



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, July 09, 2013; 3:00 PM

Town Hall Auditorium

ESTIMATED TIMES: *The times indicated are intended only as a guide. They are at the discretion of the Mayor, depending on the length of the discussion, and are subject to change.*

3:00-3:15pm	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15-3:45pm	II	<u>LEGISLATIVE REVIEW*</u>	
		Dodge Residence Landmarking	14
		Insurance Limits Ordinance	18
		Retail Marijuana Excise Tax Ballot Question Ordinance	22
		A Resolution approving the "Town of Breckenridge 'Free Ride' Annual Disadvantaged Business Enterprise Participation Level Goals for Federal Fiscal Years 2014, 2015, and 2016"	31
3:45-4:00pm	III	<u>MANAGERS REPORT</u>	
		Public Projects Update	36
		Housing/Childcare Update	
		Committee Reports	37
4:00-5:00pm	IV	<u>OTHER</u>	
		Sales Tax Code Revisions - Exemptions and Clean-up	39
		Childcare Ballot Question	74
		Public Art Commission Interviews	79
	V	<u>PLANNING MATTERS</u>	
5:00-5:55pm	VI	<u>EXECUTIVE SESSION</u>	
		Sale of Town Owned Property and Other Matters	
6:00-7:15pm	VII	<u>JOINT MEETING WITH RED, WHITE AND BLUE FIRE DISTRICT</u>	83

Note: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held. Report of the Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: July 3, 2013

Re: Planning Commission Decisions of the July 2, 2013, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF July 2, 2013:

CLASS C APPLICATIONS:

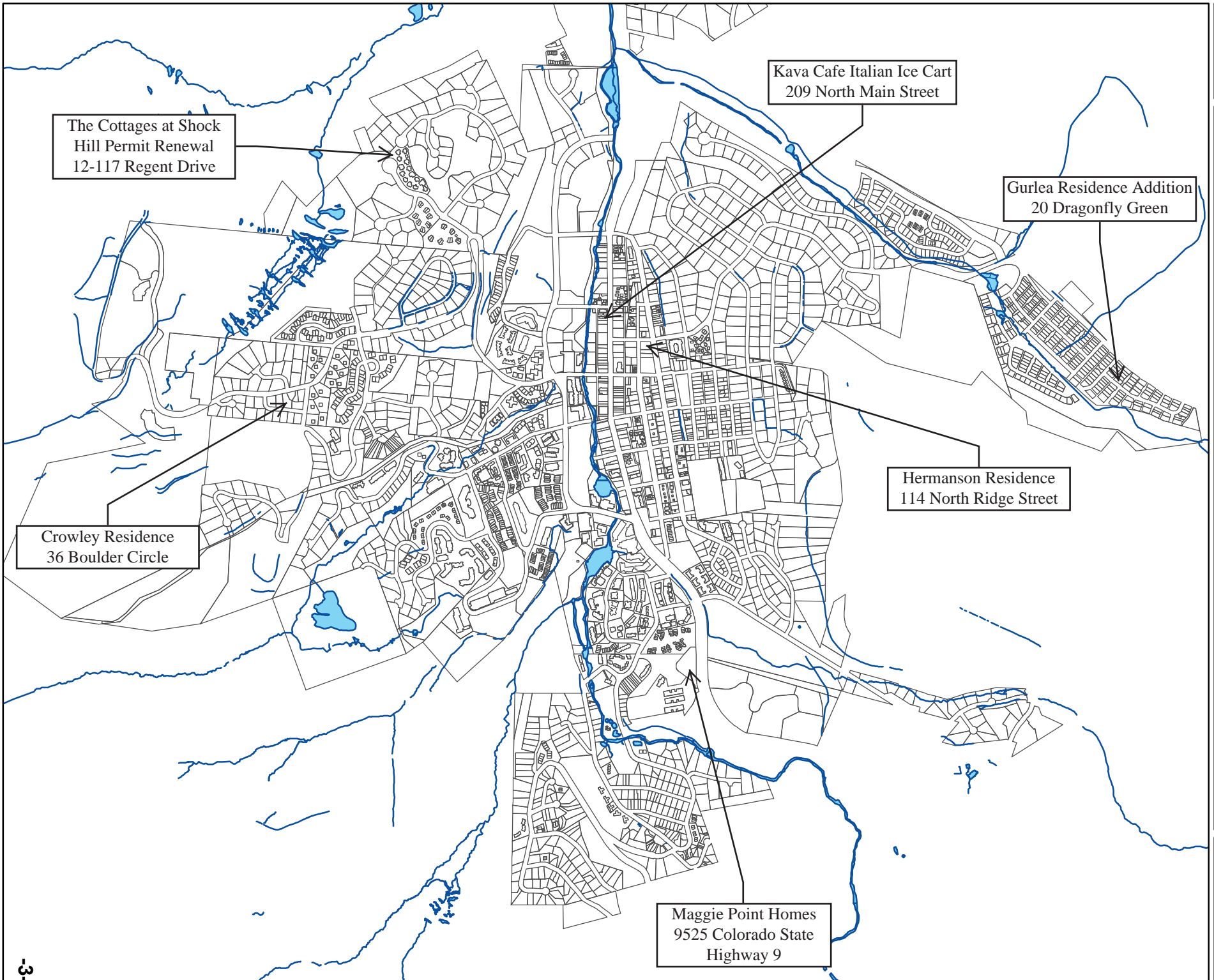
- 1) Crowley Residence (MGT) PC#2013048, 36 Boulder Circle
Construction of a new, single family residence with 5 bedrooms, 5.5 bathrooms, 4,331 sq. ft. of density and 5,136 sq. ft. of mass for a F.A.R. of 1:3.29. Approved.
- 2) Gurlea Residence Addition (MM) PC#2013051, 20 Dragonfly Green
Addition to an existing single family residence to create a total of 3 bedrooms, 4 bathrooms, a 1 bedroom carriage house, 2,865 sq. ft. of density and 3,441 sq. ft. of mass for a F.A.R. of 1:1.71. Approved.

CLASS B APPLICATIONS:

- 1) Hermanson Residence (MGT) PC#2013043, 114 North Ridge Street
Construction of a new, single family residence with 4 bedrooms, 4.5 bathrooms, a 575 sq. ft. accessory apartment below ground, 3,678 sq. ft. of density and 4,195 sq. ft. of mass. Approved.
- 2) Kava Café Italian Ice Cart (MGT) PC#2013047, 209 North Main Street
Operation of a small, Italian ice vendor cart on private property. Approved.

CLASS A APPLICATIONS:

- 1) The Cottages at Shock Hill Permit Renewal (MM) PC#2013040, 12-117 Regent Drive
Extend existing development permit, PC#2010033 (construction of 14 clustered single family homes and one deed-restricted employee housing unit), for an additional three (3) years. Approved.



NOT TO SCALE

printed 4/12/2011

Breckenridge South

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PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

ROLL CALL

Kate Christopher Jim Lamb Gretchen Dudney
Dan Schroder Eric Mamula Dave Pringle arrived at 7:05pm
Trip Butler arrived at 7:10pm
Jennifer McAtamney, Town Council Liaison

APPROVAL OF AGENDA

With no changes, the July 2, 2013 Planning Commission meeting agenda was approved unanimously (7-0).

APPROVAL OF MINUTES

Ms. Christopher made a motion to approve the June 18, 2013 Planning Commission meeting minutes as presented. Mr. Schroder seconded, and the motion was approved unanimously (5-0).

CONSENT CALENDAR:

1. Crowley Residence (MGT) PC#2013048, 36 Boulder Circle
2. Gurlea Residence Addition (MM) PC#2013051, 20 Dragonfly Green

With no requests for call up, the consent calendar was approved as presented.

TOWN COUNCIL REPORT:

Ms. McAtamney:

I was not at the Town Council meeting last week. One of the big things that we looked at however was the F Lot hotel feasibility report and we have requested more detail. We took a tour of the Town Water Facilities with Gary Roberts and toured the streets to observe how they rate the streets in term of maintenance. We drove over the roads in a couple of places and saw what different patches look like. We had a lot of conversation about the functionality of the roads; we basically keep all of the roads at a 5 or better on a 10 point scale. We tried to learn more about that process. It is a pretty arduous task to get speed bumps installed in your neighborhood.

Also, this Saturday we are going to have a swinging of the sledgehammer at the Harris Street Community building; for a donation, you'll have the opportunity to swing a sledge hammer. July 23 is the dedication of the Terry Perkins Public Works building and on the 25th of this month, the BMF and the concert for the commissioners and board members as a thank you from the Town for your service. And that is all that I have tonight.

FINAL HEARINGS:

1. Hermanson Residence (MGT) PC#2013043, 114 North Ridge Street

Mr. Thompson presented a proposal to construct a new 4,195 sq. ft. single family residence including: 4 bedrooms, 4 ½ baths, a 575 square foot accessory apartment below ground, two gas fireplaces, with 4 ½" reveal horizontal cedar siding and painted cedar shingles, 1 x random width rough sawn shiplap pine vertical siding on the garage, 2 ½" natural cut stone veneer, with a dark grayish 40-year asphalt shingle roof with corrugated metal on the low roofs.

Changes from the Preliminary Hearing:

1. North shed element siding has been changed from vertical to horizontal bevel siding with 4 ½" reveal.
2. The brackets have been redesigned to meet the Handbook of Design Standards per Staff input. Note that

- the three brackets now on the front entry are structural.
3. Patio size has decreased.
 4. Added stone on exposed concrete foundation walls where dark mortar wash finish was previously specified.

