, 2023, 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

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By: _____

Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,

Town Clerk



Memo

To: Breckenridge Town Council Members
Cc: Rick Holman, Shannon Haynes
From: James Phelps, Director Public Works
Date: 2/22/2023 (For February 28, 2023, TC Packet)
Subject: A Bill for Ordinance (Second Reading) Amending Title 12 -Municipal Water System, Chapter 3 – Cross Connections, Backflow Assembly compliance and civil penalties.

There has been one change or deletion to the bill for ordinance from the first reading.

The change/deletion is on page 3, line 29. The sentence that was deleted was not necessary as any requirement for gauges and calibration would be the responsibility of the certified cross-connection control technician. There are no additional changes from first reading.

With the Town Council's approval of the attached ordinance, the ordinance will go in effect April 2023.

Staff will be present to answer any questions.

A BILL FOR AN ORDINANCE AMENDING TITLE 12, CHAPTER 3, PERTAINING TO THE TOWN'S WATER SYSTEM CROSS CONNECTION CONTROL PROGRAM AND IN CONNECTION THEREWITH ADOPTING CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PROGRAM REQUIREMENTS.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. That section 12-3-4 of the code is hereby amended to add new definitions that shall be placed in alphabetical order to read as follows:

COMPLAINANT: The responsible party who has filed an appeal of civil penalties imposed under this chapter.

RESPONSIBLE PARTY: The person billed for water service provided by the town, or the owner of the property served by town water if the owner is different than the person billed. In the event that the property owner and the person billed for town water service are different, the owner shall be solely responsible for all obligations and duties of this section.

Section 2. That section 12-3-5 is hereby repealed and replaced with the language underlines as follows:

A. All properties that are connected to the town's water system, except single-family residential uses without a fire suppression system, shall be subject to a survey for cross connections.

B. If a cross connection has been identified, the responsible party shall install an appropriate backflow prevention assembly and/or method at the responsible party's water service connection within one hundred twenty (120) days of its discovery.

C. The responsible party shall ensure that any backflow prevention assembly is installed in the following manner and/or location:

1. Downstream of the water meter or as close to that location as deemed practical by the town.

2. Provides access for maintenance, testing, and repair.

3. Provides adequate drainage from the discharge of water from reduced pressure principle backflow prevention assemblies. Such discharge shall be conveyed in a manner which does not impact the waters of the state.

1 4. Protected in a manner to prevent freezing. Those assemblies and methods used
2 for seasonal services may be removed in lieu of being protected from freezing; provided,
3 however, that devices must be reinstalled and then tested by a certified cross connection control
4 technician prior to the service being activated.

5 5. Does not have connections or tees between the meter and the containment
6 backflow prevention assembly.

7 6. Provides a pressure controlling device where a backflow prevention assembly or
8 method is installed on a water supply system using storage water heating equipment such that
9 thermal expansion causes an increase in pressure

10 7. Reduced pressure principle backflow preventers shall not be subject to flooding.

11 8. In instances where a reduced pressure principle backflow preventer cannot be
12 installed, the responsible party shall install approved backflow prevention devices or methods at
13 all cross connections within the responsible party's plumbing system.

14 D. Existing buildings shall comply with all requirements of this chapter except for fire
15 sprinkler systems where the installation of a backflow prevention assembly or method will
16 comprise the integrity of the fire sprinkler system.

17 E. For new buildings, all building plans must be submitted to the town's building official for
18 review and approval in accordance with the adopted building codes in title 8, chapter 1, as
19 amended from time to time. In addition to requirements of this section, the plans must show:

20 1. Water service type, size and location;

21 2. Meter size and location;

22 3. Backflow prevention assembly size, type and location; and

23 4. Fire sprinkler system(s) service line, size, and type of backflow prevention assembly.

24 i. All fire sprinkling lines shall have a minimum protection of an approved double check
25 valve assembly for containment of the system.

26 ii. All glycol (ethylene or propylene) or antifreeze systems shall have an approved
27 reduced pressure principle backflow preventer for containment.

28 iii. Dry fire systems shall have an approved double check valve assembly installed
29 upstream of the air pressure valve.

30 iv. In cases where the installation of a backflow prevention assembly or method will
31 comprise the integrity of the fire sprinkler system the town will not require the backflow
32 protection. The town will measure chlorine residual at the service connection once a month and
33 perform periodic bacteriological testing at the site. If the town suspects water quality issues, the

1 town will evaluate the practicability of requiring that the fire sprinkler system be flushed
2 periodically.

3 **Section 3.** That section 12-3-6 entitled "INSPECTIONS, TESTING, AND REPAIR" shall
4 be amended by deleting the language stricken and adding the language underlined to read as
5 follows:

6 12-3-6: INSPECTIONS, TESTING, AND REPAIR:

7 A. The town shall require inspection testing, maintenance, and repairs and replacement of all
8 backflow prevention assemblies and methods, and of all required installations within the
9 responsible party's plumbing system in the cases where containment assemblies and/or
10 methods cannot be installed. All costs for design, installation, maintenance, testing and as
11 needed repair and replacement are to be borne by the responsible party.

12 B. The responsible party shall have a certified cross connection control technician test, at
13 the responsible party's sole expense, all Bbackflow prevention devices or methods shall be
14 tested by a certified cross connection control technician upon installation and tested at least
15 annually, thereafter. The tests shall be made at the expense of the owner.

16 4. C. The responsible party shall have a certified cross connection control technician
17 inspect, at responsible party's sole expense, Any backflow prevention device or method
18 that is nontestable shall be inspected at least once annually by a certified cross connection
19 control technician. The inspections shall be made at the expense of the owner.

20 BD. Within ~~sixty (60)~~ one hundred and twenty (120) days of a failed test, the backflow
21 prevention devices shall be repaired and retested or replaced and tested at the expense of the
22 owner. If not properly repaired and retested or replaced and tested within ~~sixty (60)~~ one hundred
23 and twenty (120) days of a failed test, the town has the authority to complete one of the
24 following actions:

- 25 1. Control the cross-connection;
- 26 2. Remove the cross-connection; or
- 27 3. Suspend water service to the water using property where the cross-connection is
28 located.

29 ~~C.~~ ~~Testing gauges shall be tested and calibrated for accuracy at least once annually.~~
30
31

1 **Section 4.** That section 12-3-7 entitled “REPORTING AND RECORDKEEPING:” shall
2 be amended by deleting the language stricken and adding the language underlined to read as
3 follows:

4 A. The responsible party shall retain ~~Copies~~ of records of test reports, repairs, and retests, or
5 replacements ~~shall be kept by the owner~~ for a minimum of three (3) years.

6 B. The responsible party shall submit to the town via ~~www.trackmybackflow.com~~ mail to
7 backflow@townofbreckenridge.com ~~Copies~~ of records of test reports, repairs and retests ~~shall~~
8 ~~be submitted to the town via ~~www.trackmybackflow.com~~ by~~ of the testing company or testing
9 technician.

10 C. Test reports shall contain the following information:

- 11 1. Assembly or method type;
- 12 2. Assembly or method location;
- 13 3. Assembly make, model and serial number;
- 14 4. Assembly size;
- 15 5. Test date;
- 16 6. Test results including all results that would justify a pass or fail outcome;
- 17 7. Certified cross connection control technician certification agency;
- 18 8. Technician's certification number;
- 19 9. Technician's certification expiration date;
- 20 10. Test kit manufacturer, model and serial number;
- 21 11. Test kit calibration date; and
- 22 12. Such other information as the Water Division Manager shall require.

1 **Section 5.** That section 12-3-8 entitled “RIGHT OF ENTRY” is hereby repealed and
2 replaced in its entirety to read as follows:

3 Upon presentation of credentials, a representative of the town shall have the right to request
4 entry, at any reasonable time, to a property served by a connection to the water system for the
5 purpose of inspecting the property for cross connections. If such entry is refused, the
6 representative may procure the right to enter and inspect by application to and proper orders
7 from the municipal court. It shall be unlawful for any owner or occupant to refuse to allow the
8 representative access to a property when the representative is acting in compliance with a
9 warrant for inspection and order issued by the municipal court. Refusing entry to the town
10 representative shall be sufficient cause for the town to discontinue water service to the property.

11 **Section 6.** That section 12-3-9 entitled “COMPLIANCE” is hereby repealed and replaced
12 in its entirety to read as follows:

13 12-3-9: COMPLIANCE, NOTICE OF VIOLATION AND CIVIL PENALTIES:

14 A. Failure of the responsible party to comply with the requirements of this chapter shall be
15 subject to the following actions and penalties:

16 1. Upon failure to comply, a notice of reminder will be mailed to the responsible party.
17 The responsible party shall have thirty (30) calendar days from the annual due date to comply.

18 2. In the event that the responsible party does not comply within thirty (30) days of the
19 annual due date, a first violation notice and a \$1,000.00 charge will be added to the water bill for
20 the property as a civil penalty. If the responsible party provides proof of compliance to the town
21 within sixty (60) days of the annual due date, \$600.00 of this charge will be waived.

22 3. In the event that the responsible party does not comply within sixty (60) days of the
23 annual due date, a second violation notice and a \$2,000.00 charge will be added to the water
24 bill for the property as a civil penalty.

25 3. In the event that the responsible party does not comply within ninety (90) days of the
26 annual due date, notice of termination of service will be left at the property and mailed to the
27 party billed for water service and the property owner, if different from the billed party. Water
28 service may be terminated seven (7) days after notice and may remain terminated until such
29 time as the responsible party complies with the requirements of this chapter.

30 B. Any penalty imposed pursuant to this section may be appealed to the town manager or their
31 designee pursuant to the appeal procedure set forth in section 12-3-10.

32 C. Service of water to any premises may also be discontinued by the public works director or
33 their designee if uncontrolled cross-connections exist on the premises, if any defect is found in
34

1 an installed backflow prevention assembly, if a backflow prevention assembly has been
2 removed or bypassed or does not adequately protect the public health.

3 D. Service will be discontinued within one hundred and twenty (120) days of notification of a
4 failed test or notification of an inadequate backflow prevention method and shall not be restored
5 until such conditions or defects are corrected to the satisfaction of the director.

6
7 **Section 7.** That section 12-3-10 entitled "CONFLICT WITH OTHER CODES" be
8 repealed and replaced with the language underlined below to read as follows:

9 12-3-10: APPEAL PROCESS

10 A person may request an appeal of any civil penalty imposed under this chapter by submitting a
11 complaint in writing within twenty (20) days after the date of the notice of violation. The town
12 manager or their designated hearing officer set the matter for a hearing within thirty (30) days
13 after receipt of the complaint, or shall schedule a hearing on a date agreeable to both parties.
14 A complainant shall be given reasonable notice of any hearing before a hearing officer by U.S.
15 mail. When a complainant is represented by an attorney, notice of any action, finding,
16 determination, decision or order affecting the complainant shall also be served upon the
17 attorney by U.S. mail.

18 **Section 8.** That a new section 12-3-11 be added to read as follows:

19
20 12-3-11: CONDUCT AND PROCEDURES AT HEARINGS:

21 A. The complainant shall be allowed to be represented by counsel, the parties shall have
22 the right to present evidence, and cross examine witnesses. The burden of proof shall be on
23 the town to prove a violation by a preponderance of the evidence.

24 B. The hearing officer shall make findings of fact for review by the town manager.

25 C. Upon receipt of the findings of fact, the town manager shall make a final determination
26 as to the penalty imposed.

27 D. Stipulation in Lieu of Public Hearing. A complainant who has filed an appeal in
28 accordance with this section may contact the town attorney to discuss allegations in the
29 complaint and in attempt to resolve the matter without a hearing; provided however, the
30 complainant shall contact the town attorney no later than seven (14) days prior to the scheduled
31 hearing date.

32 E. The Town's manager's decision shall be delivered in writing to the complainant and shall
33 be final, subject to the right of complainant to contest the matter in an appropriate court action
34 commenced under rule 106(a)(4) of the Colorado rules of civil procedure.

1 **Section 9.** That a new section 12-3-12 be added to read as follows:

2 12-3-12: CONFLICT WITH OTHER CODES:

3 If there is a conflict between the provisions of this chapter and any code adopted by reference in
4 title 8, chapter 1 of this code, then the most stringent provisions shall prevail.

5 **Section 10.** The Town Council hereby finds, determines and declares that this
6 ordinance is necessary and proper to provide for the safety, preserve the health, promote the
7 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and
8 the inhabitants thereof.

9 **Section 11.** This ordinance shall be published and become effective as provided by
10 Section 5.9 of the Breckenridge Town Charter.

11
12 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
13 PUBLISHED IN FULL this ____ day of _____, 2023. A Public Hearing shall be held at the
14 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
15 _____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
16 Town.

17
18 TOWN OF BRECKENRIDGE, a Colorado
19 municipal corporation

20
21
22
23 By: _____
24 Eric S. Mamula, Mayor
25

26 ATTEST:

27
28
29
30 _____
31 Helen Cospolich, CMC,
32 Town Clerk
33



Memo

To: Breckenridge Town Council
From: Teddy Wilkinson, Sustainability Administrator
Date: 2/22/2023
Subject: Easements for EV Supply Infrastructure (2nd Reading)

This is the second reading of a Bill that authorizes the Town Manager to enter into a service agreement with Xcel, as well as provide the accompanying easement, to install and maintain EV supply infrastructure and Xcel-owned charging equipment at the Breckenridge Grand Vacations Community Center (103 South Harris St).

Through this site host agreement, Xcel will install, own, and operate two DC Fast Chargers at this location, which would be open and available for use by the public. Current design locates the chargers in the North parking lot. Breckenridge was one of just 6 communities selected in the first round of this program, out of 21 applications received.

This project would bring a much-needed EV fast charging opportunity to the community, at little to no cost to the Town. If approved, installation work would likely begin this summer. Staff recommends that Council approve this bill on second reading.

AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT.

WHEREAS, Public Service Company of Colorado has requested the granting of certain easements over, across, and through certain real property owned by the Town; and

WHEREAS, the Town Council of the Town of Breckenridge has determined that it should grant the requested easements; and

WHEREAS, Section 15.3 of the Breckenridge Town Charter requires that granting of an easement be authorized by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Town Manager is authorized, empowered, and directed to execute, acknowledge, and deliver to Public Service Company of Colorado easements for the installation of electric vehicle charging equipment as more fully described in the Xcel Energy DCFC Site Host agreement, Exhibit A, attached hereto and incorporated by reference.

Section 2. The Xcel Energy DCFC Site Host agreement contemplates that the Town shall grant to Public Service Company of Colorado an easement area at the Breckenridge Grand Vacations Community Center, 103 South Harris St.

Section 3. The areas in the approved easements for each location shall be further described and defined on the basis of an as-built drawing and description to be provided by Public Service Company of Colorado at its cost following the installation of Public Service Company of Colorado's charging stations. Upon the approval by Grantor and Grantee of the as-built drawing and description of the easement areas the Town Manager is further authorized to execute, acknowledge, and deliver an amended grant of easement based on an as-built legal description.

Section 4. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity,

1 and improve the order, comfort and convenience of the Town of Breckenridge and the
2 inhabitants thereof.

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

5 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
6 PUBLISHED IN FULL this ___ day of ____, 2023. A Public Hearing shall be held at the regular
7 meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of ____,
8 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

9

10 TOWN OF BRECKENRIDGE, a Colorado
11 municipal corporation

12

13

14

15

By: _____

16

Eric S. Mamula, Mayor

17

18 ATTEST:

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20

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22



23 Helen Cospolich, CMC,

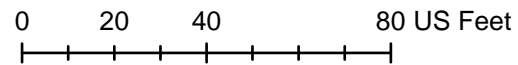
24 Town Clerk

25



Town of Breckenridge
South Brach Library- 103 S Harris
Proposed EV Charging Stations
and Parking Spaces

-  Xcel-owned single-port DCFC EV Charger
-  EV Parking Spaces- 9' x 19'



XCEL ENERGY DC FAST CHARGING SITE HOST AGREEMENT

THIS XCEL ENERGY DC FAST CHARGING SITE HOST AGREEMENT (the “Agreement”), is made on the date last executed (“Effective Date”) by and between PUBLIC SERVICE COMPANY OF COLORADO, a Colorado corporation, doing business as Xcel Energy (“Xcel Energy”), 1800 Larimer Street, Denver, Colorado 80202, and _____ (“Site Host”) having an address of _____ . Customer and Xcel Energy may be referred to herein individually as a “Party” or collectively as the “Parties.”