Also, the applicant has changed the south door to a half light door (Mr. Thompson passed out photos).

Staff believes the proposal warrants the following points under the Relative Policies: 9/R – Placement of Structures: negative three (-3) points for encroaching on the rear setback, Policy 18/R – Parking: positive two (+2) points for placing the parking in the rear out of public view, and Policy 22/R Landscaping: positive two (+2) points for a landscaping plan that provides some public benefit. This results in a positive (+1) point analysis.

We had a site visit today and stood on the other side of the street and looked at the visual unity of the block. The applicant does not believe that the walkway from Ridge Street is necessary and would like the opportunity to discuss this at the meeting. If the Planning Commission does not agree with the applicant, they have relayed to staff they would like a continuance of this item.

Staff is recommending a denial of the Hermanson Residence, PC#2013043, for failing to meet priority policies 4, 8, and 134 within the *Handbook of Design Standards for the Historic and Conservation Districts*, which in turn results in failing Policy 5/A per Development Code Policy 9-1-19 5(Absolute). As a result, Staff has included a denial decision in the packet.

A second option for the Planning Commission would be to continue this application to a future meeting.

Should the Planning Commission find that the application meets all absolute policies and approves the passing point analysis, Staff has also prepared findings and conditions for approval.

Ms. Janet Sutterley, Architect: Let's talk about first, I'd like to show you the Sanborn map and look at what happened on this block originally. This map shows no unity in the area at all; I have outlined the two buildings that we are talking about this evening. Then, the visually unity was forever changed in the 1980s when the Town constructed the wall; at that point the visual unity of the block was interrupted and it stops right at the end of that wall. I'm going to show you the yard condition if you saw it today, and how the two historical homes with a very gradual slope is a very different condition than what we are looking for here. On the site, you saw an orange stake which represents the property line between the two lots. 3A starts right where the stone wall starts and the orange stake is right here (indicated on the map). So now we have a brand new condition; it is no longer the historic condition; it is very different. There is no nice gradual slope to the yard. Let's review the priority policies. It's our belief that we have met every one of these policies. We are not disagreeing with Staff that this is the front yard, and the building is set back which is uniformly aligned. We are not disputing installing a door there; but when we get into Priority Policy 8, when you go through the bullet items, we meet every single one. We think the main issue is getting hung up on the visual unity of the block. The buildings are all aligned correctly, the architecture is similar, we have the setbacks, the open space; we are just discussing how we are going to get through this wall and grade. When we get to 134, that's pretty substantial front yard. We are taking away undisturbed open space and creating hard area. We cannot do a gentle slope, it would cut the wall and we have to meet code. 7.5inch risers are code. It's going to take us 12 feet of distance to get the sidewalk to meet grade. It's going to be poured concrete and hard surfaces, which goes against this policy.

There is another project like ours, but not on this block. It's the Walker House, across from the Courthouse on Lincoln. This is the north façade of that building and the primary façade of this building. There is no door, then there is a wall that goes down to the sidewalk; there is no access to the front yard, and you can kind of see on the side where the door is, not on the front. It is sitting on a nice large landscaped yard, and is in historic condition.

One note from the Staff about how both of the historic homes have stairs leading to the sidewalk: I'm not sure where the requirement for the walkway comes in, but by the way, both of those homes are commercial properties. They want people to park on Ridge Street, and they want people to park and walk up their sidewalk. Our lots are residential, and we don't want to encourage people to park and walk up our sidewalk. If there is no walkway to Ridge, it appears to be a backyard? I don't think so.

Basically, I feel like we are forcing a condition here that will result in a 12' long concrete stairway in an area currently undisturbed, and I don't see why we should do that. I believe that we meet all three of the policies and most importantly, we are trying to create a false narrative about something that doesn't exist.

Here are two other historic homes with doors on the side of the house. (Showed photos to the Commission.)

Ms. Dudney opened the hearing to public comment.

Mr. Donald Craig, 110 North French Street: I am a City Planner by profession and have worked in Breckenridge; I presently live in Key West where I am Planning Director. Obviously, having owned a home at this location since the late 70s, we have seen a great many things occur here. One of the most important things in the placement of structures in a historic district is the context of what is around the site. The context is not presented by just everything within that block as staff stated, but is made by a two or three block area. Especially when you consider the entrances on that block, you have to take into consideration the Court House. If you go to the Brown Hotel, you can see a wall penetration that doesn't honor any of the rules either. We are concerned about the placement of these two structures. The fact is that a front yard which is a residential use has an entrance and that entrance is oriented towards the front of the street is important. This happens in Historic Districts throughout the nation, and to simply ignore that because the Town built a wall to create a two-way street is simply something that you have to consider in your decision. At the very least, this Applicant should be required to provide an access to Ridge Street. It's a matter of balance between open area and density. Another thing is that the driveway will make it difficult to have a bus stop on that street. The removal of parking spaces is critical in your deliberation of this project. Anything that makes it more difficult to park, in my mind, is a non-starter and shouldn't be tolerated. Right across the street, my neighbors own a Bed and Breakfast which relies upon transit; we rely on parking on that street. When you look at the façade fronts, they move in and out in terms of distance from the roadway; so the fact that you have a governmental building as the primary driver of the setbacks and adjacent historic structures driving the setbacks for these residential structures makes no sense to me. You could move both of these buildings further forward to Ridge and provide more relief from French. Residential units were always closer to the street, as expressed by the commercial structures on Ridge Street. Hopefully these comments will allow you to make a more informed decision.

Mr. Lee Edwards, property owner across the street at 108 North French Street: I much prefer this being developed than the last approved project. This is the historic 1914 Sanborn map of what occurred up and down the street. Here are the properties that were on this block at that time. As Mr. Craig was saying, houses used to be much closer to each other. If Ms. Sutterley's building was moved further to the west, it wouldn't be violating anything that historically occurred in this neighborhood. We are trying to use these bungalows that were placed on the flattest part of the lot as a reference. I have no problem with moving the building forward toward Ridge; I feel that it has been jammed up on French; I know the Applicant has said that they would

move it forward. We have a very strong case here; historically, they were on the flat part of the lot. The bus stop and parking: we have a shoulder here where the bus can be pulled off; we do not have a shoulder on Wellington Road. We are going to create issues if we lose that bus stop. I imagine the transit department could put the bus stop in the same location and it hang over a bit, but I wouldn't encourage the relocation of the bus stop. I also agree with Mr. Craig that we are going to lose all of the parking that we have over there. Those are going away. We can deal with that, we are just going to have to walk a little farther when we park our car. These properties need to be accessed; if the use of any of these buildings change, we should have the ability to buy into the parking district; include district 18.2 into the parking district. Now, I'm going to branch off and say I disagree with Ms. Sutterley's presentation about the front door. The front door should be on the front of the building. There should be a connection to the sidewalk from the front door. The Walker House is on French Street. May I look at the double doors? I have a question. I thought there was a reference to the wedding door and a funeral door? There is no confusion which is the front door there.

Mr. Matt Stais, owner at 108 North Ridge Street: Firstly, I agree with Mr. Edwards that this is an improvement over the prior project; in general this will be a good neighbor to us. Lot 3A will be a little closer to our property. I appreciate the large front yard setback that the Town has required. I would agree with Ms. Sutterley with needing access to the west; I think that there are plenty of precedents that indicate that this is not the case including the Walker house on Lincoln Avenue. The blue house that is used by the County has a sidewalk but no one uses that door. Just to let you know. As far as the bus stop, it's a good question. There needs to be vehicular access to these lots, and French Street is a good place to put it. The building that we own was built and the County blue house were single family houses in 1905, not commercial buildings. I think that one thing about the Sanborn map it is somewhat unique that we have no alley, and that the properties run clear from French Street to Ridge Street. It's one of the nice things about our property, but I'm not sure that it's the same animal that runs in other parts of town.

Mr. Thompson gave an update of the bus stop. The Town bus will stop in the street at Wellington and French. The ski resort bus will stop on other side of the street. There is a 120' standard area the bus needs to stop. This has been discussed and determined by Public Works and the Transit Department. It is the same way the bus stops all along the rest of French Street. The only reason why that's not the case here is the fact that these lots have not been developed.

There was no further public comment and the work session was closed.

Commissioner Questions / Comments:

Mr. Pringle: We don't have any problem with the materials, windows, siding etc. We have vetted the other issues in previous meetings. We are only concerned about the front elevation as far as a front door and it should have a walkway. As far as placement of the house; do we agree?

Ms. Dudney: There was not unity on the front door issue; there was unity on the sidewalk, meaning requiring a sidewalk from the residence to Ridge Street.

Mr. Lamb: We agreed on the historic setback at the last meeting. I don't think we want to reopen that discussion. The door should face west to make this look like the front of the house. I support the walkway to Ridge Street and blowing through the wall to create this connection.

Mr. Pringle: Firstly, I don't feel that strongly about the walk from Ridge Street, because of the condition of the wall. I don't know what would happen if we opened up that wall. I think we'd be better off if we left the wall intact. I still believe that the front of the house is off of Ridge Street and needs a suggestion of a front door there. I don't think that we accomplish that by going to the south. There needs to be a redesign on the front there to strengthen the front elevation. It could be as simple as changing out the bay windows, but I do think that's important. I say that with the experience of owning a historic home; it was where Kent Willis's office is now. We had a front door and never used it, but it still shows up as a front

porch and I think it's important for the District. I think that there is a way to redesign to give it that expression of a front porch with a little bit of manipulation and it would get through. I don't think that it is as important to put a walk thru just to have it look like an access. I think that the orientation is right, I disagree with moving the home forward, and I think it's pretty clear that there is precedence of a larger front yard historic setback. If the Applicant would entertain a slight redesign to the front, I would like to continue instead of deny it.

Mr. Schroder: I believe Priority Policy 134 is the critical Historic District policy to focus on. Wanting something of a front notion, you need to define this as the front façade. I'm okay with the door facing south but I think the conversation is around defining what the front is; it looks like a back yard to me. It certainly doesn't represent a front; especially with the door facing south, but the door is hidden so it doesn't even have a visual link as a front door. All of the access will be from French, but we need to do something with the land to make it a front. We need to create a pathway and a front door. On that note, I would support a continuance.

Mr. Lamb: I'm fine with the setbacks; I think that it definitely needs a walkway. We need to respect historic settlement patterns. I think that the door should be facing west. Look at everything in the district and they do have side doors, but they also have a front door. I would support a continuance with that.

Ms. Dudney: This is not a front yard. You need a walkway to create a front yard. I don't have a problem with the door facing south; there are lots of houses with doors facing perpendicular to the street, but the front yard is where your address is, it identifies the site, there needs to be some coherence. You can park on Ridge, there's a front porch there. I have a problem with no walkway, I don't have a problem with the door as designed.

Mr. Butler: The choice of the word patio, a patio is something in a backyard, it's not a front porch, it's going to be a great place to put the lawn chairs and the barbeque. It doesn't look like a front yard. I would just add that to the prior comments. I don't hate the door; I think that any one of those things; the fact that they have none of the, no walkway, door faces south, makes it not look like a front yard. With any two of those, it would look great.

Ms. Christopher: I agree that it doesn't look like a front yard and it needs too. With a walkway and a side door, it could kind of pass. A front door and a walkway would make it fit perfectly. As much as I don't want to blow through the wall, I still feel that it must look like a front yard.

Mr. Mamula: I agree with everything that has been said; according to the County website, the Walker Residence is located 103 French Street. There is a letter from Mr. Steve West here. I read priority policy 8, and I would like to read for the record where we have the code basis for this thing needs some kind of front kind of appearance; whether that is a walkway or a door, I'll leave up to the Applicant. *“Priority Policy 8: Reinforce the visual unity of the block. This is an especially important standard. The specific context of each individual block is an important feature in the District. The context of each individual block is an important feature in the District. The context of each block should be considered in its entirety, as one would see it when standing on the street viewing both sides of the street for the entire length of the block.”* You can make the argument that the similarity between Mr. Stais's building and the house next door is the walkway. There are a couple of places with a side door, but they are right on the street. It is a funky street, but I don't necessarily agree that 134 is where we hang our hat, but I think that with 134 we can defend the location of the building, and we shouldn't move it regardless of what the Sanborn map has on it. The Historic District Guidelines require us to consider the remaining historic structures on the block when considering the historic character of the area. We work today on what we currently have in our guidelines. I think this needs some kind of front statement; and like Mr. Butler said, a patio is a backyard. And the whole thing is just reading like a backyard to me. Policy 8 (reinforce the visual unit of the block) gives us the reason for our decision. This thing needs a front statement; it has to read like the block. I'm not going to design their project for them.

(Ms. Dudney called a 10 minute recess to allow staff and the applicant to discuss options. Mr. Thompson presented that the applicant would like an approval with a condition.)

Mr. Thompson stated that the applicant has agreed to redesign a portion of the front yard and add a sidewalk connecting the west elevation of the home to the street. The applicant is requesting the Planning Commission make this change a condition of approval, and that the change be made through a Class D permit application.

Mr. Pringle made a motion to approve the point analysis for the Hermanson Residence, PC#2013043, 114 North Ridge Street. Mr. Schroder seconded, and the motion was carried unanimously (7-0). Policy 5/A was changed from Fails to Complies as the applicant has agreed to a condition that a walkway from Ridge Street be designed and processed as a Class D permit. This has been made Condition number 34 in the Findings and Conditions for PC#2013043.

Mr. Pringle made a motion to approve the Hermanson Residence, PC#2013043, 114 North Ridge Street with the presented Findings and Conditions and the additional condition that “the Applicant designs and builds a walkway from the street to the front of the building. This application is to be submitted and reviewed as a Class D Permit.” Mr. Schroder seconded, and the motion was carried unanimously (7-0).

Following motion, Mr. Thompson also indicated that the Applicant has agreed to also work on a redesign of the patio so it looks like a front yard.

PRELIMINARY HEARINGS: Trip Butler recused himself

1. Maggie Point Homes (MM) PC#2013050, 9525 Colorado State Highway 9

Mr. Mosher presented a proposal to develop 18 multi-family units with 9 market-rate and 9 workforce deed restricted units. Each unit has at least a one-car garage (some have two-car garages). The applicant and agent are seeking a quick turn-around to proceed to final review. The intent is to hear this application again on July 16, 2013 for final review. Staff has separately compiled a list of modifications and issues for the applicant to be processed prior to final review.

During the review process, the Planning Commission and Staff identified issues with the scale and mass of the structure and resulting site impacts. After feedback from Town Council, the Planning Commission and Staff, the applicants are returning with a plan for preliminary review.

This was last reviewed by the Planning Commission as a work session on June 4, 2013. At that meeting, Staff reviewed only Policy 7, Site and Environmental Design/Site Buffering; Policy 7, Site and Environmental Design/Site Privacy; and Policy 9, Placement of Structures/Snow Storage. The changes made by the applicant were generally well received by the Commission at that hearing. This report explores all applicable Policies from the Development Code.

Staff had the following questions for the Commission:

1. Did the Commission believe the 1 x 10 siding being proposed is too dissimilar to the architecture around Town?
2. Staff believes additional landscape buffers could be added along the edges abutting neighboring buildings to help mitigate the visual impacts. Did the Commission agree?
3. Staff believes that positive two (+2) points may be awarded for providing 13 common parking spaces for the project. Did the Commission concur?

Staff mentioned that there will be a site visit before the next hearing. Staff welcomed any other comments.

Commissioner Questions / Comments:

Ms. Dudney: No positive points for the landscaping? (Mr. Mosher: Staff believed that it was a balance between the site impacts to the exiting landscaping and new plantings were property mitigated.)

Mr. Bobbie Craig, Architect:

Ms. Diane Yost is here, as is Mr. Graeme Bilenduke. I think that there have been a lot of changes since we started last year. We have gone through a lot of working both with Staff, the Housing Authority, the Town Housing Committee and I want to review how far we have come. This is a different animal than what we originally presented. We are willing to listen to what you have to say. We are way under density and mass now. At the same time, we've provided 18 more parking spaces than required. We feel that is warranting the suggested positive two (+2) points. There will be certain conditions that we will need for approval at final review. The first is the sewer connection. The owners are actively pursuing this with the Village Point HOA. Site buffering: we would like to come back for final with landscaping changes and more detail of each of the elevations so that the site conditions on Buildings 6 and 7 are shown that they not that severe. The conditions regarding 4 and 5: we will come back with additional landscaping and will provide more info about where the deck piers are hitting on the slope of the hill. In the detention area at the north end of the site, we are showing a lot of existing trees to remain. We will not be re-grading in the center of that area and creating a berm on the sides to save the majority of the trees on the north end of the property. We hear Staff's concerns about the 1x10 siding as opposed to a smaller lap. We also have natural stone bases, timber and glu-lam column and beams exposed, decks. It is all natural wood vs. plywood that you've seen before on previous applications; however, the 1x10 is not a lap siding. It has a channel reveal at the edge; it is an upgrade from the standard horizontal lap siding. We'll get a sample for you to view at the next meeting. If you really want us to go to lap siding, we'll do it, but I think, and I'd like to present it to you, that the 1x10 is an upgrade. It's a little more rustic, but we're not in a Victorian area of time. Or in this part of Town. We would like you to consider zero points for architecture there. I'd like to point out that we shouldn't need the positive six (+6) points as we believe this project stands on its own. We would like to come back with the final approval on the next meeting and get out of the ground this year.

Ms. Dudney opened the hearing to public comment.

Mr. Jay Rustom, President of Woods Manor HOA: We have been following the project and it has greatly improved. There are still a few reservations that we would like you to consider. I understand the problem with the topography, but isn't there any potential to move this entire project down east farther? We have major concerns. What is right for the property? To be so close to the west end and the cliff should be reviewed. Even though you look at the elevations, it looks gradual, but it's really not. You have decks that are being reinforced on a major cliff. We would welcome an onsite visit with you. We understand the rights of property that once it's done, it's done. What could we do together to make the project the best it could be? We've always had a concern about the setbacks and the cliff. Two years ago we had a site visit where everyone agreed that setbacks weren't far enough and we would welcome consideration on that.

There are many things that have been discussed this evening that would make this project more suitable. Retaining walls might be mitigated if the project moved further to the north. If not, we would like to be consulted as to what that might look like. I'm not here to advocate for Allaire Timbers, but they are also very close to this site plan. For the welfare, for the overall development, there should be some consideration. We are very supportive about the new vegetation. Spruce trees are the best, green all year around as aspens lose their leaves. Some kind of buffering would be very helpful. I'm not going to belabor the meeting to go through the list of things here, but I believe that Mr. Mosher and the developer want to figure out what to do to make this work in everyone's best interests. We welcome the opportunity to be onsite with you. Thank you.