The Parties hereto, each in consideration of the promises of the other in this Agreement, agree as follows:

1. Definitions

- “Applicable Laws” means all applicable federal and state laws, codes, ordinances, rules, regulations, judgments, decrees, directives, guidelines, policy requirements, and orders of any governmental entity having jurisdiction over the electric vehicle (“Electric Vehicle” or “EV”) the Program, the services set forth in this Agreement, the practices involved in the services set forth in this Agreement, or any work Xcel Energy or Customer performs relating to this Agreement.
- “Infrastructure Buyout Amount” means an amount equal to the EV Supply Infrastructure Costs reduced by ten percent (10%) for each full calendar year between the In-Service Date and the date of termination of the Agreement. By way of example only, if the Agreement is terminated eighteen (18) months after the In-Service Date, and Customer is required to pay the Infrastructure Buyout Amount in accordance with Section 5 of this Agreement, the Infrastructure Buyout Amount payable by Customer would be equal to ninety percent (90%) of the EV Supply Infrastructure Costs. In the event the Agreement is terminated by Customer under Section 5.1 or terminated by Xcel Energy for Customer’s breach under Section 5.2.3 prior to the In-Service Date, the Infrastructure Buyout Amount shall equal the EV Supply Infrastructure Costs.
- “Site Host Location” means _____

_____.
- “Dispute” means a disagreement between Xcel Energy and Site Host that arises under, or that relates to, the Agreement.
- “EV Driver” means an individual who uses the Charging Equipment at the Site Host Location to charge an Electric Vehicle.
- “EV Supply Infrastructure” means service panels, conduit, and wiring from the service connection to the charger stub. EV Supply Infrastructure also includes the line extension necessary to connect Xcel Energy’s distribution system to the service connection and does not include the Charging Equipment.

- "EV Supply Infrastructure Costs" means the total costs and expenditures incurred by Xcel Energy to procure, design, construct, and install the EV Supply Infrastructure at the Site Host Location, including but not limited to costs of labor, labor loading, materials, transportation, overhead, indirect allocated costs, any allowance for funds used during construction ("AFUDC"), and any other capital related expenditures.
- "Facilities" means any privately, publicly, or cooperatively owned line, system, and/or other utility item that produces, transmits, or distributes communications, power, cable, television, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, signal systems, and other products or services that serve the public, and/or a privately-owned irrigation system. Any necessary appurtenances to each Facility are considered a part of the Facility.
- "In-Service Date" means the date that EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location has been installed, connected, tested, and is ready to use by EV Drivers. Following the installation and testing of the EV Supply Infrastructure, and Xcel Energy Owned Charging Equipment at the Site Host Location, the Parties will mutually agree upon and document the In-Service Date applicable to the Site Host Location.
- "Program" means the Xcel Energy DC Fast Charging Program under which Xcel Energy will procure, install, maintain, own and operate EV Supply Infrastructure and Xcel Energy Owned Charging Equipment to support EV charging by EV Drivers at the Site Host Location.
- "Xcel Energy Owned Charging Equipment" means the Charging Equipment which is supplied, installed, owned and operated by Xcel Energy at the Site Host Location.

2. Eligibility and Availability

- 2.1 To be eligible to participate in the Program and prior to Xcel Energy undertaking any Xcel Energy responsibility set forth in Section 4, Site Host must meet, and continue to meet during the Term, and will provide documentation acceptable to Xcel Energy evidencing that Site Host meets all the following requirements (the "Site Host Requirements"):
- 2.1.1 Qualify as a non-residential electric customer of Xcel Energy in Colorado;
 - 2.1.2 Be located in a pre-approved geographic location as determined by Xcel Energy
 - 2.1.3 Own or lease the Site Host Location
 - 2.1.4 Provide express written consent, in a form acceptable to Xcel Energy in its sole discretion, from the owner of the Site Host Location to grant Xcel Energy the appropriate real property rights and continuous access to EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, installed, owned, maintained and operated by Xcel Energy, including an easement signed by the owner of the Site Host Location, in the form attached hereto as Exhibit A;
 - 2.1.5 All Charging Equipment electric load will be separately metered from any other load served at the Site Host Location;

- 2.2 To be eligible to receive EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Site Host must also provide documentation acceptable to Xcel Energy evidencing that the Site Host Location meets the following requirements (the “Site Host Location Requirements”):
 - 2.2.1 Be located in Xcel Energy’s electric service territory;
 - 2.2.2 Be located in a pre-approved geographic location as defined by Xcel Energy
 - 2.2.3 Meet Xcel Energy’s minimum safety, accessibility, convenience, and reliability requirements;
 - 2.2.4 Be able to provide a location acceptable to Xcel Energy, in Xcel Energy’s sole determination, to deploy Xcel Energy Owned Charging Equipment in a cost-effective manner, based on factors such as proximity to transformers, length of trenching, available transmission and distribution capacity, and ease of access for EV Drivers, as determined by Xcel Energy in its sole discretion; and

3. Site Host Responsibilities

- 3.1 Site Host will comply with Xcel Energy’s safety and technical specifications.
- 3.2 Site Host will assist in coordinating installation and maintenance of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location with Xcel Energy and its contractor(s), including any applicable Charging Equipment manufacturers, vendors, or subcontractors, who provide services in connection with installing and maintaining the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. This will include issuing or obtaining any necessary license and right to allow Xcel Energy and its contractor(s) access to the Site Host Location for the installation and maintenance of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. Site Host will also meet regularly with Xcel Energy to review and coordinate time schedules and track EV Supply Infrastructure and Xcel Energy Owned Charging Equipment installation status.
- 3.3 Site Host will provide Xcel Energy with accurate and complete information in order to permit Xcel Energy to successfully install and complete the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment for the Program.
- 3.4 After installation of both the Xcel Energy Owned Charging Equipment and EV Supply Infrastructure is completed, Site Host will make the Site Host Location where the Xcel Energy Owned Charging Equipment is situated available to EV Drivers for EV charging twenty-four (24) hours each day, seven (7) days each week and continue to operate business at the Site Host Location as described in Customer’s Program application submitted to and approved by Xcel Energy. This includes ensuring that the parking spaces

designated for the use of the Xcel Energy Owned Charging Equipment are not used for general parking and are available at all times for EV Drivers to charge their EVs.

- 3.5 Site Host will promptly notify Xcel Energy or its charging network provider in the event Site Host becomes aware that the Xcel Energy Owned Charging Equipment or EV Supply Infrastructure fails to operate or otherwise requires repair.
- 3.6 In the case of total equipment failure of all or a portion of the EV Supply Infrastructure or Xcel Energy Owned Charging Equipment, that is caused by the Site Host or its employees, agents, or contractors, and not covered by a manufacturer's warranty, Site Host may either request that Xcel Energy replace the necessary equipment at Site Host's expense or terminate this Agreement pursuant to Section 5.1 and pay Xcel Energy the Infrastructure Buyout Amount as set forth in Section 5.3.
- 3.7 Site Host will maintain the area surrounding the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, including but not limited to, pavement maintenance, pruning of vegetation, snow removal, and the repair of security lighting.

4. Xcel Energy Responsibilities

- 4.1 Xcel Energy and/or qualified and competent contractors hired by Xcel Energy will prepare construction drawings ("Construction Drawings") for the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at location(s) within the Site Host Location determined by Site Host in coordination with Xcel Energy. The Construction Drawings will show the proposed EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, and its location(s) within the Site Host Location. Prior to Xcel Energy commencing construction of the EV Supply Infrastructure, Customer will receive Construction Drawings.
- 4.2 Xcel Energy will prepare and coordinate the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, installation schedule ("Installation Schedule") with designated Site Host staff as to minimize disruption to Site Host's operations. Xcel Energy will also meet regularly with Site Host staff to review and coordinate time schedules and track EV Supply Infrastructure and Charging Equipment installation status. Prior to Xcel Energy commencing construction of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Site Host must approve the Installation Schedule. Once approved, the Installation Schedule may be modified only with the mutual consent of both Parties.
- 4.3 Xcel Energy will install the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, pursuant to the Installation Schedule and consistent with the Construction Drawings in a good and workmanlike manner, with qualified and competent contractors, in compliance with all applicable codes and engineering standards, and in compliance with all Applicable Laws.
- 4.4 Except as otherwise provided in this Agreement, Xcel Energy will retain title and ownership of the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, once installation and commissioning are completed. Site Host shall acquire no right, title, or interest in any portion of the work performed by Xcel Energy or Xcel Energy's

equipment, EV Supply Infrastructure, Xcel Energy Owned Charging Equipment, or Facilities unless transferred to Site Host under the provisions in Section 5. The work constructed and installed by Xcel Energy shall be and remain the personal property of Xcel Energy, shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or lienable by Site Host or any third party for the Term of this Agreement, and Site Host shall not allow lien claims, third-party interest, or any encumbrances to be placed on the work, EV Supply Infrastructure, and/or Xcel Energy Owned Charging Equipment. Xcel Energy shall not permit any mechanics' or other liens to be placed on Site Host Location during the Term of this Agreement caused by or resulting from any work performed, materials, or supplies furnished by or at the request of Xcel Energy or its contractors.

- 4.5 Xcel Energy shall own, operate, and maintain, at its own expense, the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location for the Term of this Agreement, unless terminated earlier as provided herein. Xcel Energy may engage one or more third-party contractors to complete its obligations under this Agreement. Xcel Energy shall not knowingly award contracts to contractors who have been or are suspended or debarred by the State of Colorado or the United States. Xcel Energy shall be responsible for supervising any third-party contractor it chooses to retain.
- 4.6 After installation of, and while Xcel Energy owns, the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Xcel Energy shall conduct emergency repairs on the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment on an as needed basis in accordance with the following:
 - 4.6.1 Requests for emergency repairs can be made by Site Host or Xcel Energy staff.
 - 4.6.2 Site Host's requests for repair shall be made via telephone, email, or text message to an agreed-upon third party or representative at Xcel Energy.
 - 4.6.3 All emergency repairs shall be completed by qualified technicians selected by Xcel Energy.
 - 4.6.4 Emergency repair service calls shall begin with inspection of malfunctioning EV Supply Infrastructure or Xcel Energy Owned Charging Equipment, as applicable, a diagnosis of the potential issue, and an expected time required for repair.
 - 4.6.5 Xcel Energy shall use commercially reasonable efforts to repair the EV Supply Infrastructure or Xcel Energy Owned Charging Equipment, as applicable, in a timely manner.
- 4.7 After installation of, and while Xcel Energy owns the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment, Xcel Energy may inspect the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment at the Site Host Location for general wear or malfunction on a periodic basis as determined by Xcel Energy.

- 4.8 Xcel Energy shall be responsible for the cost of purchasing and installing the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. Xcel Energy shall also be responsible for all costs that Xcel Energy, in its sole discretion, deems reasonably required for operating and maintaining the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment. All payments for this EV Supply Infrastructure and Xcel Energy Owned Charging Equipment will be made directly by Xcel Energy to the third-party contractor retained to complete the work, and Xcel Energy will have no financial obligation for any payments to Site Host.
- 4.9 In the case of total equipment failure of all or a portion of the EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment that is caused by Xcel Energy, or its employees, agents, or contractors, and not covered by a manufacturer's warranty, Xcel Energy may either replace the necessary equipment at Xcel Energy's expense or terminate this Agreement pursuant to Section 5.1.
- 4.10 Xcel Energy may charge EV Drivers for the use of the Xcel Energy Owned Charging Equipment and will determine, in its sole discretion, the rates charged to EV Drivers per Colorado Public Utility Commission (the "Commission") Docket 21AL-0494E. Xcel Energy will process all payments and collect all revenues from charging that occurs at Xcel Energy Owned Charging Equipment. Site Host shall not be entitled to any payment or revenues generated from the use of the Xcel Energy Owned Charging Equipment.
- 4.11 Xcel Energy will pay for the power consumed by the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment.

5. Term and Termination

- 5.1 This Agreement shall be effective upon the Effective Date. The term of this Agreement (the "Term") shall be from the Effective Date until ten (10) years following the In-Service Date. Subject to Section 5.3, either Party may terminate this Agreement for any reason or no reason, without cause, at any time by providing the other Party sixty (60) Calendar Days prior written notice. If Xcel Energy terminates this Agreement pursuant to this Section 5.1 for a reason other than Site Host's material breach of Site Host's obligations under this Agreement, Xcel Energy shall transfer title of the EV Supply Infrastructure to Site Host without any payment from Site Host, including the Infrastructure Buyout Amount, and the EV Supply Infrastructure will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy. Upon termination, Xcel Energy Owned Charging Equipment will be removed by Xcel Energy at its own expense.
- 5.2 Either Party may terminate this Agreement if the other Party materially breaches any of its obligations under the Agreement, in accordance with the following:
- 5.2.1. Prior to termination pursuant to this Section 5.2, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within thirty (30) days of the notice (or if the breach is not one that can be reasonably cured within thirty (30) days and if the breaching Party is not working diligently to cure such breach), then the Party giving the notice may

terminate the Agreement without reference to Section 5.1 at any time thereafter by giving a written notice of termination.

- 5.2.2. If Site Host terminates pursuant to this Section 5.2 for Xcel Energy's material breach of the Agreement, as Site Host's sole and exclusive remedy, Xcel Energy shall transfer title of the EV Supply Infrastructure to Site Host, without any payment from Site Host, including the Infrastructure Buyout Amount set forth in Section 5.3, and the EV Supply Infrastructure will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy.
 - 5.2.3. If Xcel Energy terminates pursuant to this Section 5.2 for Site Host's material breach of the Agreement, Site Host shall pay the Infrastructure Buyout Amount, and when such fee is paid, Xcel Energy shall transfer title of all EV Supply Infrastructure to Site Host on an "AS IS" basis, without any warranty (express or implied).
 - 5.2.4. A Party terminating this Agreement pursuant to this Section 5.2 does not waive its rights to any remedy at law or in equity for a material breach of the Agreement.
- 5.3 Should (a) Site Host terminate this Agreement for any reason other than pursuant to the provisions of Section 5.2.2 for Xcel Energy's material breach of its obligations hereunder, or (b) Xcel Energy terminate this Agreement pursuant to the provisions of Section 5.2.3 for Site Host's material breach of its obligations hereunder, Site Host will be charged and Site Host will pay to Xcel Energy the Infrastructure Buyout Amount. The Infrastructure Buyout Amount, if applicable, will be due and payable by Site Host thirty (30) days following the termination of the Agreement. Upon payment of the Infrastructure Buyout Amount, Xcel Energy will transfer title of the EV Supply Infrastructure to Site Host on an "AS IS" basis, without any warranty (express or implied).
- 5.4 At least one hundred and eighty (180) Calendar Days prior to the end of the Term of this Agreement, the Parties shall endeavor to negotiate a mutually agreeable plan for the EV Supply Infrastructure and Xcel Energy Owned Charging Equipment that will commence at the end of the Term of this Agreement, including but not limited to the following:
- 5.4.1 Extension of the Term of this Agreement for a mutually agreed period of time with the default extension option being 5 years;
 - 5.4.2 Upon expiration of the Term, Xcel Energy transfers the title to the EV Supply Infrastructure to Site Host in "AS IS" condition, without any warranties (express or implied) by Xcel Energy; or
 - 5.4.3 Upon expiration of the Term, Xcel Energy removes, at Site Host's expense, the portion of the EV Supply Infrastructure that is above ground, restoring the Site Host Location to original conditions or any other conditions agreed upon by the Parties, and Xcel Energy shall transfer title of the remaining portion of the EV Supply Infrastructure that is not above ground to Site Host, without any

payment from Site Host, and the Remaining EV Supply Infrastructure will be deemed abandoned in place in “AS IS” condition, without any warranty (express or implied) by Xcel Energy.

- 5.5 If, at the end of the Term of the Agreement, the Parties have not come to a mutual agreement pursuant to Section 5.4 above, the Term of the Agreement shall continue until the Parties are able to come to a mutual agreement or until either Party unilaterally terminates the Agreement pursuant to Section 5.1.
- 5.6 Upon termination or expiration of the Agreement, Xcel Energy will remove any Xcel Energy Owned Charging Equipment from the Site Host Location at no cost to Site Host.
- 5.7 Upon termination or expiration of the Agreement, to the extent Site Host takes ownership of the EV Supply Infrastructure, Site Host assumes the responsibility of maintaining the EV Supply Infrastructure, and in order to continue receiving electric service, Site Host must take electric service pursuant to a tariff for which the Site Host is then eligible.

6. Warranties, Indemnification, and Limitation of Liability

- 6.1 Site Host represents and warrants that: (i) the execution, delivery, and performance of the Agreement has been duly authorized by all requisite action on the part of Site Host, and Site Host has full power and authority to grant the rights and licenses granted by the Agreement to Xcel Energy; (ii) this Agreement constitutes the legal, valid, and binding obligation of Site Host; (iii) Site Host is and will remain duly licensed, authorized or qualified to do business, and in good standing; and (iv) Site Host is and will remain in compliance with all Applicable Laws applicable to Site Host in connection with performance under this Agreement.
- 6.2 Xcel Energy, itself or through its contractor(s), shall perform the installation of the EV Supply Infrastructure and the Xcel Energy Owned Charging Equipment, as applicable, in a safe and professional manner in accordance with all Applicable Laws. **EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 6.2, XCEL ENERGY MAKES OR PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AGAINST INFRINGEMENT, WITH RESPECT TO THE WORK TO BE PERFORMED, SERVICES TO BE PROVIDED, OR EV SUPPLY INFRASTRUCTURE OR XCEL ENERGY OWNED CHARGING EQUIPMENT TO BE DELIVERED UNDER THIS AGREEMENT. IN THE EVENT TITLE TO EV SUPPLY INFRASTRUCTURE OR XCEL ENERGY OWNED CHARGING EQUIPMENT IS TRANSFERRED TO SITE HOST IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, THE EV SUPPLY INFRASTRUCTURE AND XCEL ENERGY OWNED CHARGING EQUIPMENT IS PROVIDED “AS IS” AND WITH NO WARRANTY OF ANY KIND. XCEL ENERGY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 6.3 **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL XCEL ENERGY BE LIABLE TO SITE HOST AND ITS AGENTS CONTRACTORS AND EMPLOYEES, FOR SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE.**

- 6.4 Subject to the limitations contained in this Agreement, each Party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by Applicable Laws and shall not be responsible for the acts of the other Party and the results thereof. Notwithstanding the foregoing, to the fullest extent allowed by Applicable Laws, Site Host shall, at its own expense, defend, indemnify, and hold Xcel Energy harmless from and against any claims, lawsuits, liability, losses, damages, or expenses (including attorney's fees) arising out of, resulting from, or in any way connected with the: (i) breach of any warranty set forth in Section 6.1; or (ii) the breach of Sections 2.1.4 and 3.2.
- 6.5 In no event will Xcel Energy be liable to Site Host for any claims, expenses, losses, damages, or lawsuits arising out of any interruptions or disturbances in electric service. Except as described in this section, Xcel Energy's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Agreement, or from performance or breach thereof, shall in no case exceed the total dollar amount for the specific work giving rise to the claim.