Ms. Brooke Roberts, on the Summit Combined Housing Advisory Board for 4 years: I've lived in Summit for 21 years, and I heard about Maggie Point project back in September. We knew that applicant and her team have had some struggles. I think that they've done a remarkable job and there are already seven reservations for units here, so we believe that there is a need for this price point in Breckenridge. We know that this property is definitely a need in the community. I think that what they've done with the land and what they have to work with, is phenomenal and their added landscaping will be an asset to our community. We encourage you to move forward with this project so that we can just get on with it.

Commissioner Questions / Comments:

- Ms. Dudney: (To Mr. Rust) Are the closest units in Woods Manor at Building 5? (Mr. Rust: Yes.) (To Mr. Craig) When you come back, would you show us generally where those structures are? (Mr. Craig: Certainly.)
- Mr. Pringle: I think that you're going to have to demonstrate what the siding is going to look right. Are the parking spaces legal size? (Mr. Mosher: Yes.) Some of the driveway asphalt at the west units might be able to be reduced which could solve some buffering problem; is it more important to buffer on the outer edge of the property. If Buildings 4 and 5 could move closer in towards the drive, you might eliminate a lot of those buffering issues. Some of the buffering problems could be solved. The siding: I'm not necessarily opposed, but I want to see if it will be too big for the smaller sizes of the units and secondly, it seems that the predominance of garage door facing the street seems to be problematic. If we could change the front elevations to alleviate that concern. I appreciate the changes that you've made to the buildings and it certainly did relieve the tightness on the site. I think that the architecture scale and the forms are wonderful it is just going to take a little more thought. Maybe if we didn't have so many parking spaces, but maybe if we give up one or two of them, and strategically take them out we might reduce more tightness.
- Mr. Schroder: Buffering the site looks like a good idea and I encourage it. I was looking for the point assignment in the report and didn't see any for the siding. Do you have enough positive points to mitigate negative three (-3) points? It would be great to see the siding sample. Overall the project is looking good. Definitely go for positive points for extra parking.
- Mr. Lamb: I have nothing revolutionary to say; I think the 1x10 siding could work and would like to see the sample on that. It doesn't seem like you're too far apart; the more you can buffer from the neighbors the better; I support the two positive points for providing the 18 parking spots.
- Ms. Dudney: I don't have an opinion on the 1x10 until I see the material samples. I am very concerned about the impact on the neighbors with Buildings 4 and 5. I have to go to the site visit and see the drawings to review further, but your neighbors were here first, and you don't have a right to come in and have a huge negative impact on the existing owners there. The additional parking is great. I hope that you can squeeze it in.
- Ms. Christopher: I feel that a smaller lap siding would be more aligned with these smaller structures, but I will need to see the sample to make a decision. I would support additional buffering; drawing in the neighbors would really help out. I support the positive points for the additional parking, but I would also agree with Mr. Pringle on rearranging some spaces and possibly taking some parking out to allow for a better site buffering for the neighbors.
- Mr. Mamula: I will need to see the siding before I decide; you do need to have additional buffering; I agree with Mr. Pringle. The important thing is going to be off the backs of Buildings 4 and 5; this is a lot of parking for no reason. Do not support all of the extra parking. 56 parking spots at 3 spots per unit are excessive to the detriment of the neighbors. While the positive two (+2) points are warranted, I think that it is detrimental to your site and it is over-parked. We have Grand Timber Lodge doing analysis that they need only one parking space per unit, so there is something wrong with this overage. Also, if I could just ask that the proposed site visit be next week on Wednesday or Thursday rather than the Tuesday of the meeting, which

is when I work. I won't be able to attend on Tuesday. I would really like to be here, this stuff about the slope. Other than that, the project is light years ahead of where it was before. It's much better, it fits in the community better, but like I've said there is no final blessing from me until we see everything.

Mr. Pringle: Simple solution on the bus turnaround: buy smaller buses.

COMBINED HEARINGS:

1. The Cottages at Shock Hill Permit Renewal (MM) PC#2013040, 12-117 Regent Drive

Mr. Mosher presented a proposal to extend the existing development permit, PC#2010033, for an additional three (3) years. The original permit included construction of 14 clustered single-family homes, plus one deed-restricted employee-housing unit. Six of the 14 homes have been constructed so far. Natural exterior materials include: 8" board on board siding with 6" reveal, 10" half log siding or 2x10 rough sawn timber with 1 1/2" chinking, cedar shake siding, 10" log brackets or 10x12 rough sawn cedar timbers, 3x8 rough sawn cedar window headers, 2x6 rough sawn cedar window side trim, 2x10 rough sawn corner boards, wire mesh deck railing, Colorado moss rock or Telluride Gold stone base and chimney, aluminum clad windows, and architectural grade asphalt shingles and core-ten metal roofing.

The Town Council originally approved this project on June 12, 2007. An extension was approved by the Town Council on June 22, 2010. This application is asking for another 3-year extension to continue construction. There are no changes proposed to the plans since originally approved by the Town Council in 2007. No changes are proposed to the plans approved in 2007. Staff recommended approval of the request to extend the vesting by three (3) years. Staff had no concerns with this application.

Ms. Dudney opened the hearing to public comment. There was no public comment, and the hearing was closed.

Mr. Tom Begley, Applicant: We would really like to build these faster, but we are subject to market demand. I would like to work with Mr. Mosher to change to Class C Applications for each building, so we won't have to extend this every three years, but right now we would like to just push through and get this extended.

All the Commission were supportive of the proposal.

Mr. Pringle made a motion to approve the point analysis for the Cottages at Shock Hill Permit Renewal, PC#2013040, 12-117 Regent Drive. Mr. Schroder seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Cottages at Shock Hill Cottages Permit Renewal, PC#2013040, 12-117 Regent Drive, with the presented findings and conditions. Mr. Schroder seconded, and the motion was approved unanimously (7-0).

2. Kava Café Italian Ice Cart (MGT) PC#2013047, 209 North Main Street

Mr. Thompson presented a proposal to operate an Italian ice vendor cart on his private property. The space proposed is adjacent to Kava Café in the outdoor seating area. The owner has built a small wood half wall with a landscape planter on top for screening of the vendor cart. This proposal falls under Policy 49 (Absolute) Vendor Carts adopted May 2, 2012. This is the first application to be reviewed under this policy.

This vendor cart is classified as a small vendor cart per Section 9-1-5 Definitions as it is less than 40 square feet and will be removed from the site and properly stored out of public view each day. The Applicant could not be present as he is a member of the National Guard and has been deployed to the fires in Southern Colorado.

Staff had no concerns with this application, and finds that it complies with the intent of Policy 49/A, Vendor Carts. The Planning Department recommended approval of the Kava Café Italian Ice small vendor cart, PC#2013047, 209A North Main Street, with the presented Findings and Conditions.

Commissioner Questions / Comments:

- Ms. Dudney: The umbrella is not a sign? (Mr. Thompson: That is a grey area; we've never enforced umbrellas.)
- Mr. Pringle: I would think that we might think about clouding that with wood; but I think that this is what you want to see. The popcorn wagon, the hot dog stand, etc. I don't know that clouding it with wood is changing it to something that we want. It might be a condition that we could waive.
- Mr. Mamula: I think that is a slippery slope and then all of a sudden someone else will ask for it. That is why we went with the code why we did.
- Ms. Dudney: You have to look at the language; it must be designed to blend in with the existing historic character.
- Mr. Pringle: I understand. I argued that when we wrote that.
- Ms. Dudney: But do you think that it would blend in? It's not offensive to me.
- Mr. Pringle: I didn't like it when we wrote it.
- Mr. Mamula: I'm good with how it's presented.
- Mr. Pringle: I won't argue it.
- Ms. Dudney: The issue is precedent because this is the first one. It looks nice, leave it.
- Mr. Lamb: This is the code that we put together. I'd hate to have to jump back in and rewrite it.

Mr. Schroder made a motion to approve the Kava Café Italian Ice Cart, PC#2013047, 209A North Main Street, with the presented Findings and Conditions. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

OTHER MATTERS:

1. Class C Subdivisions Approved, Jan 1 – June 30, 2013 (Memo Only)

Ms. Puester presented a memo showing the Class C Subdivisions approved by Staff over the past 6 month period. The Planning Commission had no additional questions.

ADJOURNMENT:

The meeting was adjourned at 9:25pm.

Gretchen Dudney, Chair

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 26 (Dodge Residence Landmarking Ordinance)

DATE: July 2, 2013 (for July 9th meeting)

The second reading of the ordinance designating Bruce and Allison Dodges' residence at 106 South Harris Street as a landmark under the Town's Historic Preservation Ordinance is scheduled for your meeting on July 9th.

In preparing this ordinance for second reading we discovered that the form of the ordinance that was approved on first reading contained several errors that must be corrected when the ordinance is finally adopted on second reading. These errors occurred as the result of the inclusion of a working draft of the ordinance in the last meeting's agenda packet, rather than the final version of the ordinance. The changes from first reading are marked on the version of the ordinance that is enclosed with this memo. Please refer to this form of the ordinance when making a motion to adopt the ordinance on second reading.

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

1 **FOR WORKSESSION/SECOND READING – JULY 9**

2
3 **Additions To The Ordinance As Approved on First Reading Are**
4 **Marked**

5
6 COUNCIL BILL NO. 26

7
8 Series 2013

9
10 AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK
11 UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE
12 (Lot 4, Block 7, Yingling and Mickles Addition)

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

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

19
20 A. Bruce Dodge and Allison Dodge own the hereinafter described real property.
21 Such real property is located within the corporate limits of the Town of Breckenridge,
22 County of Summit and State of Colorado.

23
24 B. Bruce Dodge and Allison Dodge filed an application with the Town pursuant
25 to Chapter 11 of Title 9 of the Breckenridge Town Code seeking to have the Town
26 designate the hereinafter described real property as a landmark (“**Application**”).

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

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

33
34 E. The hereinafter described real property meets the “architectural” designation
35 criteria for a landmark as set forth in Section 9-11-4(A)(1)(a) of the Breckenridge Town
36 Code because the property:

- 37
38 (i) exemplifies specific elements of architectural style or period; and
39 (ii) is of a style particularly associated with the Breckenridge area.

40
41 F. The hereinafter described real property meets the “physical integrity” criteria
42 for a landmark as set forth in Section 9-11-4(A)(3) of the Breckenridge Town Code
43 because:

- 44
45 (i) the property retains original design features, materials or character; and

Deleted: exemplifies

Deleted: ;

Deleted: (iii) . retains original design features, materials and/or character; . . ¶

¶ . and¶

¶ (iv) . The structure is on its original location or is in the same historic context after having been moved.¶

¶

<#>The hereinafter described real property meets the “social” designation criteria for a landmark as set forth in Section 9-11-4(A)(1)(b) of the Breckenridge Town Code because the property is associated with a notable person or the work of a notable person.¶

¶

Deleted: shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state or nation and; ¶

(ii) . the property

1 | [\(ii\) the structure on the property is on its original location or is in the same](#)
2 | [historic context after having been moved.](#)

3 |
4 | G. In accordance with the requirements of Section 9-11-3(B)(3) of the
5 | Breckenridge Town Code, on [January 2, 2013](#) the Application was reviewed by the
6 | Breckenridge Planning Commission. On such date the Planning Commission
7 | recommended to the Town Council that the Application be granted.

Deleted: May 15, 2012

8 |
9 | H. The Application meets the applicable requirements of Chapter 11 of Title 9 of
10 | the Breckenridge Town Code, and should be granted without conditions.

11 |
12 | I. Section 9-11-3(B)(4) of the Breckenridge Town Code requires that final
13 | approval of an application for landmark designation under Chapter 11 of Title 9 of the
14 | Breckenridge Town Code be made by ordinance duly adopted by the Town Council.

15 |
16 | Section 2. Designation of Property as Landmark. The following described real
17 | property:

18 |
19 | [Lot 4, Block 7, Yingling and Mickles](#) Addition to the Town of Breckenridge;
20 | commonly known and described as [106 South Harris](#) Street, Breckenridge,
21 | Colorado 80424

Deleted: Lots 25 and 26

Deleted: 9, Abbetts

Deleted: 306

Deleted: Ridge

22 |
23 | is designated as a landmark pursuant to Chapter 11 of Title 9 of the Breckenridge Town
24 | Code.

25 |
26 | Section 3. Police Power Finding. The Town Council finds, determines and declares that
27 | this ordinance is necessary and proper to provide for the safety, preserve the health, promote the
28 | prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and
29 | the inhabitants thereof.

30 |
31 | Section 4. Town Authority. The Town Council finds, determines and declares that it has
32 | the power to adopt this ordinance pursuant to the authority granted to home rule municipalities
33 | by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town
34 | Charter.

35 |
36 | Section 5. Effective Date. This ordinance shall be published and become effective as
37 | provided by Section 5.9 of the Breckenridge Town Charter.

38 |
39 | INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
40 | PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
41 | regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
42 | _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
43 | Town.
44 |
45 |

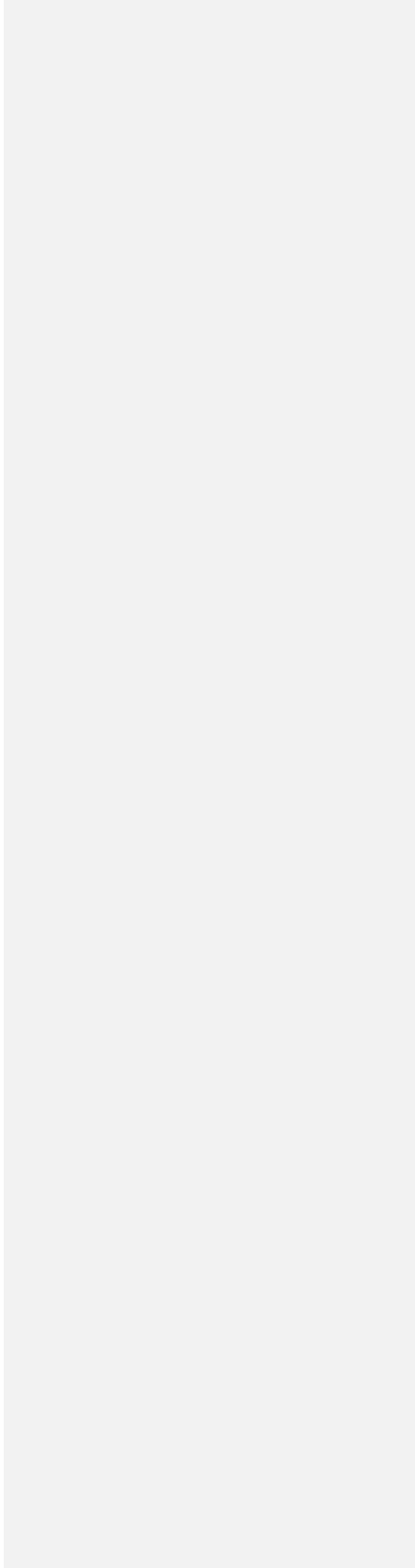
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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk



MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 27 (Insurance Limits Ordinance)

DATE: July 2, 2013 (for July 9th meeting)

The second reading of the ordinance amending several sections of the Town Code to require persons dealing with the Town to provide a specific amount (\$1,000,000) of general liability insurance, instead of tying the amount of required insurance to the limits of liability under the Colorado Governmental Immunity Act, is scheduled for your meeting on July 9th. There are no changes proposed to ordinance from first reading.

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

1 ***FOR WORKSESSION/SECOND READING – JULY 9***

2
3 ***NO CHANGE FROM FIRST READING***

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

7
8 COUNCIL BILL NO. 27

9
10 Series 2013

11
12 AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE BRECKENRIDGE TOWN
13 CODE CONCERNING REQUIRED INSURANCE LIMITS

14
15 WHEREAS, Senate Bill 13-023 was recently passed by the Colorado legislature and
16 signed into law by the Governor; and

17
18 WHEREAS, Senate Bill 13-023 became effective July 1, 2013; and

19
20 WHEREAS, Senate Bill 13-023 raises the limits of liability for Colorado municipalities
21 under the Colorado Governmental Immunity Act to \$350,000 for any injury to one person in any
22 single occurrence, and \$990,000 for any injury to two or more persons in any single occurrence;
23 and

24
25 WHEREAS, Senate Bill 13-023 further provides for an automatic adjustment to such
26 limits of liability every four years; and

27
28 WHEREAS, several provisions of the Breckenridge Town Code either require insurance
29 coverage with limits of liability that are specifically tied to the limits of liability for Colorado
30 municipalities established by the Colorado Governmental Immunity Act, or specifically require
31 insurance coverage with limits of liability less than the increased limits of liability set forth in
32 Senate Bill 13-023; and

33
34 WHEREAS, the Town Council finds and determines that the specific insurance
35 requirements in the Breckenridge Town Code that are less than the revised limits of liability for
36 Colorado municipalities established by Senate Bill 13-023 should be raised as provided in this
37 ordinance; and

38
39 WHEREAS, the Town Council further finds and determines that the insurance
40 requirements in the Breckenridge Town Code that are specifically tied to the Colorado
41 Governmental Immunity Act should be revised as set forth in this ordinance.

42
43 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
44 BRECKENRIDGE, COLORADO:

1 Section 1. Section 1418(6) of Section 7-1-2 of the Breckenridge Town Code is amended
2 to read as follows:

3
4 (6) At all times when a pedal bus is operated on the streets within the Town the
5 owner of a pedal bus shall maintain in effect a policy of comprehensive
6 commercial general liability insurance with limits of liability not less than ~~One~~
7 ~~Hundred Thousand Dollars (\$100,000) per person per claim, Three Hundred~~
8 ~~Thousand Dollars (\$300,000) aggregate for each accident~~ **One Million Dollars**
9 **(\$1,000,000) per occurrence**, and Fifty Thousand Dollars (\$50,000) for property
10 damage. The Town shall be named as an additional insured under such insurance
11 policy. An ACORD Form 27, or other certificate of insurance acceptable to Town
12 Clerk, shall be completed by the owner's insurance agent and provided to the
13 Town Clerk as evidence that policies prior to commencement of the operations of
14 the pedal bus on the Town streets, and on each renewal or replacement of the
15 policy during the time the pedal bus is being operated on the Town streets. No
16 pedal bus may be operated on a Town street unless the required insurance is in
17 effect and proof thereof has been provided to the Town Clerk as required by this
18 subsection.

19
20 Section 2. Subsection D of Section 9-1-19-45A of the Breckenridge Town Code is
21 amended to read as follows:

22
23 D. If a special commercial event is to be held on property owned by the Town, the
24 nonprofit sponsor shall obtain permission to use the property from the Town
25 manager and shall, at its cost, obtain and maintain in effect throughout the special
26 commercial event **commercial** general liability insurance with limits of liability
27 not less than ~~the limits of liability for governmental entities established by the~~
28 ~~Colorado governmental immunity act, article 10 of title 24, Colorado Revised~~
29 ~~Statutes, as amended from time to time~~ **One Million Dollars (\$1,000,000), or**
30 **such higher limits of liability as the Town Manager may require based upon**
31 **the nature of the special commercial event and other relevant factors.** The
32 Town shall be named as an additional insured under such insurance policy.