7. General Terms

- 7.1 *No Third-Party Beneficiary.* This Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
- 7.2 *Assignment Prohibited.* Site Host shall not assign the Agreement, or any part thereof, nor delegate in whole or in part, its responsibilities hereunder, without the prior written consent of Xcel Energy. Unless otherwise agreed to in writing by Xcel Energy, no assignment will release or discharge Site Host from any obligations under the Agreement. Any prohibited assignment or delegation shall be null and void.
- 7.3 *Legal Compliance.* The Parties shall comply with all Applicable Laws. Each Party shall monitor its agents, contractors, and employees for the purposes of ensuring compliance with all Applicable Laws. If any change in circumstances or law will affect a Party's performance under this Agreement, that Party shall notify the other Party of the change in circumstances or law at the earliest reasonable opportunity, and the Parties will negotiate in good faith to modify the Agreement to take into account the changed circumstance or law.
- 7.4 *Dispute Resolution.* In the event of any Dispute arising out of or relating to this Agreement, the complaining Party shall provide written notice of the Dispute to the other Party. The Dispute notice shall describe the facts surrounding the Dispute in sufficient detail to apprise the other Party of the nature of the Dispute.

Xcel Energy and Site Host shall attempt in good faith to settle all Disputes through the negotiation process set forth in this Section. To this effect, unless otherwise agreed, Xcel Energy and Site Host shall conduct at least one face-to-face meeting between the designated representatives from both Parties in an attempt to reach a solution that is satisfactory to both Xcel Energy and Site Host. Such a meeting shall take place within seven (7) Calendar Days following delivery of a Dispute notice. If that meeting does not

resolve the Dispute, Xcel Energy and Site Host shall have executive level leadership from both Parties meet and attempt to resolve the Dispute.

If Xcel Energy and Site Host fail to resolve a Dispute in accordance with this Section, either Party may, subject to Section 7.5, proceed to a court of competent jurisdiction and may, subject to any limitation set forth herein, pursue any remedies available to it at law or in equity.

- 7.5 *Applicable Law and Venue.* This Agreement shall be interpreted in accordance with the laws of the State of Colorado. Venue for all legal proceedings arising out of or relating to this Agreement or breach thereof shall be in the state or federal court with competent jurisdiction in Denver County, Colorado.
- 7.6 *Non-Waiver.* The failure of either Party at any time to insist upon the strict performance of any or all of the terms, conditions, and covenants in this Agreement shall not be deemed a waiver by that Party of any subsequent breach or default in the said terms, conditions, or covenants by the other Party.
- 7.7 *Complete Agreement.* This Agreement constitutes the complete and exclusive understanding of the Parties concerning its subject matter. This Agreement supersedes all prior agreements, representations, understandings, and communications, written or oral, between the Parties as to the subject matter of this Agreement.
- 7.8 *Amendments.* The terms of this Agreement may be changed, amended or modified only by mutual signed agreement of the Parties.
- 7.9 *Consent to Disclose.* Site Host consents to Xcel Energy's disclosure of the existence, terms, and status of this Agreement consistent with Commission data privacy requirements. Site Host further acknowledges that pursuant to Section 3.7 of this Agreement, Xcel Energy may disclose any information and documents Site Host provides to Xcel Energy pursuant to this Agreement. Site Host also consents to Xcel Energy's disclosure of any information concerning the EV Supply Infrastructure and related services provided to Site Host that Xcel Energy has in its possession, including "Site Host data" as defined by Commission rules, to address Xcel Energy's reporting requirements in Commission proceedings, including without limitation those established in Proceeding No. 20A-0204E. To the extent the Commission requires any additional written consent from Site Host for disclosure of such information, Site Host agrees to cooperate with any such request by Xcel Energy. Without limiting the foregoing, by signing this Agreement and participating in the Program, the Site Host consents and authorizes Xcel Energy to provide the Site Host's information related to the Agreement or the Program to third parties, including but not limited to the Colorado Energy Office and the Regional Air Quality Council, for the purpose of administering the Program, coordinating with other third parties offering EV programs and ensuring that the Program participants are not receiving funding multiple times for the same equipment and/or costs.
- 7.10 *Property of Xcel Energy.* All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models, and memoranda, if any, assembled or prepared by Xcel Energy or Xcel Energy's affiliates, independent professional associates, agents, consultants, contractors, or subcontractors pursuant to this Agreement are instruments

of service in respect of the Agreement, and Xcel Energy shall retain all ownership and property interest therein. Site Host may make and retain copies for information and reference in connection with the Program, provided, however, that it is understood and agreed that such documents are not intended to be re-used by Site Host or others on extensions of the Program or on any other project or for any other purpose other than as expressly set forth in this Agreement, and Site Host shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Xcel Energy, which consent shall not be unreasonably withheld.

- 7.11 The Parties are independent contractors. Nothing in this Agreement or in the activities contemplated by the Parties hereunder shall be deemed to create an agency, partnership, employment, or joint venture relationship between the Parties or any of their representatives. Neither Party is an agent of the other nor has the authority to represent the other as to any matters. Site Host is responsible for the safety of its respective agents, employees, and other representatives. Xcel Energy in no way assumes any of the duties, obligations, or liabilities attributed to Site Host under the Agreement.
- 7.12 Those provisions of this Agreement which would require that they survive termination of the Agreement in whole or part in order to give them full force and effect will survive the termination of the Agreement, regardless of the date, cause, or manner of the termination. Xcel Energy's right to retain any Data collected in connection with the Program shall survive termination. In addition, all rights of action arising from or related to the Agreement that accrue during the Term of the Agreement, and any remedies for such claims, both legal and equitable, will survive such termination.
- 7.13 *Branding and Consumer Education.* The Parties agree to discuss opportunities for Xcel Energy branding, Consumer outreach and education efforts related to the benefits of electric vehicles, and implementation of renewable energy in connection with the Program.
- 7.14 *Taxes on Sale of EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment.* If Xcel Energy sells the EV Supply Infrastructure to Site Host for an amount equal to the Infrastructure Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment and Site Host purchases the same, then Xcel Energy will deliver to Site Host a Bill of Sale with a purchase price equal to the Infrastructure Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment. Site Host further agrees that, in accordance with federal and state laws in effect at the time of the sale of the EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment from Xcel Energy to Site Host: (i) Site Host shall be responsible for and shall pay transfer taxes, either directly to a taxing authority or to Xcel Energy, as required by law, related to the Infrastructure Buyout Amount as stated on the Bill of Sale; and (ii) Xcel Energy agrees to complete a Form W-9 "Request for Taxpayer Identification Number and Certification" in the event of such sale.
- 7.15 *Notice.* Any notice required or permitted by this Agreement shall be deemed given (i) when delivered by hand, (ii) on the next Working Day after being sent by a reputable overnight courier service for next Working Day delivery, or (iii) on the third Working Day

after being sent by prepaid United States mail, return receipt requested, in each case to the Party at the address specified as follows:

Site Host: _____

Xcel Energy: _____

evapplications@xcelenergy.com

Either Party may change its address for notice purposes by giving the other Party prior written notice of the new address and the date upon which the change will be effective.

7.16 *Electronic Signature and Electronic Records.* Both Parties consent to the use of electronic signatures. The Agreement and any other documents requiring signature hereunder may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

7.17 *Taxes on Sale of EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment.* If Xcel Energy sells the EV Supply Infrastructure and/or the Xcel Energy Owned Charging Equipment to Customer for an amount equal to the Infrastructure Buyout Amount and/or Xcel Energy Owned Charging Equipment Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment and Customer purchases the same, then Xcel Energy will deliver to Customer a Bill of Sale with a purchase price equal to the Infrastructure Buyout Amount and/or Xcel Energy Owned Charging Equipment Buyout Amount for such EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment. Customer further agrees that, in accordance with federal and state laws in effect at the time of the sale of the EV Supply Infrastructure and/or Xcel Energy Owned Charging Equipment from Xcel Energy to Customer: (i) Customer shall be responsible for and shall pay transfer taxes, either directly to a taxing authority or to Xcel Energy, as required by law, related to the Infrastructure Buyout Amount and/or Xcel Energy Owned Charging Equipment Buyout Amount as stated on the Bill of Sale; and (ii) Xcel Energy agrees to complete a Form W-9 "Request for Taxpayer Identification Number and Certification" in the event of such sale. Notwithstanding any other term or condition of this Agreement, Customer is not

liable for the payment of interest, taxes, late charges, or penalties of any nature, except for any additional amounts that the Customer may be required to pay under Applicable Laws. Xcel Energy agrees to accept a properly completed and valid exemption certificate(s) for any taxes that may otherwise be due upon the sale. Customer remains liable for taxes on the sale unless and until such properly completed and valid documentation has been provided to Xcel Energy and remains liable for interest, penalties and late charges relating to any taxes when such additional charges are caused by Customer's failure to provide exemption documentation or prompt payment of any taxes actually due.

8. Appropriation.

8.1 *Subject to Annual Appropriation.* Consistent with Article X, Section 20 of the Colorado Constitution, any financial obligation of the Customer not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the Customer hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge requirement, debt or liability beyond the current fiscal year. Notwithstanding anything to the contrary, it is the intent of the Parties that if the Customer is obligated to pay the Infrastructure Buyout Amount, that such obligation is not a charge requirement, debt or liability beyond the current fiscal year.

8.2 *Appropriation Requirement Amount.* Prior to Xcel Energy beginning construction on the EV Supply Infrastructure, Customer shall provide Xcel Energy documentation acceptable to Xcel Energy evidencing the Customer has fully appropriated adequate present cash reserves in an amount equal to the EV Supply Infrastructure Costs up to a maximum of \$_____ ("Appropriation Requirement Amount") through the end of the then-current fiscal year. The officer of Customer at any time charged with the responsibility of formulating budget proposals impacting this Agreement shall include in the annual budget proposal submitted to the applicable budget approval authority, in any year during which this Agreement is in effect, the Appropriation Requirement Amount. In the event that Customer fails to appropriate in full the Appropriation Requirement Amount in its final budget for the next fiscal year before the end of the current fiscal year for which the Appropriation Requirement Amount was fully appropriated during the Term, this Agreement will immediately and automatically terminate on the last day of Customer's fiscal year in which the Appropriation Requirement Amount was fully appropriated, Customer shall notify Xcel Energy within ten business days of such failure to appropriate, and the Infrastructure Buyout Amount will become due and payable immediately upon such termination. However, a failure to notify will not excuse Customer's obligation to pay the Infrastructure Buyout Amount. Upon Xcel Energy's receipt of payment of the Infrastructure Buyout Amount, Xcel Energy shall transfer title of all EV Supply Infrastructure to Customer on an "AS-IS" basis, without any warranty of any kind, express or implied.

IN WITNESS WHEREOF, each of the undersigned is duly authorized and directed to sign this Agreement.

[Insert Site Host Name]

By _____ Date: _____

Name _____

Title _____

Public Service Company of Colorado, d/b/a Xcel Energy

By _____ Date: _____

Name _____

Title _____

EXHIBIT A – FORM OF EASEMENT

After recording return to:
Public Service Company of Colorado
Attn: Manager, Siting and Land Rights
Right of Way and Permits Department
1123 West 3rd Avenue
Denver, Colorado 80223

DIVISION:	ROW AGENT:	DOC. No. _____
LOCATION:	DESCRIPTION AUTHOR:	PLAT/GRID NO:
	AUTHOR ADDRESS:	WO/JO/CREG NO:

**ELECTRIC EASEMENT
PUBLIC SERVICE COMPANY OF COLORADO**

The undersigned Grantor hereby acknowledges receipt of good and valuable consideration from PUBLIC SERVICE COMPANY OF COLORADO (Company), 1800 Larimer Street, Attn: Right-of-Way and Permits Dept., Denver, Colorado, 80202, in consideration of which Grantor(s) hereby grants unto said Company, its successors and assigns, a non-exclusive easement ("**Easement**") for the transmission and distribution of electricity and related communication signals on, through, over, under, across, and along a course as said lines may be hereafter constructed in the following lands located in County of _____, State of Colorado, the easement being described as follows ("**Easement Area**"):

See Exhibit A and Exhibit B attached hereto and incorporated herein by this reference.

The easement is _____ feet in width. The side boundary lines of the easement shall be lengthened and shortened as necessary to encompass a continuous strip of not less than the above width at all points on Grantor's property crossed by the above described easement and extending to the boundaries of adjacent properties.

Together with the right (i) to enter upon said premises, to survey, construct, install, operate, repair, remove, replace, reconstruct, alter, relocate, patrol, inspect, improve, enlarge, remove, maintain and use electric lines and related communication facilities, including towers, poles, and other supports; together with braces, guys, anchors, cross-arms, cables, conduits, wires, conductors, manholes, transformers, and other fixtures, devices, and appurtenances used or useful in connection therewith and all service panels, conduit, wiring, and associated fixtures and devices used or useful for the operation, service, and connection of electric vehicle charging equipment (collectively the "**Facilities**") and related fixtures and devices, and (ii) to remove objects interfering therewith, including the trimming or felling of trees and bushes, and together with the right to use so much of the adjoining premises of Grantor during surveying, construction, maintenance, repair, removal, or replacement of said Facilities and related fixtures and devices as may be required to permit the operation of standard utility construction or repair machinery.

The Grantor reserves the right to use and occupy the Easement Area for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the said Company's Facilities therein or use thereof. Such reservations by Grantor shall in no event include the right to erect or cause to be erected any buildings or structures upon the easement granted or to locate any mobile home or trailer units thereon. No other objects shall be erected, placed, or permitted to

remain on, under, or over the Easement Area, which will or may interfere with the Facilities installed on the Easement Area or interfere with the exercise of any of the rights herein granted. Grantor shall not, without the prior written approval of Company, alter the existing ground elevations or change the compaction of the soil on the Easement Area. No failure by Company to remove or otherwise raise an objection to any objects or improvements located or installed on the Easement Area by Grantor, shall be deemed to constitute consent on the part of Company to such improvements or objects, nor a waiver of Company's rights regarding removal of any such improvements or objects.

Grantor agrees to contact the Utility Notification Center of Colorado (1-800-922-1987), or any similar one-call utility line locator system which may replace or supplement it, at least four (4) business days (or such longer time if required by applicable law) prior to the commencement of construction or execution of the Easement Area to arrange for field locating of Facilities.

Grantor shall disclose to Company any waste materials that Grantor knows or reasonably suspects to be present in soils, water (surface or groundwater), vapors or air, whether on, in, above, migrating to, or under the Easement Area and any other information that would help Company assess the risks of working in the area. Grantor shall be responsible for any costs to manage, transport, or dispose of any waste materials that Company encounters during installation, relocation, or maintenance of the Facilities in the Easement Area. Company shall not assume, and Grantor shall retain its obligation to comply with all applicable environmental laws and regulations, including federal or state reporting requirements related to such waste materials.

In case of the permanent abandonment of the easement, all right, privilege, and interest granted shall terminate.

The work of installing and maintaining said lines and fixtures shall be done with care; the surface along the easement shall be restored substantially to its original level and condition.

The provisions of this Easement shall run with, be binding on and burden the Easement Area and shall bind and benefit the heirs, executors, administrators, personal representatives, successors, and assigns of Grantor and Company. The term "Grantor" includes the singular, plural, feminine, masculine and neuter.

Grantor warrants and represents that Grantor is the owner of the easement and has the right to sell, transfer, convey, confirm and grant this easement and the rights contained herein. This Easement is binding on Grantor, is not conditioned upon obtaining the consent of any third party, and is not subject to any mortgages or liens, except those for which Grantor has provided Grantee with a consent and subordination agreement, executed by such mortgagee or lienholder and attached hereto.

This Easement incorporates all agreements between the parties as to the subject matter of this Easement, and no prior representations or statements, verbal or written, shall modify, supplement or change the terms of this Easement. This Easement consists of the document entitled "Electric Easement", and Exhibit(s) containing a legal description and a sketch depicting the legal description, if referenced above or attached hereto, and if attached hereto, a Consent and Subordination. No other exhibit, addendum, schedule or other attachment (collectively "Addendum") is authorized by Company, and no Addendum shall be effective and binding upon Company unless executed by an authorized representative of Company.

Signed this [redacted] day of [redacted], 20[redacted].

(Type or print name below each signature line with official title if corporation, partnership, etc.):

GRANTOR:

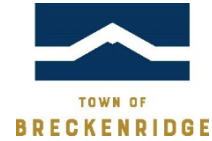
_____	_____
_____	_____
_____	_____

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 20__ by _____.

Witness my hand and official seal.

 Notary Public
 My Commission expires:



Memo

To: Town Council
From: Stefi Szrek, AICP, Planner II
Date: February 20, 2023 (for meeting of February 28, 2023)
Subject: First Reading: Policy 3A/3R, - Density Updates

On November 11, 2022, the Town Council adopted code amendments that removed Policy 4, which addressed Mass and Mass Bonuses, and cleaned up other sections of code which addressed mass requirements. Now all interior square footage counts towards density and is regulated by Policy 3.

During the code amendment process, the Council requested staff return with additional code amendments pertaining to allowances for additional square footage for Wellington/Lincoln Park Neighborhood Carriage Houses and garages and sheds on properties within the Historic District. Based on this direction, staff is presenting the following amendments for consideration:

- Provide a 500 sq. ft. bonus for Carriage Houses (market rate) in the Wellington/Lincoln Park Neighborhoods. This would be applied similarly to the previously approved bonuses for Bonus Rooms on deed restricted properties. Providing Carriage Houses with a density bonus is in the spirit of the master plan and consistent with how deed restricted units are treated in the Wellington/ Lincoln Park Neighborhoods.
- Add an exemption for garages and/or sheds in the Historic District. Staff recommends an exemption of up to 500 sq. ft. which is the average size of a two-car garage.

Staff also took this opportunity to provide some clarifying language in section 9-1-19-3A(l)3 of Policy 3/A that controls the maximum above ground density outside of the Historic District. Within that section there is a provision that allows for up to an additional 500 sq. ft. of above ground density for single-family homes and duplex units that were at or above the maximum allowed above ground density at the time the home size policy was adopted in 2009. With this language being moved from Policy 4 to Policy 3, staff wanted to ensure that a homeowner would not be able to take advantage of this allowance more than once. Modifications to section 9-1-19-3A(l)2 were also made to allow non-conforming single-family and duplex structures to rebuilt to the same density that existed prior to being damaged by fire or another calamity. This revision complements the revisions that are being proposed through a separate Bill to amend Code language related to non-conforming structures.

Due to the timing with the codifier, the underlined language has been previously approved during the Mass, Policy 4A/R Code Changes. The new language for the Density Amendments is highlighted in grey. Staff will be available at the meeting to answer any questions.

2
3 Series 2023

4 **A BILL FOR AN ORDINANCE FOR POLICY 3A PERTAINING TO DENSITY**
5 **AND MAKING CONFORMING AMENDMENTS.**

6 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
7 BRECKENRIDGE, COLORADO:

8 **Section 1.** That Section 9-1-5, Definitions, of the Breckenridge Development Code
9 shall be amended by deleting the language stricken and adding the language underlined, to
10 read as follows:

11 9-1-5:DEFINITIONS:

12 CLASS D DEVELOPMENT: Any development which includes any of the following activities and
13 elements:

14 Class D – Major:

15 A. New single-family, duplex structure, or major remodel outside of the historic district, with or
16 without an accessory dwelling unit, including, without limitation, master planned property with
17 multiple single-family and duplex structures, except where the proposed development either:

18 1. Warrants the assessment of any negative points based upon the director's preliminary
19 assessment at the time the application is initially filed; or

20 2. Is located on a lot, tract, or parcel without a platted building or disturbance envelope outside
21 of the conservation district as defined in section ~~9-1-19-4A~~ 9-1-19-3A of this chapter

22 (~~massdensity~~).

23 A Class D – major permit application that meets the conditions described in subsection A(1) or
24 (2) of this definition shall be reclassified as a Class C development permit application.

25 B. Those wireless communication facilities permit applications described in section 9-1-19-
26 50A(D)(2) of this chapter.

27 C. Accessory dwelling units except when the permit application meets the conditions described
28 in subsection A(1) or (2) of this definition, in which case the application shall be reclassified as a
29 Class C development permit application.

1 DENSITY: ~~The preparation of drawings and other documents illustrating the scale and~~
2 ~~relationship of the components of a development; or the preparation of drawings and other~~
3 ~~documents to fix and describe the size and character of the development as to structural,~~
4 ~~mechanical and electrical systems, materials and such other essentials as may be appropriate.~~
5 The computation of units per acre for residential development or floor area ratio for commercial
6 development based on a fully enclosed space within the surrounding exterior walls (including
7 the exterior wall itself) that extend to a roof of a building or portion thereof including dwelling
8 areas of the building, closets, bathrooms, living room, garage space of single family, duplexes,
9 and townhomes, interior hallways, interior common spaces and areas of the building that are
10 unfinished but have a floor to ceiling height of five feet (5') or greater. Building areas that are not
11 fully enclosed and feature portions of open or mesh wall that exceeds 12" vertically and are
12 entirely permeable across at least one façade such as trash dumpster enclosures, parking
13 garages, porches and similar areas shall not be counted as density.

14 RECREATION AND LEISURE AMENITY CLUB OR AMENITY CLUB: The meaning of Amenity
15 Club depends upon the type of residential property in which the property's amenity components
16 (as defined below) are located:

17 In a hotel/lodge/inn or a condominium that does not include one or more timeshare estates an
18 Amenity Club:

- 19 1. Allows admission to the property's amenity components by a person who is not a registered
20 overnight guest at the property; and
- 21 2. Requires payment of a fee, a club membership, or other consideration given by the user of
22 the property's amenity components.

23 In a condominium that includes one or more timeshare estates an Amenity Club permits
24 admission to the property's amenity components by a person who is not an overnight guest at
25 the property.

26 No residential property other than a hotel/lodge /inn or a condominium may contain an Amenity
27 Club.

28 An Amenity Club is classified as a commercial use and requires commercial density ~~above the~~
29 ~~allowed mass.~~

30 An Amenity Club may include, but shall not be limited to, the following amenity components:

- 1 1. Personal lockers;
- 2 2. Boot dryers;
- 3 3. Ski storage racks;
- 4 4. Ski tuning;
- 5 5. Areas for congregation and/or socializing;
- 6 6. Restrooms and/or shower facilities;
- 7 7. Movie theaters;
- 8 8. Game rooms;
- 9 9. Clubhouse food amenities;
- 10 10. Concierge ski services;
- 11 11. Access to an aquatics facility or other recreational facilities; and/or
- 12 12. Parking.

13 **Section 2.** That Section 9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY
14 be amended by deleting the language stricken and adding the language underlined to read as
15 follows:

16 **9-1-19-3A: POLICY 3 (ABSOLUTE) DENSITY/INTENSITY:**

17 C. General Provisions:

18 2. Square footage shall be calculated by counting the following floor areas against the density
19 calculations:

20 Residential:

21 "Single-family" - the total square footage of the building from the outside of the exterior walls
22 shall constitute the proposed density. This shall include any basement areas (finished or
23 unfinished) and entryways, ~~but shall not include the garage nor other unfinished areas that~~
24 ~~could not constitute living area under the Building Code without substantial physical renovation~~
25 (i.e., crawl spaces, attic) and all unfinished areas that have greater than 5 ft. of ceiling height,
26 including garages but excluding crawl spaces and attics; provided, however, if a deed restricted

1 or market rate single-family or duplex structure located within the Wellington, Wellington II or
2 Lincoln Park Subdivisions contains or proposes a garage, the measurement of above ground
3 density defined above in this section applies only to that portion of the garage that exceeds five
4 hundred (500) square feet when a bonus room or carriage house is proposed or existing.

5 "Townhouses and duplexes" - same as for single-family.

6 "Multifamily" - the total square footage of the residential portions of the building from the outside
7 of the exterior wall to the outside of the interior wall, if adjacent to a common area, or to the
8 outside of the other exterior wall if not. Common areas such as lobbies, hallways, and amenity
9 areas shall not be counted against the density.

10 "Hotels, lodges, etc." - same as for multifamily.

11 *In those instances where commercial uses are being proposed within a multifamily building,
12 hotel, etc., the density of those uses shall be counted against the allowed density; and, where
13 the allowed density is calculated in units rather than floor area ratio, the one thousand (1,000)
14 square foot equals one unit calculation shall be utilized.

15 Exception: Any portion of a basement area of a "Town designated landmark" as defined in
16 chapter 11 of this title, which is: a) located directly underneath the landmark building, and b)
17 completely or partially buried below grade, shall not be counted toward allowed density for such
18 building under this policy so long as the historic USGS floor elevation of the building is
19 maintained. This exception shall not apply to any other provision of this code.

20 ~~2.5. Space that is utilized for a recreation and leisure amenity club may be included in the~~
21 ~~additional twenty five percent (25%) of aboveground floor area allowed under subsection A4 of~~
22 ~~section 9-1-19-4R, "Policy 4 (Relative) Mass," of this chapter, provided there is any remaining~~
23 ~~space after all common areas have been counted. Any additional common area space above~~
24 ~~this additional twenty five percent (25%) shall be counted as commercial density.~~

25 **Section 3.** That subsection H of section 9-1-19-3A be amended by deleting the
26 language stricken and adding the language underlined to read as follows:

27 H. Aboveground Density In Historic District:

28 1. Within the Main Street residential/commercial, south end residential, and South Main
29 Street character areas a maximum of 12.0 units per acre for aboveground density for new

1 construction is allowed. Projects within such areas which contain 12.01 units per acre, or more,
2 of aboveground density shall be deemed to have failed this policy for failing to meet a priority
3 policy.

4 a. Within the Main Street residential/commercial character area only, density and mass
5 will not be assessed against a project for the construction of a "connector" element which
6 complies with priority policy 80C of the "Handbook of Design Standards for the Historic and
7 Conservation Districts".

8 2. a. Within the eastside residential, north end residential, and the North Main Street
9 residential character areas, a maximum of 9.0 units per acre for aboveground density for new
10 construction is allowed, except for those developments described in subsection H(2)b of this
11 section. Projects within such areas which contain 9.01 units per acre, or more, of aboveground
12 density shall be deemed to have failed this policy for failing to meet a priority policy.

13 b. In connection with permit applications for projects which involve "preserving",
14 "restoring", or "rehabilitating" a "landmark structure", "contributing building", or "contributing
15 building with qualifications" (as those terms are defined in the "Handbook of Design Standards
16 for the Historic and Conservation Districts") anywhere within the eastside residential, north end
17 residential, and the North Main Street residential character areas, a maximum of 10.0 units per
18 acre for aboveground density is allowed. Projects of such types which contain 10.01 units per
19 acre, or more, of aboveground density shall be deemed to have failed this policy for failing to
20 meet a priority policy.

21 3. For the purposes of this chapter, "aboveground density" shall mean that portion of
22 the density of a structure that is above finished grade. If a structure has a foundation wall that is
23 exposed more than two feet (2') above finished grade, a portion of the allowable above grade
24 density for such structure shall be assessed to the floor which is partially below grade in
25 accordance with priority policy 80B of the "Handbook of Design Standards" adopted by section
26 9-5-3 of this title.

27 Within the Historic District a one thousand six hundred (1,600) square foot multiplier is
28 used to calculate the allowed aboveground density for any use. For example, a typical fifty foot
29 by one hundred twenty five foot (50' x 125') aboveground density for any use (0.143 acre x
30 1,600 x 9 UPA).

1 If a single-family or duplex structure located within the Historic District contains a historic
 2 garage, barn or shed that does not qualify as dwelling area, the measurement of the density
 3 shall be excluded. All non-historic garage, barn and shed square footage shall count as density;
 4 provided, however, that where residences within the historic district either propose or have an
 5 existing garage and/or shed with no livable (finished) space, up to 500 sq. ft. of that area may
 6 be exempted from the density calculations.

7 I. Maximum Above Ground Density Outside of the Historic District:

8 1. For any development permit application submitted on or after November 11,
 9 2009, the maximum aboveground square footage of a single-family or duplex structure located
 10 on a lot, tract or parcel without a platted building or disturbance envelope shall be the lesser of:

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>	
<u>Breckenridge South</u>	<u>1:5.00</u>	<u>Or</u>	<u>6,000</u>
<u>Brooks Hill</u>	<u>1:5.00</u>	<u>Or</u>	<u>7,000</u>
<u>Christie Heights</u>	<u>1:3.50</u>	<u>Or</u>	<u>6,500</u>
<u>Gold Flake</u>	<u>1:4.50</u>	<u>Or</u>	<u>9,000</u>
<u>Gold King</u>	<u>1:8.50</u>	<u>Or</u>	<u>7,000</u>
<u>Highlands, filing 1</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>
<u>Highlands, filing 2</u>	<u>1:8.50</u>	<u>Or</u>	<u>9,000</u>

<u>Subdivision Or Geographic Area</u>	<u>Floor Area Ratio (FAR)</u>	<u>Maximum Aboveground Square Footage</u>
<u>Highlands, filing 3</u>	<u>1:8.50</u>	<u>Or</u> <u>9,000</u>
<u>Highlands, filing 4</u>	<u>1:8.50</u>	<u>Or</u> <u>9,000</u>
<u>Peaks</u>	<u>1:1.75</u>	<u>Or</u> <u>6,500</u>
<u>Penn Lode</u>	<u>1:3.00</u>	<u>Or</u> <u>6,000</u>
<u>Sunbeam Estates</u>	<u>1:3</u>	<u>Or</u> <u>7,000</u>
<u>Sunrise Point</u>	<u>1:2.00</u>	<u>Or</u> <u>6,500</u>
<u>Trafalgar</u>	<u>1:2.00</u>	<u>Or</u> <u>7,500</u>
<u>Tyra</u>	<u>1:2.00</u>	<u>Or</u> <u>6,000</u>
<u>Warrior's Mark</u>	<u>1:2.00</u>	<u>Or</u> <u>4,000</u>
<u>Warrior's Mark West</u>	<u>1:2.00</u>	<u>Or</u> <u>4,500</u>
<u>Weisshorn</u>	<u>1:4.00</u>	<u>Or</u> <u>8,000</u>
<u>Yingling & Mickles</u>	<u>1:1.30</u>	<u>Or</u> <u>5,600</u>

- 1 Real property that has a platted building or disturbance envelope, or with a density or mass
- 2 determined by an active master plan or planned unit development or is within the Conservation
- 3 District, is not subject to this policy.

1 The floor area ratio and maximum aboveground square footage of any lot, tract or parcel of land
2 without a platted building or disturbance envelope located outside of the Conservation District
3 that is not listed in the table above shall be determined by the Director. In making such
4 determination, the Director shall consider the applicable floor area ratio and maximum
5 aboveground square footage of adjacent subdivisions or geographic areas, and shall establish
6 the applicable floor area ratio and maximum aboveground square footage so that it will be
7 compatible with the character of the area in which the lot, tract or parcel of land is located.

8 2. Damage Or Destruction: If a single-family or duplex structure that was lawfully
9 constructed before the date described in subsection I.1 of this section is damaged or destroyed
10 by fire or other calamity it shall be able to be rebuilt to the same size that existed immediately
11 prior to the fire or other calamity. However, except as provided in the preceding sentence, the
12 provisions of section 9-1-12 of this chapter shall apply to the repair or reconstruction of such
13 single-family or duplex structure.

14 3. Additional Square Footage: For any development permit submitted for a single-
15 family or duplex structure after November 11, 2009, where the applicant has not already taken
16 advantage of the below additional square footage described in subsections a. and b. below on
17 an existing structure, the below allowances shall apply:

18 a. An additional five hundred (500) square feet of aboveground square footage is
19 permitted for a single- family or duplex structure if such square footage is not allowed by
20 subsection I.1 of this section; and,

21 b. An interior addition is permitted without violating this policy if the addition does not
22 result in any change to the exterior of the single-family or duplex structure.

23 4. Alternative Allocation Of Additional Square Footage: For any duplex structure
24 that is subject to the provisions of subsection 3 (a) of this section. If each duplex unit has the
25 same aboveground square footage, each duplex unit shall be allocated an additional two
26 hundred fifty (250) square feet of allowed aboveground square footage. If either of the duplex
27 units has a greater amount of aboveground square footage than the other duplex unit, the
28 smaller duplex unit shall receive so much of the additional aboveground square footage as is
29 required to make it equal to the aboveground square footage of the larger duplex unit, and the
30 remaining additional aboveground square footage shall be divided equally between the two (2)
31 duplex units. If both duplex owners agree to an alternative allocation of the duplex's additional
32 five hundred (500) square feet of allowed aboveground square footage, the town may approve

1 such alternative allocation if both owners submit an agreement in a form acceptable to the town
2 attorney prior to the submission of any application for a development permit that involves the
3 use of any of the duplex's additional five hundred (500) square feet of aboveground square
4 footage. The duplex owners' agreement for an alternative allocation of the additional
5 aboveground square footage must be recorded in the real property records of the Clerk and
6 Recorder of Summit County prior to the issuance of a development permit for the use of such
7 additional square footage, and must run with the land and be binding upon all subsequent
8 owners of the two (2) duplex units.