33
34 Section 3. Item D in Section 11-6-8 of the Breckenridge Town Code is amended to read
35 as follows:

36 D. The licensee shall provide **commercial** general liability insurance insuring
37 against losses, damages or claims arising from the licensee's use of the Town real
38 property pursuant to a license agreement. Such insurance shall have limits of
39 liability of not less than ~~the limits of liability established for municipalities under~~
40 ~~the Colorado governmental immunity act, section 24-10-101 et seq., Colorado~~
41 ~~Revised Statutes~~ **One Million Dollars (\$1,000,000), or such higher limits of**
42 **liability as the Town Manager may require based upon the nature of the**
43 **licensee's use of the Town real property and other relevant factors.** The Town
44 shall be named as an additional insured under such insurance policy.
45

1 Section 4. Except as specifically amended hereby, the Breckenridge Town Code, and the
2 various secondary codes adopted by reference therein, shall continue in full force and effect.

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

7 Section 6. The Town Council finds, determines and declares that it has the power to
8 adopt this ordinance pursuant to: (i) Section 31-15-103, C.R.S. (concerning municipal police
9 powers); (ii) Section 31-15-401, C.R.S.(concerning municipal police powers); (iii) the authority
10 granted to home rule municipalities by Article XX of the Colorado Constitution; and (iv) the
11 powers contained in the Breckenridge Town Charter.

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

14 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
15 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
16 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
17 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
18 Town.

19
20 TOWN OF BRECKENRIDGE, a Colorado
21 municipal corporation

22
23
24 By _____
25 John G. Warner, Mayor

26
27 ATTEST:
28
29

30
31 _____
32 Helen Cospolich
33 Town Clerk

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: July 3, 2013
Subject: Ordinance Approving a Ballot Question for a Retail Marijuana Excise Tax

Attached to this memo is an ordinance which will place the retail marijuana excise tax question on the November 5, 2013 ballot. In November of 2011, local electors approved a ballot question that imposes a 5% excise tax on the sale of medical marijuana and medical marijuana products. The ballot question being proposed in this ordinance, if approved, would allow that same 5% excise tax to apply to the sale of retail marijuana and retail marijuana products on or after January 1, 2014. This 5% excise tax would be in addition to, and not in lieu of, the sales tax owed to the Town in connection with the sale of retail marijuana.

This proposed ordinance specifies the collected tax revenues to be used for:

- Pay or reimburse the Town for training , enforcement, administration of the Town's marijuana regulations
- Help fund drug and alcohol prevention programs and facilities (including the county detoxification center), and
- Other general purposes of the Town.

We anticipate that most of the current medical marijuana facilities in Town will be opting to change their license to a retail marijuana facility. This ballot question will allow the Town to continue to collect that excise tax on the sale of retail marijuana and retail marijuana products. I will be available with the Town Attorney at the work session should you have any questions.

1 ***FOR WORKSESSION/FIRST READING – JULY 9, 2013***

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

5
6 COUNCIL BILL NO. _____

7
8 Series 2013

9
10 AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF
11 BRECKENRIDGE AT A SPECIAL TOWN ELECTION TO BE HELD ON NOVEMBER 5,
12 2013 THE QUESTION OF WHETHER, COMMENCING JANUARY 1, 2014, THE TOWN OF
13 BRECKENRIDGE SHOULD IMPOSE AN EXCISE TAX OF FIVE PERCENT (5%) ON THE
14 SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY LICENSED
15 RETAIL MARIJUANA ESTABLISHMENTS AS A NEW TAX PURSUANT TO ARTICLE X,
16 SECTION 20 OF THE COLORADO CONSTITUTION; REQUIRING REVENUES
17 COLLECTED BY THE TOWN FROM THE NEW TAX TO BE USED ONLY FOR
18 DESIGNATED PURPOSES; SETTING FORTH THE BALLOT TITLE; AND PROVIDING
19 FOR THE CONDUCT OF THE ELECTION
20

21 WHEREAS, the Town of Breckenridge (“**Town**”) is a home rule municipal corporation
22 organized and existing under Article XX of the Colorado Constitution; and
23

24 WHEREAS, the electors of the Town adopted the Breckenridge Town Charter on April
25 1, 1980; and
26

27 WHEREAS, Section 12.1 of the Breckenridge Town Charter provides that the Town
28 Council of the Town (“**Town Council**”) may, by ordinance, levy and collect excise taxes for
29 municipal purposes; and
30

31 WHEREAS, on November 1, 2011 the electors of the Town approved the imposition of a
32 local excise tax on the sale of medical marijuana and medical marijuana-infused products; and
33

34 WHEREAS, on November 6, 2012 the voters of the State of Colorado approved
35 Amendment 64 adding Section 16 of Article XVIII to the Colorado Constitution; and
36

37 WHEREAS, the Colorado legislature passed and the governor signed into law
38 HB13-1317, entitled “An Act Concerning the Recommendations Made in the Public Process For
39 the Purpose of Implementing Retail Marijuana Legalized By Section 16 of Article XVIII of the
40 Colorado Constitution, and, In Connection Therewith, Making an Appropriation”; and
41

42 WHEREAS, HB13-1317 became effective May 28, 2013; and
43

44 WHEREAS, HB13-1317 adopted the “Colorado Retail Marijuana Code”; and
45

1 WHEREAS, the Colorado Retail Marijuana Code authorizes the issuance by the state and
2 local authorities of licenses for the lawful sale of retail marijuana by licensed retail marijuana
3 establishments; and
4

5 WHEREAS, the Town Council intends to adopt its own local regulations for the sale of
6 retail marijuana and retail marijuana products pursuant to its home rule authority and the
7 authority provided in the Colorado Retail Marijuana Code; and
8

9 WHEREAS, the Town Council anticipates that, commencing on or about January 1,
10 2014, retail marijuana and retail marijuana products will be sold within the Town by licensed
11 retail marijuana establishments; and
12

13 WHEREAS, the Town Council believes that the local excise tax on the sale of medical
14 marijuana and medical marijuana-infused products that was approved by the electors of the
15 Town on November 1, 2011 should be extended to cover the sale of retail marijuana and retail
16 marijuana products under the Colorado Retail Marijuana Code; and
17

18 WHEREAS, Section 31-11-111(2), C.R.S., authorizes the Town Council to refer a
19 proposed ordinance and question to the vote of the registered electors of the Town; and
20

21 WHEREAS, Section 1-41-103, C.R.S., provides that a local government question
22 involving a matter arising under Article X, Section 20 of the Colorado Constitution (known as
23 the “TABOR Amendment”), including, but not limited to, approval of a new tax, may be
24 submitted to the voters of the municipality at a local election to be held on the first Tuesday of
25 November in each odd-numbered year; and
26

27 WHEREAS, the Town Council finds and determines that there should be submitted to the
28 registered electors of the Town, at a special Town election to be held on November 5, 2013 in
29 conjunction with the coordinated election to be held on that date, as a referred measure, the
30 question of whether effective January 1, 2014 the Town should adopt a new five percent (5%)
31 excise tax on the sale of retail marijuana and retail marijuana products within the Town by
32 licensed retail marijuana establishments, with the revenues collected by the Town from such new
33 tax to be used only for those purposes designated in this ordinance; and
34

35 WHEREAS, Section 31-11-111(2), C.R.S., provides that the Town Council or its
36 designee shall fix a ballot title for the referred measure set forth in Section 2 of this ordinance;
37 and
38

39 WHEREAS, the Town Council has determined that it should fix the ballot title for the
40 referred measure set forth in Section 2 of this ordinance.
41

42 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
43 BRECKENRIDGE, COLORADO:
44

45 Section 1. Chapter 9 of Title 3 of the Breckenridge Town Code is amended to read in its
46 entirety as follows:

CHAPTER 9

MEDICAL MARIJUANA EXCISE TAX

SECTION:

- 3-9-1: Definitions
- 3-9-2: Tax Imposed
- 3-9-3: Collection and Enforcement Procedures
- 3-9-4: Use of Collected Tax Revenues
- 3-9-5: Rules and Regulations

3-9-1: DEFINITIONS:

A. The definitions contained in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the state administrative regulations adopted pursuant to such statutes, and the Town’s medical marijuana and retail marijuana licensing ordinances, each as amended from time to time, are incorporated into this Chapter by reference.

B. As used in this Chapter the following words shall have the following meanings:

AUTHORIZED MEDICAL MARIJUANA RETAILER:

A person holding a valid permit issued by the State of Colorado pursuant to the Colorado Medical Marijuana Code, and by the Town pursuant to Town ordinance and the Colorado Medical Marijuana Code, authorizing the permit holder to lawfully sell medical marijuana at retail.

COLORADO MEDICAL MARIJUANA CODE:

Article 43.3 of Title 12, C.R.S., as amended from time to time.

COLORADO RETAIL MARIJUANA CODE:

Article 43.4 of Title 12, C.R.S., as amended from time to time.

DESIGNATED REVENUES:

All of the revenues received by the Town from the collection of the Town’s Medical marijuana excise tax approved by the electors of the Town on November 1, 2011 and imposed by Section 3-9-2.