9 5. Density Allowance For On Site Renewable Energy Mechanical System In Multifamily
10 And Commercial Uses: The goal of this subsection is to encourage renewable energy
11 production in existing multifamily and commercial structures. This subsection is not applicable to
12 new construction. This subsection seeks to improve energy efficiency by permitting existing
13 nonconforming structures to install appropriate on site renewable energy mechanical systems to
14 help protect the health, safety, and welfare of the community.

15 A. Additional Square Footage: Any existing multifamily residential or commercial
16 structure constructed pursuant to a development permit issued prior to May 8, 2012, may be
17 permitted additional aboveground density square footage for the installation of a renewable
18 energy mechanical system, even if the structure already exceeds applicable density limitations.
19 The additional square footage shall be the lesser of the following:

20 i. The space necessary for an efficiently designed mechanical room; or

21 ii. Three hundred fifty (350) square feet, or two percent (2%) of the existing density
22 square footage, whichever is less.

23 B. Design Standards:

24 i. An on site renewable energy mechanical system shall be located based upon the
25 following order of preference. Preference 1 is the highest and most preferred; preference 4 is
26 the lowest and least preferred. An on site renewable energy mechanical system shall be located
27 as follows: 1) within the existing building footprint; 2) out of view from the public right-of-way and
28 adjacent properties and screened; 3) partly visible from the public right-of-way or adjacent
29 property and screened; and 4) highly visible from the public right- of-way or adjacent properties.
30 An application for a system to be located in a least preferred location must adequately
31 demonstrate why the system cannot be located in a more preferred location.

1 ii. Any structural modifications or additions made for a renewable energy mechanical
2 system shall meet the intent of policy 5 (absolute) architectural compatibility and policy 5
3 (relative) architectural compatibility, in addition to all other applicable policies of this code.

4 **Section 4.** That section 9-1-19-4A: POLICY 4 (ABSOLUTE) MASS is hereby
5 repealed.

6 **Section 5.** That section 9-1-19-4R: POLICY 4 (RELATIVE) MASS is hereby
7 repealed.

8 **Section 6.** That subsection A of section 9-1-19-24A: POLICY 24 (ABSOLUTE) THE
9 SOCIAL COMMUNITY is hereby stricken and that section 9-1-19-24A is renumbered
10 accordingly.

11 **Section 7.** That subsection D of section 9-1-19-24R entitled “POLICY 24
12 (RELATIVE) SOCIAL COMMUNITY” is hereby repealed and replaced with the following
13 language underlined to read as follows:

14 D. Meeting and Conference Rooms, and Amenity Space: The provision of legally
15 guaranteed meeting and conference facilities in condominium/hotels, hotels, lodges, and inns,
16 over and above the ratio of one square foot of meeting area for every thirty five (35) square feet
17 of gross dwelling area is strongly encouraged. The conversion of space that had previously
18 received positive points as meeting and conference facilities or recreational and leisure
19 amenities is strongly discouraged.

20 The square footage of any portion of previously approved Recreation and Leisure
21 Amenity space that is proposed to be converted into an Amenity Club shall be treated as
22 commercial density.

23 **Section 8.** That section 9-1-19-51A entitled “POLICY 51 (ABSOLUTE)
24 ACCESSORY DWELLING UNIT” be amended by adding the language underlined to read as
25 follows:

26 An accessory dwelling unit shall meet each of the following criteria:

27 A. Be no greater in size than the lesser of:

28 1. One-third (1/3) of the total density of the primary unit; or

29 2. One thousand two hundred (1,200) square feet;

1 B. Conform with sections 9-1-19-3A, Policy 3 (absolute) density/intensity, and ~~9-1-19-4A, Policy~~
2 ~~4 (absolute) mass,~~ of this chapter;

3 **Section 9.** This ordinance shall be published and become effective as provided by
4 Section 5.9 of the Breckenridge Town Charter.

5 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
6 PUBLISHED IN FULL this 28th day of February, 2023. A Public Hearing shall be held at the
7 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
8 ____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
9 Town.

10

11 TOWN OF BRECKENRIDGE, a Colorado

12 municipal corporation

13

14

15

16 By: _____

17 Eric S. Mamula, Mayor

18

19 ATTEST:

20

21

22

23 _____

24 Helen Cospolich, CMC,

25 Town Clerk

26

27



Memo

To: Town Council
From: Stefi Szrek, AICP, Planner II
Date: February 20, 2023 (for meeting of February 28, 2023)
Subject: First Reading: Policy 9-1-12 Amendments- Non-Conformities Updates

On November 11, 2022, the Town Council adopted code amendments that removed Policy 4, which addressed Mass and Mass Bonuses, and cleaned up other sections of code which addressed mass requirements. Now all interior square footage counts towards density and is regulated by Policy 3.

During the code amendment process, the Council requested amendments related to non-conforming properties. Based on this direction, staff is presenting the following amendments for consideration:

- Clarify the language for non-conformities, both in the Density section (Policy 3), as well as in the non-conformities section, (section 9-1-12). These code changes would strengthen the language and allow non-conforming properties damaged by fire or other calamity to be rebuilt to their existing densities and sizes by using the term *shall* instead of *may* rebuild.

Staff will be available at the meeting to answer any questions.

4
5 **A BILL FOR AN ORDINANCE AMENDING THE MUNICIPAL CODE RELATING**
6 **TO NONCONFORMING STRUCTURES.**

7
8 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
9 BRECKENRIDGE, COLORADO:

10
11 **Section 1.** That section 9-1-12 of the code is hereby amended to add the language
12 underlined and delete the language stricken to read as follows:

13
14 9-1-12: NONCONFORMING STRUCTURE:

15 A. The town council finds and determines that nonconforming structures are disfavored
16 because they reduce the effectiveness of land use regulations and depress property values.
17 The purpose of this section is to require that nonconforming structures be made conforming with
18 the absolute policies of this chapter as rapidly as possible. Accordingly, it is the intent of this
19 section to allow for the continuation of nonconforming structures only so long as they meet the
20 requirements of this section. To that end, this section shall be interpreted and construed to
21 restrict, rather than increase, nonconforming structures. Additionally, the provisions of this
22 section that allow for the continuation of nonconforming structures shall be strictly construed,
23 and the provisions of this section that restrict nonconforming structures shall be liberally
24 construed.

25 B. If a nonconforming structure is discontinued from active and continuous use for a period of
26 six (6) months, the structure shall not be occupied or used again until it has been brought into
27 compliance with the absolute policies of this chapter.

28 C. A nonconforming structure which is once brought into compliance with the absolute policies
29 of this chapter shall not be changed back to a nonconforming state.

30 D. A nonconforming structure which is damaged by fire or other calamity ~~to the extent of fifty~~
31 ~~percent (50%) or less of its replacement value at the time of the damage may~~ shall be repaired
32 or reconstructed to the same degree or area of nonconformity as existed immediately prior to
33 the occurrence of such damage.

34 Exceptions:

1 1. Neither the density nor the mass of the nonconforming structure shall be increased in
2 connection with the repair or reconstruction of the structure.

3 2. The nonconforming structure shall be brought into conformance with the absolute
4 policies of this chapter to the extent possible. Any absolute policy with which the structure
5 was not in compliance immediately prior to the structure being damaged shall not be
6 deemed to be applicable to an application for a development permit to repair or reconstruct
7 the nonconforming structure.

8 3. A development permit authorizing the repair or reconstruction of the nonconforming
9 structure shall be obtained in accordance with the requirements of this chapter. All
10 applicable absolute and relative policies of this chapter shall apply to any such development
11 permit application.

12 ~~E. A nonconforming structure which is damaged by fire or other calamity to the extent of more~~
13 ~~than fifty percent (50%) of its replacement cost at the time of the damage may not be repaired~~
14 ~~or reconstructed in a manner which does not fully comply with the requirements of this chapter,~~
15 ~~except pursuant to a development permit obtained in accordance with the special requirements~~
16 ~~of this subsection. Such development permit shall be subject to the following special~~
17 ~~requirements:~~

18 ~~1. A development permit shall not be issued pursuant to this subsection E if the damage to~~
19 ~~the nonconforming structure was caused by the intentional act or criminal conduct of the~~
20 ~~owner of the nonconforming structure, or the owner's agent or representative.~~

21 ~~2. Before granting an application for a development permit to repair or reconstruct a~~
22 ~~damaged nonconforming structure, the planning commission shall find and determine that:~~

23 ~~a. The repair or reconstruction of the damaged nonconforming structure as proposed~~
24 ~~by the applicant will not result in a greater degree of nonconformity than existed~~
25 ~~immediately prior to the structure being damaged;~~

26 ~~b. The repair or reconstruction of the damaged nonconforming structure as proposed~~
27 ~~by the applicant will be compatible and consistent with the existing development~~
28 ~~character in the immediate vicinity of the damaged structure; and~~

29 ~~c. The application complies with those absolute and relative policies deemed to be~~
30 ~~applicable to such application by the planning commission.~~

1 ~~3.— In recognition of the fact that compliance with all of the then current requirements of this~~
2 ~~chapter would result in a hardship or burden to the owner of the damaged nonconforming~~
3 ~~structure, the planning commission shall identify those absolute and relative policies of this~~
4 ~~chapter which shall apply to its review of an application to repair or reconstruct the~~
5 ~~structure. In making such determination, the planning commission shall be guided by the~~
6 ~~principles that: a) the repair or reconstruction of a damaged nonconforming structure shall~~
7 ~~not result in a greater degree of nonconformity than existed immediately prior to the~~
8 ~~structure being damaged, and b) a damaged nonconforming structure should be brought~~
9 ~~into compliance with the then current requirements of this chapter to the extent possible.~~
10 ~~Only those absolute and relative policies of this chapter which are deemed applicable by~~
11 ~~the planning commission shall be used in preparing the point analysis for an application for~~
12 ~~a development permit to repair or reconstruct a damaged nonconforming structure.~~

13 41. A building permit for the repair or reconstruction of a damaged nonconforming
14 structure shall be obtained from the building official. The repair or reconstruction of a
15 damaged nonconforming structure shall be done in accordance with the requirements of the
16 then current town building codes as adopted by title 8, chapter 1 of this code.

17 A development permit to repair or reconstruct a damaged nonconforming structure shall be
18 classified according to the normal development permit classification requirements of this
19 chapter, or as a class B development permit application, whichever classification is higher.

20 ~~Except where inconsistent with the provisions of this subsection E, a~~An application for a
21 development permit to repair or reconstruct a damaged nonconforming structure shall be
22 processed in accordance with the applicable requirements for a development permit
23 application of such classification as provided in this chapter. To the extent the provisions of
24 this subsection E are inconsistent with such requirements, the provisions of this subsection
25 E shall control.

26 ~~FE.~~ No nonconforming structure shall be structurally altered or expanded in any way that
27 would increase the degree or area of nonconformance.

28 ~~GE.~~ Any addition to or alteration of a nonconforming structure shall be done only pursuant to a
29 development permit obtained in accordance with the requirements of this chapter. All applicable
30 absolute and relative policies of this chapter shall apply to any such development permit
31 application. Exception: An existing nonconforming structure shall not be required to be brought

1 into compliance with the absolute policies of this chapter in connection with an addition to or
2 alteration of such structure.

3 HG. A building or structure which is erected or altered without a development permit from the
4 town, or in a manner which does not comply with a development permit issued by the town,
5 shall not be considered to be a nonconforming structure under this section.

6 **Section 2.** The Town Council hereby finds, determines and declares that this ordinance
7 is necessary and proper to provide for the safety, preserve the health, promote the prosperity,
8 and improve the order, comfort and convenience of the Town of Breckenridge and the
9 inhabitants thereof.

10 **Section 3.** This ordinance shall be published and become effective as provided by
11 Section 5.9 of the Breckenridge Town Charter.

12

13 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
14 PUBLISHED IN FULL this 28th day of February, 2023. A Public Hearing shall be held at the
15 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
16 ____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
17 Town.

18

19 TOWN OF BRECKENRIDGE, a Colorado
20 municipal corporation

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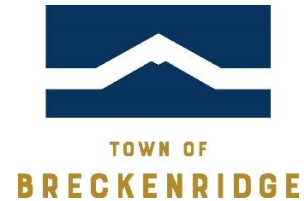
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By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk



Memo

To: Town Council
From: Chris Kulick, AICP, Planning Manager
Date: 2/21/2023, for the meeting of February 28, 2023
Subject: First Reading of a Proposed Development Agreement Between the Town of Breckenridge and Breckenridge Grand Vacations (Gondola Lot Properties LLC) for the Extended Vesting of the Gondola Lots Master Plan

Mike Dudick, CEO of Breckenridge Grand Vacations, has applied for a Development Agreement to extend the vesting of the Gondola Lots Master Plan by six (6) months to May 23, 2025. The current expiration of the vesting of the Master Plan is November 23, 2024. The Council last reviewed this Development Agreement request at the February 14, 2023, Work Session and was in general support of the proposal. Based on the Council work session discussion, staff has prepared the attached Development Agreement and Bill for the Council's review.

Proposal

The following items are requested of the Town by the applicant:

Extend the vesting of the current Gondola Lots Master Plan by six (6) months to May 23, 2025, with the option at the discretion of the Town Council, that by affirmative vote of a majority of Council members at a regularly scheduled Town Council meeting, the Town Council may extend the Master Plan's vesting an additional six (6) months to November 21, 2025 provided the extension is granted prior to this agreement's expiration on May 23, 2025.

Development Code Section 9-9-4 regarding Development Agreements encourages applicants to provide public benefits as part of a Development Agreement proposal. The following items are proposed by the applicant as public benefits:

Provide a \$100,000 capital contribution toward either a new in-town childcare center or an addition to an existing in-town childcare center prior to the Extension going into effect. If the Master Plan's vesting is extended an additional six (6) months to November 21, 2025 by affirmative Town Council vote, an additional \$100,000 capital contribution toward either a new in-town childcare center or an addition to an existing in-town childcare center would be required for a total of \$200,000.

Council Action

Approval of a Development Agreement is entirely at the discretion of the Town Council. Staff finds the proposal is consistent with the Council's direction at the February 14, 2023 Work Session and recommends the Council approve the Development Agreement on First Reading. Staff will be available at the Work Session to answer any questions the Council may have.

A BILL FOR AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH GONDOLA LOT PROPERTIES LLC.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Town Council of the Town of Breckenridge finds and determines as follows:

A. That Gondola Lot Properties, LLC owns the following described real property in the Town of Breckenridge that is controlled by the Breckenridge Grand Vacations Gondola Lot Master Plan (PL-2021-0052) (“Master Plan”):

- Lot 1, Block 3, Parkway Center
- Lot 1A, Block 4, Parkway Center
- Lot 1B, Block 4, Parkway Center (“Property”).

B. A proposed development agreement between the Town and the Developer has been prepared, a copy of which is marked Exhibit “A”, attached hereto and incorporated herein by reference (“Development Agreement”).

C. The Town has received a completed application for a Class A Development Permit and all required submittals for a development agreement and Town Council had a preliminary discussion of such application.

D. The approval of the proposed Development Agreement is warranted in light of all relevant circumstances.

E. The procedures to be used to review and approve a development agreement are provided in chapter 9 of title 9 of the municipal code. The requirements of such chapter have substantially been met or waived in connection with the approval of the proposed Development Agreement and the adoption of this ordinance.

Section 2. The Development Agreement between the Town and the Developer is approved, and the Town Manager is authorized, empowered, and directed to execute such agreement for and on behalf of the Town of Breckenridge.

1 **Section 3.** The Development Agreement shall contain a notice in the form provided in
2 section 9-9-13 of the code. In addition, a notice in compliance with the requirements of section
3 9-9-13 of the code shall be published by the town clerk one time in a newspaper of general
4 circulation in the town within fourteen days after the adoption of this ordinance. Such notice
5 shall satisfy the requirement of section 24-68-103, C.R.S.

6 **Section 4.** The Town Council finds, determines, and declares that this ordinance is
7 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
8 improve the order, comfort, and convenience of the Town of Breckenridge and the inhabitants
9 thereof.

10 **Section 5.** The Town Council finds, determines, and declares that it has the power to
11 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
12 of the Colorado Constitution and the powers contained in the municipal charter.

13 **Section 6.** This ordinance shall be published and become effective as provided by
14 Section 5.9 of the Breckenridge Town Charter.

15 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
16 PUBLISHED IN FULL this ____ day of _____, 2023. A Public Hearing shall be held at the
17 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
18 _____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
19 Town.

20
21 TOWN OF BRECKENRIDGE, a Colorado
22 municipal corporation
23

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

29 ATTEST:
30

31
32 _____
33 Helen Cospolich, CMC,
34 Town Clerk
35
36

1
2 APPROVAL OF THIS DEVELOPMENT AGREEMENT CONSTITUTES A VESTED
3 PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED
4 STATUTES, AS AMENDED
5

6
7 DEVELOPMENT AGREEMENT
8

9 This Development Agreement (“**Agreement**”) is made as of the ____ day of
10 _____, 2023 (“**Effective Date**”) between the TOWN OF BRECKENRIDGE, a
11 Colorado municipal corporation (the “**Town**”) and GONDOLA LOT PROPERTIES LLC, a
12 Colorado limited liability company, (the “**Developer**”). The Town and the Developer are
13 sometimes collectively referred to in this Agreement as the “**Parties**,” and individually by name
14 or as a “**Party**.”
15

16 Recitals
17

18 A. The Developer owns the following described real property in the Town of
19 Breckenridge, Summit County, Colorado that is controlled by the Breckenridge Grand Vacations
20 Gondola Lot Master Plan (PL-2021-0052) (“**Master Plan**”):
21

22 Lot 1, Block 3, Parkway Center
23 Lot 1A, Block 4, Parkway Center
24 Lot 1B, Block 4, Parkway Center (“**Property**”).
25

26
27 B. In accordance with Subsection (H)(1) of Section 9-1-19-39A, “Policy 39 (Absolute)
28 Master Plan” of the Breckenridge Town Code a development permit for an approved master plan
29 is vested for three (3) years.
30

31 C. The approved vesting of the Master Plan expires three (3) years from the approval,
32 November 21, 2024.
33

34 D. The Developer proposes to extend the vesting of the Master Plan by six (6) months to
35 May 23, 2025. The extended vesting period is referred to in this Agreement as the “**Extension**.”
36

37 E. A development agreement is necessary in order to authorize the Extension.
38

39 F. Pursuant to Chapter 9 of Title 9 the Breckenridge Town Code the Town Council has
40 the authority to enter into a development agreement.
41

1 G. The commitments proposed by the Developer in connection with this Agreement are
2 set forth hereafter and are found and determined by the Town Council to be adequate.
3

4 H. The Town Council has received a completed application and all required submittals
5 for a development agreement; had a preliminary discussion of such application and submittals;
6 determined that it should commence proceedings for the approval of this Agreement; and, in
7 accordance with the procedures set forth in Section 9-9-10(C) of the Breckenridge Town Code,
8 has approved this Agreement by non-emergency ordinance.
9

10 Agreement
11

12 1. Subject to the provisions of this Agreement, the Master Plan, is hereby extended until
13 May 23, 2025, with the option of the Town Council, by affirmative vote of a majority of Council
14 members at a regularly scheduled Town Council meeting, to extend the Master Plan's vesting an
15 additional six (6) months to November 21, 2025 provided the extension is granted prior to this
16 agreement's expiration on May 25, 2025.
17

18 2. As the commitments encouraged to be made in connection with a development
19 agreement pursuant to Section 9-9-4 of the Breckenridge Town Code, the Developer shall do the
20 following: agree to make a \$100,000 capital contribution toward either a new in-town childcare
21 center or an addition to an existing in-town childcare center prior to the Extension going into
22 effect.
23

24 3. The term of this Agreement shall commence on the Effective Date and shall end,
25 subject to earlier termination in the event of a breach of this Agreement, on May 23, 2024 unless
26 extended an additional six (6) months in accordance with section 1 above to November 21, 2025,
27 upon which approval will require an additional \$100,000 for the purpose of Section 2 above
28

29 4. Nothing in this Agreement shall preclude or otherwise limit the lawful authority of
30 the Town to adopt or amend any Town law, including, but not limited to the Town's: (i)
31 Development Code, (ii) Comprehensive Plan, (iii) Land Use Guidelines, and (iv) Subdivision
32 Standards.
33

34 5. This Agreement shall be exclusive to the Developer and does not run with the title to
35 the Property to successors and assigns.
36

37 6. Prior to any action against the Town for breach of this Agreement, the Developer
38 shall give the Town a sixty (60) day written notice of any claim of a breach or default by the
39 Town, and the Town shall have the opportunity to cure such alleged default within such time
40 period.
41

1 7. The Town shall not be responsible for, and the Developer shall not have any remedy
2 against the Town, if the Project is prevented or delayed for reasons beyond the control of the
3 Town.
4

5 8. No official or employee of the Town shall be personally responsible for any actual or
6 alleged breach of this Agreement by the Town.
7

8 9. The Developer agrees to indemnify and hold the Town, its officers, employees,
9 insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on
10 account of injury, loss, or damage, including without limitation claims arising from bodily
11 injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any
12 kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such
13 injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in
14 part by, the negligence or intentional act or omission of the Developer; any subcontractor of the
15 Developer, or any officer, employee, representative, or agent of the Developer or of any
16 subcontractor of the Developer, or which arise out of any worker's compensation claim of any
17 employee of the Developer, or of any employee of any subcontractor of the Developer; except to
18 the extent such liability, claim or demand arises through the negligence or intentional act or
19 omission of the Town, its officers, employees, or agents. The Developer agrees to investigate,
20 handle, respond to, and provide defense for and defend against, any such liability, claims, or
21 demands at the sole expense of the Developer. The Developer also agrees to bear all other costs
22 and expenses related thereto, including court costs and attorney's fees.
23

24 10. If any provision of this Agreement shall be invalid, illegal, or unenforceable, it shall
25 not affect or impair the validity, legality, or enforceability of the remaining provisions of the
26 Agreement.
27

28 11. This Agreement constitutes a vested property right pursuant to Article 68 of Title 24,
29 Colorado Revised Statutes, as amended.
30

31 12. No waiver of any provision of this Agreement shall be deemed or constitute a waiver
32 of any other provision, nor shall it be deemed to constitute a continuing waiver, unless expressly
33 provided for by a written amendment to this Agreement signed by the Parties; nor shall the
34 waiver of any default under this Agreement be deemed a waiver of any subsequent default or
35 defaults of the same type.
36

37 13. Nothing contained in this Agreement shall constitute a waiver of the Town's
38 sovereign immunity under any applicable state or federal law.
39

40 14. Personal jurisdiction and venue for any civil action commenced by any Party to this
41 Agreement shall be deemed to be proper only if such action is commenced in District Court of
42 Summit County, Colorado. The Developer expressly waives any right to bring such action in or
43 to remove such action to any other court, whether state or federal. **The Parties hereby mutually**

1 agree to waive any right to a jury trial in connection with any action to enforce, interpret or
2 construe this agreement.

3
4 15. Any notice required or permitted hereunder shall be in writing and shall be sufficient
5 if personally delivered or mailed by certified mail, return receipt requested, addressed as follows:

6
7 If to the Town: Rick G. Holman, Town Manager
8 Town of Breckenridge
9 P.O. Box 168
10 Breckenridge, CO 80424

11
12 With a copy (which
13 shall not constitute
14 notice to the Town) to: Kirsten Crawford, Esq.
15 Town Attorney
16 P.O. Box 168
17 Breckenridge, CO 80424

18
19 If to the Church: Mike Dudick
20 Gondola Lot Properties LLC
21 P.O. Box 6879
22 Breckenridge, CO 80424

23
24 Notices mailed in accordance with the provisions of this Section 15 shall be deemed to have been
25 given upon delivery. Notices personally delivered shall be deemed to have been given upon
26 delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the
27 Colorado Rules of Civil Procedure for service of civil process.

28
29 16. This Agreement shall be interpreted in accordance with the laws of the State of
30 Colorado without regard to principles of conflicts of laws.

31
32 17. This Agreement constitutes the entire agreement and understanding between the
33 Parties relating to the subject matter of this Agreement and supersedes any prior agreement or
34 understanding relating to such subject matter.

35
36 TOWN OF BRECKENRIDGE, a Colorado
37 municipal corporation

38
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40
41 By: _____
42 Rick G. Holman, Town Manager
43
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GONDOLA LOT PROPERTIES LLC,
A COLORADO LIMITED LIABILITY
COMPANY

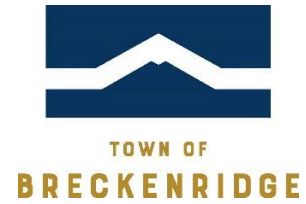
BY: _____

NAME: _____

TITLE:

ATTEST:

Helen Cospolich, CMC, Town
Clerk



To: Mayor Mamula and Town Council Members
From: Kirsten J. Crawford, Town Attorney
Date: February 28, 2023
Subject: A Bill for An Ordinance Adopting Authority and Use of Valley Brook Cemetery.

Staff recommends that Town Council adopt the attached ordinance authorizing powers pertaining to the Valley Brook Cemetery.

In the process of revising the administrative rules and regulations pertaining to the Cemetery, it came to light that there was a draft ordinance from 2005 that was never adopted. This proposed ordinance addresses some of the issues governing administration of the purchase of Cemetery burial sites and division of responsibility for maintenance of the Cemetery and the individual burial sites.

Following adoption of this ordinance, staff will public the revised administrative rules and regulations for the Cemetery which detail more specifics of the Cemetery use and operation.

A BILL FOR AN ORDINANCE ESTABLISHING THE AUTHORITY AND USE OF THE VALLEY BROOK CEMETERY.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. That a new chapter 11, entitled "VALLEY BROOK CEMETERY" be added to title 11 setting forth the public use of the cemetery:

CHAPTER 11: VALLEY BROOK CEMETERY

11-11-1: DEFINITIONS:

BURIAL SPACE: means a lot or portion thereof in any cemetery designed and intended for the interment of a human body but not used for such purpose.

CEMETERY: means any cemetery owned, managed, or controlled by any municipality in this state.

PURCHASER: means any person possessing a license or right of interment in any burial space

11-11-2: CEMETERY ESTABLISHED:

Pursuant to the provisions of section 31-25-702, C.R.S., the Valley Brook Cemetery ,

A 13.33 acre parcel of land located in Summit County, Colorado, being part of the Masonic Placer, U.S.M.S. 9616, as described in that deed from William McAdoo to the Town of Breckenridge recorded January 20, 1896 in Book 74 at Page 422 of the records of the Clerk and Recorder of Summit County, Colorado; commonly known and described as the "Valley Brook Cemetery," 905 Airport Road, Breckenridge, Colorado 80424

is hereby established as a municipal burial facility for the interment of cremated human remains.

11-11-3: PURCHASE OF BURIAL SPACE:

The town manager, or a designee thereof, is authorized to sign purchase agreements for the sale of interment sites for cremated human remains at any cemetery in the Town. The purchase agreement will provide for the conveyance of a privilege to use a specific burial space described on the cemetery plat.

11-11-4: PURCHASER PRICES AND FEES; MAINTENANCE REQUIREMENTS:

A. The price of burial spaces and any fees for use shall be established by administrative rules and regulations.

1 B. The department of public works shall maintain town improvements and has the authority
2 to close the cemetery during winter months. A purchaser of a burial site shall be solely
3 responsible for maintaining and/or improving burial spaces.
4

5 11-11-5: ABANDONMENT OF BURIAL SPACE:

6 A. The right of interment in any unoccupied burial space in the cemetery shall, upon
7 abandonment, revert to the Town, as provided below.

8 B. Failure to inter in any burial space within fifty (50) years from the date of purchase shall
9 create a presumption that the same has been abandoned. This presumption shall not apply if a
10 written statement has been filed with the town clerk by the owner or the owner's heirs or assigns
11 evidencing an intent to retain the specified burial spaces.

12 C. A presumed abandonment shall be deemed complete if:

13 1. The owner has been notified of the presumed abandonment in writing, mailed to the owner's
14 last known address, by the town clerk, or in the event that the address of the owner and/or the
15 owner's heirs cannot be ascertained, notice of such abandonment has been given by publishing
16 the same in a local newspaper once a week for five (5) consecutive weeks;

17 and

18 2. Neither the owner nor the owner's heirs or assigns have contacted the town clerk within sixty
19 (60) days after the date the notice of abandonment was mailed or after final publication of such
20 notice, whichever is applicable.

21 D. Upon abandonment, the Town may thereafter sell, transfer and convey the right to interment
22 therein, free and clear of any right, title or interest of the former owner.
23

24 11-11-6: CEMETERY RULES AND REGULATIONS: Rules and regulations of the use and
25 operation of the cemetery are set forth in the Valley Brook Cemetery rules and regulations
26 adopted, amended, altered from time to time by public works and/or the town clerk as the case
27 may be.

28 **Section 2.** The Town Council hereby finds, determines and declares that this ordinance
29 is necessary and proper to provide for the safety, preserve the health, promote the prosperity,
30 and improve the order, comfort and convenience of the Town of Breckenridge and the
31 inhabitants thereof.

32 **Section 3.** This ordinance shall be published and become effective as provided by
33 Section 5.9 of the Breckenridge Town Charter.
34

1 INTRODUCTION, READ ON FIRST READING, APPROVED AND ORDERED
2 PUBLISHED IN FULL this 28TH day of _____, 2023. A Public Hearing shall be held at the
3 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
4 _____, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
5 Town.

6
7 TOWN OF BRECKENRIDGE, a Colorado
8 municipal corporation
9

10
11
12 By: _____
13 Eric S. Mamula, Mayor
14

15 ATTEST:

16
17
18
19 _____
20 Helen Cospolich, CMC,
21 Town Clerk
22



Memo

To: Breckenridge Town Council
 From: Dave Byrd, Director of Finance
 Date: 2.21.23
 Subject: 2023 Supplemental Appropriations

Background

The Town Council approves a budget each year. From time to time, it is necessary to make changes to the budget as circumstances necessitate. These changes must be adopted by Council resolution. Below is a list of those changes and attached are the official resolution submitted for approval.

Supplemental Appropriations to the 2023 Budget

Below is a list of changes to the 2023 budget. These changes occurred after the final 2023 budget approval in November 2022. In addition, there are appropriations being requested from projects which did not complete in 2022 and will rollover into 2023 based on year end close reconciliations.

Fund #	Fund Name	Revenue	Expense	Notes
1	General		\$988,241	Salaries/Taxes – December pay increase: \$659,688 Workers comp., Liability insurance true-up: \$(100,454) Town Hall Upgrades: Council chairs: \$48,000; access control: \$84,000 Grants: FIRC \$100,000, Nicotine \$104,662 Transfer/allocation true-up \$92,345
2	Utility	\$(549,193)	\$(1,845,555)	Revenue – Tarn Dam project true-up from 2022 Salaries/Taxes – December pay increase: \$101,094 Workers Comp; Liability Insurance true-up: \$3,331 Tarn Dam expense: \$739,307 Reclass principal payment for Water Treatment Plan Loan to restriction: \$(2,689,287)
2	Utility Restriction		\$2,689,287	Reclass principal payment for Water Treatment Plan Loan to restriction: \$2,689,287
3	Capital	\$(4,554,488)	\$5,549,012	Revenue: Block 11 True-Up: \$1,065,809 Revenue: Sustainability Fund reclass: \$1,609,030 Revenue: Parking & Transportation: \$(156,572) – 2022 rollover reconciliation Revenue: Excise Fund Transfer \$(7,073,155) – 2022 close – favorable 2022 ending bund balance \$10,041,554 offset by 2022 projects rollover. Expense: Block 11 True-Up: \$2,000,000 Expense: Rec Center Swimming Pool: \$500,000 Expense: 2022 projects rollover: \$3,049,012
5	Golf		\$264,594	Salaries/Taxes – December pay increase: \$24,172 Workers comp., Liability Insurance true-up: \$4,922 Irrigation project 2022 rollover: \$235,500
6	Excise Fund	\$3,015,000	\$(2,033,079)	Revenue: Investment interest: Colorado Trust, Chandler, FirstBank Affordable Housing Loan: \$1,424,892 Sustainability Fund: \$2,468,921 BHA Projects and 2022 Rollover: \$1,146,263 Reduced Capital Fund Transfer based on 2022 close: \$(7,073,155)
7	Affordable Housing			Revenue: 2021 Alta Verde loan reclass to restriction: \$(600,000) Revenue: Alta Verde II DOLA grant: \$678,453 Revenue: Summit County Gov't COP Payment: \$352,088