LAWFUL SALE OF MARIJUANA:

Includes all sales within the Town of:
(1) medical marijuana and medical marijuana-infused products by persons

licensed pursuant to the Colorado Medical Marijuana Code and applicable Town ordinances; (2) retail marijuana and retail marijuana products by persons licensed pursuant to the Colorado Retail Marijuana Code and applicable Town ordinances; and (3) medical marijuana, medical marijuana-infused products, retail marijuana, and retail marijuana products by persons concurrently licensed pursuant to the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and applicable Town ordinances.

MEDICAL MARIJUANA:

Has the meaning provided in Section 12-43.3-104, C.R.S., which is part of the Colorado Medical Marijuana Code.

MEDICAL MARIJUANA -
INFUSED PRODUCT:

Has the meaning provided in Section 12-43.3-104, C.R.S., which is part of the Colorado Medical Marijuana Code.

RETAIL MARIJUANA:

Has the meaning provided in Section 12-43.4-103, C.R.S., which is part of the Colorado Retail Marijuana Code.

RETAIL MARIJUANA
PRODUCT:

Has the meaning provided in Section 12-43.4-103, C.R.S., which is part of the Colorado Retail Marijuana Code.

1
2 3-9-2: TAX IMPOSED: A tax is levied and shall be collected upon the lawful
3 sale of marijuana within the Town at the rate of five percent (5.0%) of the price
4 paid by the purchaser thereof rounded off to the nearest penny. The tax shall be
5 collected by the licensed person and paid to the Town. The tax imposed by this
6 section is in addition to, and not in lieu of, the sales tax owed to the Town in
7 connection with the sale of medical marijuana and retail marijuana.

8
9 3-9-3: COLLECTION AND ENFORCEMENT PROCEDURES: Except for those
10 provisions that by their terms cannot apply, the procedures for the collection and
11 enforcement of the Town's sales tax as provided in Title 3, Chapter 1 of this Code
12 shall apply to the collection and enforcement of the medical-marijuana excise tax
13 imposed by this Chapter. ~~The Financial Service Manager shall adopt administrative~~
14 ~~rules and regulations specifying how the procedures for the collection and~~
15 ~~enforcement of the Town's sales tax as provided in Title 3, Chapter 1 of this Code~~

1 will apply to the collection and enforcement of the medical marijuana excise tax
2 imposed by this Chapter.
3

4 3-9-4: USE OF COLLECTED TAX REVENUES: The Designated Revenues shall
5 be used to pay or reimburse the Town for direct and indirect costs incurred for: (i)
6 adequate training, enforcement, and administration of the Town's medical and
7 retail marijuana regulations not otherwise covered by the ~~application and renewal~~
8 ~~fees collected~~ for medical marijuana permits issued by the Town under the Colorado
9 Medical Marijuana Code, the Colorado Retail Marijuana Code, and the Town's
10 ordinances, (ii) monies expended by the Town in connection with drug or drug and
11 alcohol prevention programs and facilities (including, but not limited to,
12 expenditures for the local detoxification center), and for (iii) other general purposes
13 of the Town.
14

15 3-9-5: RULES AND REGULATIONS: The Financial Services Manager shall
16 have the authority from time to time to adopt, amend, alter and repeal
17 administrative rules and regulations as may be necessary for the proper
18 administration of this Chapter. Such regulations shall be adopted in accordance
19 with the procedures established by Title 1, Chapter 18 of this Code.
20

21 Section 2. A special Town election is called and shall be held on Tuesday, November 5,
22 2013 in connection with the coordinated election that is to be held on that day. At such election
23 there shall be submitted to the vote of the registered electors of the Town, as a referred measure
24 under Article X, Section 20 of the Colorado Constitution and Section 31-11-111(2), C.R.S., the
25 ballot issue hereinafter set forth (the "**Ballot Issue**"). At the said election, the official ballot shall
26 state the substance of the Ballot Issue to be voted upon and, as so stated, shall constitute the
27 ballot title, designation, and submission clause. At such election each registered elector voting at
28 the election shall be given the opportunity to indicate his or her choice on the Ballot Issue (either
29 "Yes/For" or "No/Against"), which shall be in the following form:

30 **SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED BY**
31 **THOUSAND DOLLARS (\$) IN THE**
32 **FISCAL YEAR COMMENCING JANUARY 1, 2014 AND ENDING**
33 **DECEMBER 31, 2014, AND BY WHATEVER ADDITIONAL AMOUNTS**
34 **ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING, EFFECTIVE**
35 **JANUARY 1, 2014, A NEW EXCISE TAX ON THE SALE WITHIN THE**
36 **TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA**
37 **PRODUCTS AS DEFINED IN THE COLORADO RETAIL MARIJUANA**
38 **CODE AND APPLICABLE TOWN ORDINANCES, AT THE RATE OF**
39 **FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OF**
40 **THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, IN**
41 **ACCORDANCE WITH ORDINANCE NO. SERIES 2013, WHICH IS**
42 **HEREBY APPROVED; AND SHALL THE REVENUE RECEIVED BY**
43 **THE TOWN FROM THE COLLECTION OF SUCH NEW TAX BE USED**
44 **TO PAY OR REIMBURSE THE TOWN FOR DIRECT AND INDIRECT**
45 **COSTS INCURRED OR EXPENDED BY THE TOWN FOR ADEQUATE**
46 **TRAINING, ENFORCEMENT, AND ADMINISTRATION OF ALL**

1 **APPLICABLE MARIJUANA LAWS AND REGULATIONS, TO SUPPORT**
2 **LOCAL DRUG AND ALCOHOL PROGRAMS AND FACILITIES, AND**
3 **FOR OTHER GENERAL PURPOSES OF THE TOWN; AND SHALL THE**
4 **TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE**
5 **AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X,**
6 **SECTION 20 OF THE COLORADO CONSTITUTION ?**
7

8 YES _____ NO _____
9

10 Section 3. In connection with the fixing of the ballot title for the Ballot Issue, the Town
11 Council of the Town of Breckenridge finds and determines as follows:

12 A. The Town Council has considered the public confusion that might be caused by
13 misleading ballot titles.
14

15 B. The general understanding of the effect of a “yes” or “no” vote on the Ballot Issue
16 will be clear to the electors.
17

18 C. The ballot title for the Ballot Issue will not conflict with those titles selected for any
19 other measure that will appear on the municipal ballot at the November 5, 2013 special Town
20 election; and
21

22 D. The ballot title for the Ballot Issue correctly and fairly expresses the true intent and
23 meaning of the measure.
24

25 Section 4. If a majority of all the votes cast at the election shall be for the ballot issue set
26 forth in Section 2 of this ordinance, the amendments to the Breckenridge Town Code set forth in
27 full in Section 1 of this ordinance shall be deemed to have been adopted and shall become
28 effective January 1, 2014, and on such date the Town of Breckenridge shall be authorized to
29 collect, retain, and expend the full amount of the tax revenues collected by the Town as a result
30 of the new excise tax approved by the Ballot Issue separate and apart from any other
31 expenditures of the Town which may be limited pursuant to Article X, Section 20 of the
32 Colorado Constitution, or any other state restriction on the Town’s fiscal year spending, and the
33 increased tax revenues authorized for collection, retention and expenditure by the passage of the
34 Ballot Issue shall not be counted in any such spending limitation. If a majority of all the votes
35 cast at the election shall be against the Ballot Issue the amendments to the Breckenridge Town
36 Code set forth in full in Section 1 of this ordinance shall be deemed to have been defeated, and
37 such amendments to the Breckenridge Town Code shall not become effective, but the excise tax
38 on the sale of medical marijuana and medical marijuana-infused products approved by the
39 electors of the Town on November 1, 2011 shall continue in full force and effect notwithstanding
40 the defeat of the Ballot Issue.

41 Section 5. The special Town election on November 5, 2013 to consider the Ballot Issue
42 shall be conducted as a coordinated election with Summit County. The Summit County Clerk
43 and Recorder shall conduct the special Town election on behalf of the Town. Pursuant to Section
44 1-12-6 of the Breckenridge Town Code, the election shall be conducted under the Uniform

1 Election Code of 1992. The cost of the election with respect to the Ballot Issue shall be paid
2 from the general fund of the Town.

3 Section 6. The officers of the Town are authorized and directed to take all action
4 necessary or appropriate to effectuate the provisions of this ordinance. All action previously
5 taken by the officers of the Town with respect to the Ballot Issue is ratified, confirmed, and
6 approved.

7 Section 7. The Town Clerk, or the coordinated election official if so provided by
8 intergovernmental agreement, shall give or cause to be given the notice of election required by
9 Section 1-5-205, C.R.S. Additionally, the Town Clerk shall cause the notice required by Section
10 20(3)(b) of Article X of the Colorado Constitution to be prepared and delivered in accordance
11 with the requirements of applicable law.

12 Section 8. The Town Clerk shall serve as the designated election official of the Town the
13 purposes of performing acts required or permitted by law in connection with the election on the
14 Ballot Issue, and shall take such action as may be required to comply with all applicable laws
15 pertaining to the conduct of the election.

16 Section 9. The Town Council finds, determines, and declares that this ordinance is
17 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
18 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
19 thereof.

20 Section 10. The Town Council finds, determines, and declares that it has the power to
21 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
22 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

23 Section 11. Pursuant to Section 6.1(b) of the Breckenridge Town Charter, this ordinance
24 is not subject to the people’s reserved power of referendum because it calls a special election.

25 Section 12. This ordinance shall be published and become effective as provided by
26 Section 5.9 of the Breckenridge Town Charter.

27 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
28 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
29 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
30 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
31 Town.