7	Affordable Housing	\$2,025,316	\$1,354,726	Revenue: Employee Housing Loan Assistance Program: \$15,500 Revenue: Summit County Gov't Housing Helps: \$584,775 Revenue: Reduced Accommodation Unit Compliance Fund transfer: \$(430,392) Revenue: Increased Excise Fund Loan: \$1,424,892 Expense: Salaries/Taxes – December pay increase: \$51,678 Expense: Capital Fund transfer – Block 11 true-up: \$1,065,309 Expense: Updated COP payment for Justice Center: \$571,156 Expense: Reduced LOGE water/sewer: \$(333,417)
7	Affordable Housing Restrictions		\$4,011,150	Restriction: Justice Center Debt Service: \$1,143,650 Restriction: Alta Verde Loan: \$650,000 Restriction: Alta Verde II Loan: \$2,000,000 Restriction: Employee Housing Loan Assistance Program: \$217,500
8	Open Space		\$52,226	Salary/Taxes – December pay increase: \$36,842 Workers Comp., Liability Insurance true-up: 1,284 Transfers true-up: \$14,100
10	Garage Fund		\$36,486	Salary/Taxes – December pay increase: \$37,198 Workers Comp., Liability Insurance true-up: \$(712)
11	IT Fund	\$599	\$13,549	Revenue: Allocation true-up Salaries/Taxes – December pay increase: \$13,585 Liability Insurance true-up: \$(36)
12	Facilities Fund	\$178,253	\$3,812	Revenue: Corrected allocation Liability Insurance true-up: \$3,812
13	Special Projects Fund	\$1,146,263	\$1,146,273	Milne projects: Phase I & II - 2022 Rollover
14	Marijuana		\$981	Salaries/Taxes – December pay increase: \$981
15	Cemetery		\$86	Liability Insurance true-up: \$86
16	Child Care		\$6,165	Salaries/Taxes – December pay increase: \$1,321 Liability Insurance true-up: 4,844
17	Parking & Transportation	\$(485,000)	\$(990,114)	Revenue: Sustainability Fund reclass Expense: Sustainability Fund reclass: \$(1,318,748) Expense: Liability Insurance true-up: \$(41,615) Expense: Facilities allocation correction: \$154,524 Expense: Reduced CIP transfer based on 2022 rollover reconciliation: \$(156,572) Expense: Salary/Taxes – December pay increase: \$372,297
4618	Health Care Plan	\$(44,176)		2023 allocation reconciliation
19	Sustainability Fund	\$2,927,921	\$2,927,776	Revenue: Reclass from P&T: \$459,000 Revenue: Excise Fund transfer: \$2,468,921 Expense: Reclass from P&T: \$1,318,748 Expense: Transfer to Capital Fund: \$1,609,030
20	Accommodation Unit Compliance	\$366,392	\$(434,914)	Revenue: 2023 fees paid in January Expense: Reduced transfer to Affordable Housing: Reduced fund balance; renewals
		<u>\$4,026,887</u>	<u>\$13,740,702</u>	

RESOLUTION NO.6

SERIES 2023

A RESOLUTION MAKING SUPPLEMENTAL AND REDUCED APPROPRIATIONS TO THE 2023 TOWN BUDGET

WHEREAS the Town Council of the Town of Breckenridge desires to amend the Town's 2023 budget by making appropriations in the amount of \$7,040,265 in expenditures; \$6,700,437 in restrictions; \$4,026,887 in revenues and,

WHEREAS, pursuant to Section 10.12(a) of the Breckenridge Town Charter, the Finance Department, on behalf of the Town Manager, has certified that there are available for appropriation expenses more than those estimated in the Town's 2023 budget not previously appropriated in an amount sufficient for the proposed supplemental appropriations and

WHEREAS, pursuant to Section 10.12(c) of the Breckenridge Town Charter, the Town Council determines that it is necessary and appropriate to approve certain appropriations previously made in the adopted 2023 budget, all as more fully set forth hereafter; and

WHEREAS a public hearing on the proposed revised appropriations was held on February 28, 2023, in accordance with the requirements of Section 10.12(a) of the Breckenridge Town Charter.

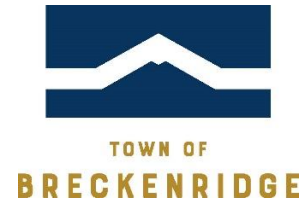
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO that:

Section 1. The 2023 budget is amended, and revised appropriations for the amended 2023 Town budget are made as follows:

Fund #	Fund Name	Revenue	Expense	Notes
1	General		\$988,241	Salaries/Taxes – December pay increase: \$659,688 Workers comp., Liability insurance true-up: \$(100,454) Town Hall Upgrades: Council chairs: \$48,000; access control: \$84,000 Grants: FIRC \$100,000, Nicotine \$104,662 Transfer/allocation true-up \$92,345
2	Utility	\$(549,193)	\$(1,845,555)	Revenue – Tarn Dam project true-up from 2022 Salaries/Taxes – December pay increase: \$101,094 Workers Comp; Liability Insurance true-up: \$3,331 Tarn Dam expense: \$739,307 Reclass principal payment for Water Treatment Plan Loan to restriction: \$(2,689,287)
2	Utility Restriction		\$2,689,287	Reclass principal payment for Water Treatment Plan Loan to restriction: \$2,689,287
3	Capital	\$(4,554,488)	\$5,549,012	Revenue: Block 11 True-Up: \$1,065,809 Revenue: Sustainability Fund reclass: \$1,609,030 Revenue: Parking & Transportation: \$(156,572) – 2022 rollover reconciliation Revenue: Excise Fund Transfer \$(7,073,155) – 2022 close – favorable 2022 ending bund balance \$10,041,554 offset by 2022 projects rollover. Expense: Block 11 True-Up: \$2,000,000 Expense: Rec Center Swimming Pool: \$500,000 Expense: 2022 projects rollover: \$3,049,012

5	Golf		\$264,594	Salaries/Taxes – December pay increase: \$24,172 Workers comp., Liability Insurance true-up: \$4,922 Irrigation project 2022 rollover: \$235,500
6	Excise Fund	\$3,015,000	\$(2,033,079)	Revenue: Investment interest: Colorado Trust, Chandler, FirstBank Affordable Housing Loan: \$1,424,892 Sustainability Fund: \$2,468,921 BHA Projects and 2022 Rollover: \$1,146,263 Reduced Capital Fund Transfer based on 2022 close: \$(7,073,155)
7	Affordable Housing	\$2,025,316	\$1,354,726	Revenue: 2021 Alta Verde loan reclass to restriction: \$(600,000) Revenue: Alta Verde II DOLA grant: \$678,453 Revenue: Summit County Gov't COP Payment: \$352,088 Revenue: Employee Housing Loan Assistance Program: \$15,500 Revenue: Summit County Gov't Housing Helps: \$584,775 Revenue: Reduced Accommodation Unit Compliance Fund transfer: \$(430,392) Revenue: Increased Excise Fund Loan: \$1,424,892 Expense: Salaries/Taxes – December pay increase: \$51,678 Expense: Capital Fund transfer – Block 11 true-up: \$1,065,309 Expense: Updated COP payment for Justice Center: \$571,156 Expense: Reduced LOGE water/sewer: \$(333,417)
7	Affordable Housing Restrictions		\$4,011,150	Restriction: Justice Center Debt Service: \$1,143,650 Restriction: Alta Verde Loan: \$650,000 Restriction: Alta Verde II Loan: \$2,000,000 Restriction: Employee Housing Loan Assistance Program: \$217,500
8	Open Space		\$52,226	Salary/Taxes – December pay increase: \$36,842 Workers Comp., Liability Insurance true-up: 1,284 Transfers true-up: \$14,100
10	Garage Fund		\$36,486	Salary/Taxes – December pay increase: \$37,198 Workers Comp., Liability Insurance true-up: \$(712)
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12	Facilities Fund	\$178,253	\$3,812	Revenue: Corrected allocation Liability Insurance true-up: \$3,812
13	Special Projects Fund	\$1,146,263	\$1,146,273	Milne projects: Phase I & II - 2022 Rollover
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15	Cemetery		\$86	Liability Insurance true-up: \$86
16	Child Care		\$6,165	Salaries/Taxes – December pay increase: \$1,321 Liability Insurance true-up: 4,844
17	Parking & Transportation	\$(485,000)	\$(990,114)	Revenue: Sustainability Fund reclass Expense: Sustainability Fund reclass: \$(1,318,748) Expense: Liability Insurance true-up: \$(41,615) Expense: Facilities allocation correction: \$154,524 Expense: Reduced CIP transfer based on 2022 rollover reconciliation: \$(156,572) Expense: Salary/Taxes – December pay increase: \$372,297
4618	Health Care Plan	\$(44,176)		2023 allocation reconciliation
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20	Accommodation Unit Compliance	\$366,392	\$(434,914)	Revenue: 2023 fees paid in January Expense: Reduced transfer to Affordable Housing: Reduced fund balance; renewals

\$4,026,887 \$13,740,702



Memo

To: Town Council
From: Mark Truckey, Community Development Director
Date: February 21, 2023 for February 28 Council Work Session
Subject: TDR Price Resolution

At the January 24, 2023 Council work session staff brought a proposed change to the methodology for setting the price of Transfer of Development Rights (TDRs) sold by the Upper Blue TDR Bank. Staff proposed to change the methodology to base the sales price on the last seven years of backcountry sales data, which would result in a new TDR price of \$237,070 per TDR. The Board of County Commissioners met at a work session on February 7 and agreed to the new methodology and price. Attached is a joint resolution that will establish the new TDR price.

The Council memo for the January 24 work session goes into more detail on the specifics of setting the price for TDRs in the Upper Blue Basin. Per the Intergovernmental Agreement (IGA) between the Town and County, the methodology for establishing a sales price for TDRs must be set by a joint resolution adopted by both parties.

The proposed new TDR pricing methodology will set the price of TDRs based on the median price of all sales of Backcountry zoned lands in the Upper Blue Basin in the last seven years. This price will be adjusted annually based on the preceding seven years of data.

Council Action

Staff will be available for any questions that may arise. Staff recommends the Council adopt the attached joint resolution.

1 RESOLUTION NO. ___
2
3

4 SERIES 2023
5

6 A JOINT RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
7 BRECKENRIDGE AND THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT
8 COUNTY, COLORADO ESTABLISHING A NEW METHODOLOGY TO DETERMINE
9 THE PRICE OF ONE “TRANSFERABLE DEVELOPMENT RIGHT” (TDR) SOLD BY
10 THE TOWN AND THE COUNTY PURSUANT TO THE “AMENDED
11 INTERGOVERNMENTAL AGREEMENT CONCERNING TRANSFERRED
12 DEVELOPMENT RIGHTS” DATED AND EFFECTIVE APRIL 10, 2007 (Applicant:
13 Summit County Government and Town of Breckenridge)
14

15 WHEREAS, the Town of Breckenridge (Town) and Summit County (County) have
16 entered into an “Amended Intergovernmental Agreement Between the County of Summit and the
17 Town of Breckenridge Concerning Transferable Development Rights” dated and effective April
18 10, 2007 (“Amended IGA”); and
19

20 WHEREAS, Section 6.8 of the Amended IGA authorizes the Town and the County to
21 adjust the sale price for those Transferable Development Rights (as defined in the Amended IGA)
22 that are to be sold by the Town and the County pursuant to the Amended IGA; and
23

24 WHEREAS, the Town and the County desire to establish a new sales price for a
25 Transferable Development Right to be sold by the parties pursuant to the Amended IGA, and adopt
26 a new methodology to be used to make future adjustments to the sale price of a Transferable
27 Development Right.
28

29 NOW THEREFORE, BE IT JOINTLY RESOLVED BY THE TOWN COUNCIL OF THE
30 TOWN OF BRECKENRIDGE, COLORADO, AND THE BOARD OF COUNTY
31 COMMISSIONERS OF SUMMIT COUNTY, COLORADO, as follows:
32

33 Section 1. Pursuant to Section 6.8 of the Amended IGA, the sale price of a “Transferable
34 Development Right” (“TDR”) is hereby fixed at Two Hundred Thirty-Seven Thousand and
35 Seventy Dollars (\$237,070.00). Fractions of a TDR may be sold at a proportional fraction of this
36 price.
37

38 Section 2. On January 1 of each year, commencing in 2024, the sales price of TDRs
39 pursuant to Section 6.8 of the Amended IGA shall be determined by calculating the median sales
40 price of all vacant backcountry zoned property sales within the Upper Blue Basin in the preceding
41 seven years. This median sales price shall include all private transactions as well as transactions
42 where Summit County and the Town of Breckenridge have been the purchasing parties. The
43 median sales price shall be calculated using all sales from the preceding seven years commencing
44 on January 1 of that year through June 30 of the previous year (i.e., to calculate the TDR price in
45 January 2024, all sales from January 1, 2017 through June 30, 2023 shall be used). The Summit
46 County Planning Director shall make the required calculation, based on sales data provided by the
47 County and Town open space programs and by the Summit County Assessor’s Office. Not later

1 than thirty (30) days after the TDR sales price is adjusted each year as provided in this section,
2 Summit County and the Town of Breckenridge shall cause to be published a public notice setting
3 forth the amount of the adjusted TDR sales price. Such notice shall be published one time in a
4 newspaper of general circulation in Summit County; provided, however, that the failure of the
5 County or Town to cause such notice to be published shall not affect the validity of the adjustment
6 to the TDR sales price as made by the Summit County Planning Director pursuant to this section.
7 The Town Council and the Board of County Commissioners hereby find and determine that the
8 methodology set forth in this Section 2 satisfies the requirement of Section 6.8 of the Amended
9 IGA that the parties annually establish the price of a Transferable Development Right to be sold
10 pursuant to the Amended IGA.

11
12 Section 3. At the time of each TDR purchase, an administrative application fee shall be
13 paid by the applicant to the Summit County Planning Department. The base administrative fee
14 shall be initially established in the amount of \$3,145.00 for any transaction comprising one TDR
15 or a fraction of a TDR. For each transaction involving more than one TDR, an additional
16 incremental fee of \$385.00 shall be paid by the applicant for each additional TDR or portion of a
17 TDR purchased by the applicant. The fee established in this Section 3 shall increase each
18 subsequent calendar year based on the percentage increase in the current hourly staff rate published
19 annually in the Summit County Planning Department Development Review Fee Schedule.

20
21 Section 4. The provisions of this Resolution are reasonable and necessary to defray the
22 cost of providing the respective services and such fees and charges will promote the public health,
23 safety and welfare.

24
25 Section 5. To the extent there is a conflict between the provisions of this Resolution and
26 the Amended IGA, the provisions of this Resolution shall control.

27
28 Section 6. This Resolution shall become effective February 28, 2023.
29

30
31 **RESOLUTION APPROVED AND ADOPTED THIS 28TH DAY OF FEBRUARY 2023.**

32
33
34 **TOWN OF BRECKENRIDGE**

35
36 **ATTEST:**

37 By _____
38 Eric S. Mamula, Mayor

39 _____
40 Helen Cospolich, Breckenridge Town Clerk

41
42
43 **APPROVED IN FORM**

44
45 _____
46 Town Attorney Date

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RESOLUTION APPROVED AND ADOPTED THIS 28TH DAY OF FEBRUARY 2023.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY THE THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**

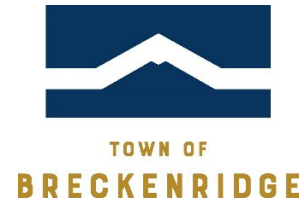
By _____
Josh Blanchard, Chair of the BOCC

ATTEST:

Taryn Power, Summit County Clerk and Recorder

APPROVED IN FORM

County Attorney Date



To: Mayor Mamula and Town Council Members
From: Kirsten J. Crawford, Town Attorney
Date: February 28, 2023
Subject: Agreement for Water Storage Space in Green Mountain Reservoir, Exercise of Option to Extend.

Staff recommends that Town Council Approve the attached Resolution Authorizing the Town to exercise an option to extend the term of the Contract between the United States and the Town of Breckenridge for Water Storage Space in Green Mountain Reservoir. The option will extend the contract for an additional term of 40 years. Such option will be exercised in the form the attached letter (a copy of which is attached as Exhibit A to the Resolution) to the United States Department of Interior, Bureau of Reclamation.

The Town of Breckenridge and the United States executed Contract No. 4-07-70-W0710 (“Contract”) on July 20, 1984 for a 16-year term to conform with the termination of other contracts for the Colorado-Big Thompson Project. A 40-year term was later established by the United States for contracts relating to use of Green Mountain Reservoir. The Town of Breckenridge, by letter of November 26, 1985, exercised its option to extend the term of the contract for a term of 40 years. That term of the Contract extends until April 30, 2025.

Pursuant to Paragraph 2.b. of the Contract, the Contractor has the option to renew the Contract for additional terms of up to 40 years upon written request to the Secretary on or before 2 years prior to the expiration of the Contract. Under Paragraph 1.b. of the Contract, the Contracting Officer is the Secretary’s authorized representative, and the Contracting Officer is the Regional Director, Lower Missouri Region, Bureau of Reclamation. The renewal of the term of the Contract for an additional 40 years will extend the Contract until April 30, 2065.

RESOLUTION NO. _____

Series 2023

A RESOLUTION AUTHORIZING THE TOWN OF BRECKENRIDGE TO EXERCISE AN OPTION TO EXTEND THE TERM OF THE CONTRACT BETWEEN THE UNITED STATES AND THE TOWN OF BRECKENRIDGE FOR WATER STORAGE SPACE IN GREEN MOUNTAIN RESERVOIR FOR 40 YEARS UNTIL APRIL 30, 2065.

WHEREAS, the Town of Breckenridge (“Contractor”) and the United States executed Contract No. 4-07-70-W0710. entitled “Contract Between The United States and the Town of Breckenridge for Water Storage Space in Green Mountain Reservoir” (hereinafter “Contract”) on July 20, 1984 for a 16-year term to conform with the termination of other contracts for the Colorado-Big Thompson Project;

WHEREAS, a 40-year term was later established by the United States for contracts relating to use of Green Mountain Reservoir;

WHEREAS, the Town of Breckenridge, by letter of November 26, 1985, exercised its option to extend the term of the contract for a term of 40 years;

WHEREAS, the Town Council of the Town of Breckenridge desires to exercise its option to extend the contract for an additional term of 40 years;

WHEREAS, the option will extend the contract for an additional term of 40 years. Such option will be exercised in the form the attached letter (a copy of which is attached as **Exhibit A** to the Resolution) to the United States Department of Interior, Bureau of Reclamation, and effect an extension of the term until April 30, 2065.

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

Section 1. The Town Council of the Town of Breckenridge hereby exercises its option to extend the term of the Contract for an additional 40-year term.

Section 2. Town Manager is authorized, empowered, and directed to execute such option for and on behalf of the Town of Breckenridge.

Section 3. All resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such resolution, or part thereof, heretofore repealed.

Section 4. This resolution is effective upon adoption.

1 RESOLUTION APPROVED AND ADOPTED this 28th day of February, 2023.

2
3 TOWN OF BRECKENRIDGE

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7 By: _____
8 Eric S. Mamula, Mayor
9

10 ATTEST:

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14 _____
15 Helen Cospolich, CMC,
16 Town Clerk

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18 APPROVED IN FORM

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20
21
22 _____
23 Town Attorney Date

February _____, 2023

Regional Director
Lower Missouri Region
Bureau of Reclamation
P.O. Box 25247
Denver, Colorado 80225

Dear Regional Director:

Please be advised that the Town of Breckenridge is the Contractor in Contract 4-07-70-W0710, entitled "Contract Between The United States and the Town of Breckenridge for Water Storage Space in Green Mountain Reservoir" for 800 acre feet of water storage space in Green Mountain Reservoir, dated July 20, 1984, as amended by Amendment No. 1 dated, March 19, 1986 (the "Contract"). The term of the Contract extends until April 30, 2025.

Pursuant to Paragraph 2.b. of the Contract, the Contractor has the option to renew the Contract for additional term of up to 40 years upon written request to the Secretary on or before 2 years prior to the expiration of the Contract. Under Paragraph 1.b. of the Contract, the Contracting Officer is the Secretary's authorized representative, and the Contracting Officer is the Regional Director, Lower Missouri Region, Bureau of Reclamation.

Contractor hereby provides written notice that it exercises its option to renew the term of the Contract for an additional 40 years until April 30, 2065.

CONTRACTOR:
Town of Breckenridge

By: _____
Town Clerk

By: _____
Town Manager

cc: Kirsten Crawford, Town Attorney
Glenn Porzak, Town Water Attorney



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: February 22, 2023
Subject: Planning Commission Decisions of the February 21, 2023 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, February 21, 2023:

CLASS A APPLICATIONS:

1. Evans McLean Residence Landmarking, Restoration, and Garage Addition, 102 S. French Street, PL-2022-0532

A proposal to locally landmark and rehabilitate an existing historic primary residence, add 693 sq. ft. of free basement density and add a single car garage on the rear of the non-historic portion of the structure. An interior renovation of the property will reduce the number of bedrooms from 8 to 7.

Approved, see second memo.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS: None.

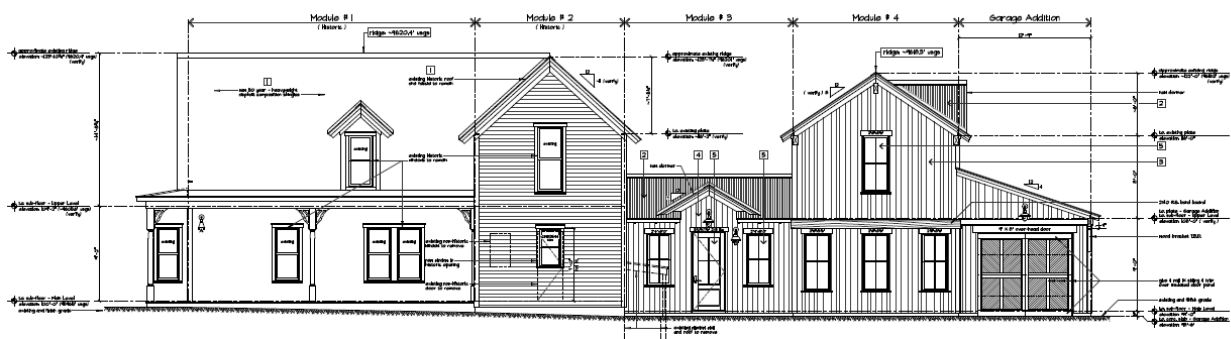
TOWN PROJECT HEARINGS: None.

OTHER: None.

Memo

To: Town Council
 From: Chris Kulick, AICP, Planning Manager
 Date: February 22, 2023, for meeting of February 28, 2023
 Subject: Evans McLean Residence Landmarking, Restoration, and Garage Addition, Class A Planning Commission Approval Summary

A Final Hearing to locally landmark and rehabilitate an existing historic primary residence, add 693 sq. ft. of free basement density, and add a single car garage on the rear of the non-historic portion of the structure was held by the Planning Commission on February 22, 2023. The property was previously used as a bed and breakfast and contained a non-deed restricted accessory apartment. With this application the property will be converted to a single-family home without an accessory apartment. An interior renovation of the property will reduce the number of bedrooms from 8 to 7. The residence is located at 102 South French Street. A full staff report can be found [here](#).



(Above): Proposed Southern Façade

The Commission found the proposal complied with all Priority Design Standards and Absolute Policies, and assigned a total cumulative score of zero (0) points under the Relative Policies. The Commission approved the application 5-0.

Staff will be available at the meeting to answer any questions.



Breckenridge South



PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 pm by Chair Frechter.

ROLL CALL

Mike Giller Mark Leas Allen Frechter Susan Propper-**absent**
Ethan Guerra Steve Gerard

APPROVAL OF MINUTES

With no changes, the February 7, 2023 Planning Commission Minutes were approved.

APPROVAL OF AGENDA

With no changes, the February 21, 2023 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

WORK SESSIONS:

1. Outdoor Energy Use

Jessie Burley, Sustainability and Parking Manager, presented an overview of the Renewable Energy Mitigation Program (REMP) proposal. Included in the overview was an update on the roundtables that took place in March of 2022 and revisions to the Development Code Policy 33R.

Commissioner Questions / Comments:

- Mr. Leas: How is the 85% computed? (Ms. Burley: The consulting group used the global recognized standard for calculating that, includes utility, number of buildings, whole protocol). How does this compare to other ski resorts? (Ms. Burley: Destinations like Breckenridge are difficult to figure out where to draw the line for emission on greenhouse gas scope emissions). So 85% is compared to other municipalities? (Ms. Burley: Yes). 10% for natural gas is that for new projects or going back to capture? (Ms. Burley: New projects only, but if you add capacity to existing that would apply as well.)
- Mr. Guerra: For heat tape is that timers? (Ms. Burley: Not just timers, but system compared to climate factors.) They don't work.
- Mr. Leas: We need to take into consideration all applications in place. (Ms. Burley: They wouldn't need to offset their outdoor energy use unless they are adding more beyond what they have been approved for prior to any code adoption. We felt like there is some learning and iterations needed before we proposed to control heat tape more.)
- Mr. Guerra: The design of building drives the amount of heat tape needed. Cut up buildings with multiple rooflines cause issues. (Ms. Burley: We talked a lot about this with stakeholders. Better design up front is important.)
- Mr. Giller: Do you have an estimate for the utility bill for that driveway? (Ms. Burley: We can get some examples and forward them to you.)
- Mr. Leas: What about for thermal solar? (Ms. Burley: There is a page that allows that for calculations, solar PV is most frequently used, but someone can do for example a ground source heat pump. We can adjust based on the specs). The 50,000 sq. ft. heated area is equivalent to five million \$? (Ms. Burley: That is correct.) That would be what they would pay in lieu? (Ms. Burley: We propose and hope that they lower the snowmelt to start, but if not, then yes. With the calculator they will be able to see the impact and reduce from there is the intent.) Do you consider public safety, egress? (Ms. Burley: For commercial, under the calculator, 100 sf per emergency egress is

exempted. Chief Building Official has the ability to apply safety concerns to projects, Gondola plaza for example might receive a waiver.) Has the town considered a variance process at all? The Town needs to have some flexibility. Public safety trumps energy efficiency (Mr. Truckey: There will be an exemption for high traffic areas that Rick can authorize. That exemption is in Policy 33R now.)

Mr. Guerra: I would question the calculations. Efficient boiler, how many hours a year is that running? I would work backwards in that realm as well. (Ms. Burley: The worksheet has all of these calculations, so you can change the efficiency of your system to check it. They can be challenged if the applicant can show a different plan. There was a lot of thought put into times, seasonality, etc. to come up with those numbers.) In that calculus, if the boiler is multi-system, how does that work? (Ms. Burley: Our rec center apron has that, we have to circle back to that on how to address those systems.) Almost all boilers are multi zoned systems. (Mr. Leas: Rare to have two boilers.)

Mr. Leas: That is hard to believe the return on fees collected is twelve fold.

Mr. Giller: If you insulate an attic you could get a twelve fold return. Fluorescents use 12-15% that of an incandescent bulb and LEDs are better yet. You do get that return but that's on that portion of your energy use.

Mr. Guerra: Twelve fold sounds like that if a house pays to offset, then that money spent is going to actually offset that many BTUs. (Ms. Burley: We will get the full calculation info to you all. Those are good points.) (Mr. Truckey: Partly leveraging those dollars for grants too. People are willing to put money up on their own towards these projects so that is part of the savings also.)

Mr. Leas: Does that take the authority for those decision into the building department? (Mr. Truckey: Still working on how that works, but ultimately yes. Council was concerned with getting rid of 33R altogether, even with the energy offsets). Looks like you need to take positive points out of the purview as well so there's no offset. (Mr. Truckey: Not necessarily because you could still use, for example, positive points for an EV Charger to offset excessive site disturbance.)

Commissioner Comments:

Mr. Guerra: Great presentation. Lot of food for thought. (Ms. Burley: I will share the background calcs.)

Mr. Gerard: We want to disincentivize wasteful projects. I want to suggest another line item, excessive nighttime lighting. In the Highlands filing I am in, the founding documents talk about a subdivision designed as an unlit prairie setting (dark at night). We are starting to look at the number of lights outside. Do you need 12 lights across the front of your garage? We could look more at lighting, Mike pointed out LEDs vs. incandescent. Let's get dark sky moving, and lets require LED. Conformance by 2025 is far out. You can see the incandescent bulbs on older houses. 100 watt bulbs when you only need 25 watts, there could be more tweaks for the low hanging fruit and wasted energy. This REMF is an ambitious program that makes a lot of sense.

Mr. Leas: Great presentation and we appreciate the hard work on this topic. I respect Steve's lighting comments, again public safety and there are a lot of wild animals. Most people don't have their houses lit and I would like to have those lights on until 10:00 PM otherwise there is a safety concern. (Mr. Gerard: International dark sky alliance lighting at night is adverse to wildlife and there is less crime in unlit areas according to studies done and available on the IDA website, it is a common misconception that it is less safe. The animals don't want to come to you, they want to go away from you.)

M. Giller: Important to the town. I encourage you to come up with analogies and simplifications in numbers, helps convey your point.

- Mr. Frechter: I find a lot of hot tubs are on and unused at times. If people are going away for multiple days, say 7 plus, they can lower the temperature to 50 degrees to reduce energy consumption. Maybe there could be a meter on hot tubs. Incentive for that. For fire pits, maybe there should be a classification to them. Breck Iron Works builds huge fire pits for homes which might require a larger pipe, Xcel is having issues with natural gas capacity. Is this needed? Consider a cap on the size of a fireplace. (Ms. Burley: We have done an average; we are looking at a recommended BTU cap or a natural gas budget for all appliances. We are looking at this.) No absolute cap on residential snowmelt? (Ms. Burley: There wasn't consensus. There is a consensus of a cap on commercial, but not yet determined on the number.) I suggest the town consider eliminating the fee for an electrical permit if adding an EVSE to existing home. Conflict for space for solar farms in the County, we preserve for open space but we can't put solar in some of these spaces.
- Ms. Burley: Xcel wouldn't recognize our program. You have to do it on your own property or pay the fee in lieu. The solar garden isn't an option for REMP.
- Mr. Leas: Look at commercial spaces for solar like our parking garage, missed opportunity there. Maybe some of the REMP funds can offset that. Or on the Gondola project. Anytime we can have a dual purpose we should make it available.

FINAL HEARINGS:

1. Evans McClean House Garage Addition and Landmarking (CK), 102 S. French Street, PL-2022-0532
Mr. Kulick presented a proposal to locally landmark and rehabilitate an existing historic primary residence, add 693 sq. ft. of free basement density and add a single car garage on the rear of the non-historic portion of the structure. An interior renovation of the property will reduce the number of bedrooms from 8 to 7. The following specific questions were asked of the Commission:
 1. Point Analysis: Does the Commission support the recommended point analysis?
 2. Does the Commission have any additional questions or comments on the proposed project design?

Commissioner Questions / Comments:

- Mr. Gerard: Policy 33R for the fire pit, does it get -1 point? (Mr. Kulick: That is for commercial, so it is a freebie as are hot tubs under the current code).
- Mr. Giller: The color scheme might be like Aurum. (Janet Sutterley, Architect: As you know, I like colors and I keep telling clients to look at houses and color schemes and everyone comes back with white and grey. These guys are into neutrals. One positive thing, the primary color is called peppercorn, it is a dusty black. We got a dark color, everything town is light. Dark is in the right direction, I asked them specifically about changing the roof, so we came up with a picture of how these houses look. It looks good with the roof. I think the dark will be good.) I don't know that this is a Planning Commission issue, so it's not all white, peppercorn is the bulk? (Ms. Sutterley: Yes, it is the primary. The light colors are trim and windows. The two buildings in the back are the dark oiled finish like outbuildings. The connector will be a lighter color for the vertical siding. I only had two days or I would have done a colored rendering. The whole new addition will read as an outbuilding.)
- Mr. Gerard: When the connector and the body of the house had a different color palate, will there be a distinction between these two (Ms. Sutterley: The connector will be light, and next to it is the peppercorn.) You have two lights on the South Elevation, do you need both? (Ms. Sutterley: They wanted to be able to light up the courtyard. The one on the door is gooseneck, so those two on one circuit, and the one next to the door. So just two can be on for the courtyard, or turn the others on in addition.) Great project.

Mr. Guerra: Beautiful project, the single door worked out. Excited to see this happen.
Mr. Frechter: Great project. I like the peppercorn.

Commissioner Comments:

Mr. Giller: 1. I agree. Nice job Chris. 2. No comments, beautiful project, and credit to the historic district.
Mr. Leas: 1. I agree 2. I echo the comments about this being a great project.
Mr. Gerard: 1. I agree. 2. I already gave comments, great project.
Mr. Guerra: 1. I agree 2. Great project.
Mr. Frechter: 1. I agree 2. Glad to see we can send this project on.

Mr. Giller made a motion to approve the Evans McClean House Garage Addition and Landmarking, seconded by Mr. Gerard. The motion passed 5 to 0.

OTHER MATTERS:

1. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 6:58 pm.

Allen Frechter, 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.

February 2023

Tuesday, Feb. 28th, 2023	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm
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March 2023

Tuesday, March 14th, 2023	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
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Tuesday, March 28th, 2023	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm
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April 2023

Tuesday, April 11th, 2023	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
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Tuesday, April 25th, 2023	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm
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Other Meetings

February 27th, 2023	Open Space & Trails Meeting	5:30pm
February 28th, 2023	Board of County Commissioners Meeting	9:00am / 1:30pm
March 1st, 2023	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am
March 7th, 2023	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
March 8th, 2023	Breckenridge Heritage Alliance	Noon
March 9th, 2023	QQ - Quality and Quantity - Water District	10:00am
	I-70 Coalition	11:30am
	Upper Blue Sanitation District	5:30pm
March 14th, 2023	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
March 15th, 2023	Summit Combined Housing Authority	9:00am
March 20th, 2023	Social Equity Advisory Commission	7:30am
March 21st, 2023	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
March 23rd, 2023	Transit Advisory Council Meeting	8:10am
	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	Northwest CO Council of Governments	10:00am
	RW&B Board Meeting	3:00pm
March 27th, 2023	Open Space & Trails 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.

March 28th, 2023	Board of County Commissioners Meeting	9:00am / 1:30pm
March 31st, 2023	Breckenridge Creative Arts	Noon
April 4th, 2023	Board of County Commissioners Meeting Planning Commission Meeting	9:00am 5:30pm
April 5th, 2023	Breckenridge Events Committee Childcare Advisory Committee	9:00am 3:00pm
April 11th, 2023	Board of County Commissioners Meeting Workforce Housing Committee	9:00am / 1:30pm 10:30am
April 12th, 2023	Breckenridge Heritage Alliance	Noon
April 13th, 2023	I-70 Coalition Upper Blue Sanitation District	3:30pm 5:30pm
April 17th, 2023	Social Equity Advisory Commission	7:30am
April 18th, 2023	Board of County Commissioners Meeting Liquor & Marijuana Licensing Authority Planning Commission Meeting	9:00am 9:00am 5:30pm
April 27th, 2023	Summit Stage Transit Board Meeting Breckenridge Tourism Office Board Meeting RW&B Board Meeting	8:15am 8:30am 3:00pm
TBD	Tourism Overlay District Advisory Committee Meeting Transit Advisory Council Meeting Water Task Force Meeting	10:30am 8:00am 9:30am