32
33 TOWN OF BRECKENRIDGE, a Colorado
34 municipal corporation
35

36
37
38 By _____
39 John G. Warner, Mayor
40

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ATTEST:

Helen Cospolich
Town Clerk



June 25, 2013 – for Council Work Session on July 9, 2013

TO: Breckenridge Town Council

FROM: Maribeth Lewis-Baker and James Phelps

RE: Disadvantaged Business Enterprise (DBE) Plan and Goals for FFY 2014 - 2016

Ladies and Gentlemen of the Breckenridge Town Council:

As a recipient of federal financial assistance grant funds, the Free Ride is required by the Federal Transit Administration to prepare a DBE Plan and file triennial goals for the use of disadvantaged business enterprises in our procurement of goods and services utilizing federal grant funding.

In 2010, the Council adopted by resolution a Disadvantaged Business Enterprise Plan that was submitted to the Federal Transit Administration. As part of the Plan, we are required to submit Annual DBE Participation Level goals on a triennial basis. An update for Federal Fiscal Years 2014-2016 is now due.

Due diligence was conducted to determine the number of DBE businesses that are registered within Summit County and also the surrounding counties for our proposed list of projects. The same process was conducted to determine the total number of licensed businesses within the same geographic area for the applicable goods and services. Upon conclusion of the exercise, there were no registered DBE companies available within the geographic area that was examined.

In addition, our anticipated projects using federal grant funding was reviewed and a determination was made that our anticipated vehicle purchases over the next three years would be a categorical exclusion, which would make us exempt from having to file the triennial goal.

An Annual DBE Participation Level (ADPL) goal of 0% (goal exclusion) has been established for Federal Fiscal Years 2014, 2015, 2016. Pursuant to public involvement requirements set forth by the Federal Transit Administration, the proposed goal and the availability of the DBE Plan for public review and comment was published in the Summit Daily News on June 28, 2013. The Free Ride shall accept comments for informational purposes from the public through August 1, 2013. Any public comments received shall be included with the final submittal to the Federal Transit Administration.

By way of resolution, we are seeking your adoption and approval for the ADPL goal for FFY 2014, 2015, and 2016. In 2016, we will be required to update our DBE Plan with a new set of triennial goals.

Staff will be on-hand at the Council Work Session to answer any questions you may have regarding the DBE Plan, ADPL goal, or the process for our DBE Compliance.

1 **FOR WORKSESSION/ADOPTION – JULY 9**

2
3 A RESOLUTION

4
5 SERIES 2013

6
7 A RESOLUTION APPROVING THE "TOWN OF BRECKENRIDGE 'FREE RIDE'
8 ANNUAL DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION LEVEL
9 GOALS FOR FEDERAL FISCAL YEARS 2014, 2015, AND 2016"

10
11 WHEREAS, the Town of Breckenridge owns and operates the "Town of Breckenridge
12 Free Ride Transit System" ("Free Ride Transit System"); and

13
14 WHEREAS, the Town has received financial assistance from the United States
15 Department of Transportation ("DOT") in connection with the Free Ride Transit System; and

16
17 WHEREAS, as a condition of receiving federal assistance the Town, on behalf of the
18 Free Ride Transit System, has signed an assurance that it will comply with the DOT regulations
19 set forth in 49 CFR Part 26; and

20
21 WHEREAS, the Town, on behalf of the Free Ride Transit System, has established a
22 Disadvantaged Business Enterprise ("DBE") Program as required by 49 CFR Part 26; and

23
24 WHEREAS, the Town's Transit Manager has prepared a "Town of Breckenridge – Free
25 Ride Transit System Disadvantaged Business Enterprise (DBE) Plan" in accordance 49 CFR Part
26 26, and said plan was previously adopted by the Town Council by Resolution No. 14, Series
27 2010; and

28
29 WHEREAS, included within the Plan is the requirement to file triennial "Annual DBE
30 Participation Level Goals" for the Town; and

31
32 WHEREAS, an update for federal fiscal years 2014, 2015, and 2016 is now due; and

33
34 WHEREAS, the Town, on behalf of the Free Ride Transit System, has disseminated the
35 proposed Plan goals to DBE and non-DBE business communities that perform work for the
36 Town on DOT-assisted contracts by publishing public notice of the proposed Plan goals for
37 public review in *The Summit Daily News* and by posting the proposed Plan goals on the Town's
38 website; and

39
40 WHEREAS, the Town, on behalf of the Free Ride Transit System, has received and
41 considered all public comments submitted to the Town concerning the proposed Plan goals; and

42
43 WHEREAS, the Town Council has reviewed the proposed Plan goals, and finds and
44 determines that the Town's "Annual DBE Participation Level Goals" for federal fiscal years
45 2014, 2015, and 2016 set forth therein should be approved.
46

1 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
2 BRECKENRIDGE, COLORADO, as follows:

3
4 Section 1. The “Town of Breckenridge – Free Ride Transit System Disadvantaged
5 Business Enterprise (DBE) Plan “Annual DBE Participation Level Goals” For Federal Fiscal
6 Years 2014, 2015, and 2016” (Exhibit “A” hereto) is approved.

7 Section 2. The Town Manager is authorized, empowered, and directed to sign the
8 approved Plan goals document on behalf of the Town of Breckenridge for submission to the
9 Federal Transit Administration, and the appropriate officers and employees of the Town are
10 directed to take all necessary and appropriate steps to fully implement the approved Plan. All
11 action previously taken by the officers and employees of the Town of Breckenridge with respect
12 to the approved Plan is hereby ratified, confirmed, and approved in all respects.

13 Section 3. This resolution shall become effective upon its adoption.

14
15 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2013.

16
17 TOWN OF BRECKENRIDGE

18
19
20
21 By: _____
22 John G. Warner, Mayor

23
24 ATTEST:

25
26
27
28 _____
29 Helen Cospolich, Town Clerk

30
31 APPROVED IN FORM

32
33
34
35 _____
36 Town Attorney Date



June 28, 2013

Rebecca Ubando Tanrath
Civil Rights Officer, Region 8
Federal Transit Administration
12300 West Dakota Avenue, Suite 310
Lakewood, CO 80228-2583

Dear Rebecca,

This is to advise you that based on our projected receipt of federal funding for the next triennial goal setting period, the Town of Breckenridge will not be required to submit a DBE goal for Federal Fiscal Year 2014, 2015, and 2016.

We anticipate receipt of the following federal funding;

2014

FTA Section 5311 Award – Administration \$15,000
FTA Section 5311 Award - Operations \$118,650
FTA Section 5339 Award - Capital \$637,500 (for replacement vehicles) **TVM**
Total Funding Anticipated \$771,150
Less Vehicle Acquisition \$637,500
Net Federal \$133,650 (under \$250,000)

2015

FTA Section 5311 Award – Administration \$15,000
FTA Section 5311 Award - Operations \$124,582
FTA Section 5311 Award - Capital \$187,500 (for replacement vehicle) + state funds **TVM**
Total Funding Anticipated \$327,082
Less Vehicle Acquisition \$187,500
Net Federal \$139,582 (under \$250,000)

2016

FTA Section 5311 Award – Administration \$15,000
FTA Section 5311 Award - Operations \$130,811
FTA Section 5311/5339 Award - Capital \$1,080,000 (for replacement vehicles) **TVM**
Total Funding Anticipated \$1,225,811
Less Vehicle Acquisition \$1,080,000
Net Federal \$145,811 (under \$250,000)

We will be using Transit Vehicle Manufacturers (TVM) that have been certified by the Federal Transit Administration (FTA) and have filed DBE Goals directly with FTA. As a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, we will certify that the Manufacturer has complied with the requirements of 49 C.F.R. § 26. Therefore, we will not include FTA assistance used in transit vehicle procurements in the base amount from which our overall goal is calculated. 49 C.F.R. § 26.49(a).

For Federal Fiscal years 2014, 2015, and 2016 the Town of Breckenridge Free Ride Transit System anticipates being exempt from setting Annual DBE Participation Level (ADPL) goals under the small transit system exemption, with federal dollar contracting opportunities of less than \$250,000 per year as provided in CFR 49 Part 26.21.

Pursuant Attachment 11 of our DBE Plan, as filed with the Federal Transit Administration, we will be following our proposed Alternate Rule - Regulation: 49 CFR Part 18.36(e) for Federal Fiscal Years 2014, 2015, and 2016.

This letter serves as our statement of exclusion to the FTA and the Town of Breckenridge Free Ride Transit System shall follow the requirements of 49 CFR 18.36(e) et al during the next triennial period.

Notice for Public Participation on this proposed action was published in the Summit Daily News on June 28, 2013. Public review of our DBE Plan Program and of our proposed exemption from ADPL Goals for FFY 2014, 2015, and 2016 shall be available on our website (www.breckfreeride.com) and acceptance of written public comments shall be accepted through August 1, 2013.

The Breckenridge Town Council is also expected to formally pass by Resolution the adoption of the DBE goal setting exclusion for FFY 2014, 2015, and 2016 at its July 9, 2013 meeting.

Should you have any questions, please feel free to contact me. I can be reached by email to the following address: maribethL@townofbreckenridge.com or directly by phone at (970) 547-3141.

Sincerely,
TOWN OF BRECKENRIDGE
FREE RIDE TRANSIT SYSTEM

Maribeth Lewis-Baker

Maribeth Lewis-Baker
Transit Manager

Memorandum

TO: TOWN COUNCIL
FROM: Dale Stein, Assistant Town Engineer
DATE: July 3, 2013
RE: Public Projects Update

2013 Main Street Improvements

Final clean-up, rock work, and perennial plantings were completed on July 3rd, just in time for the busy holiday weekend!

Bicycle Facilities

Bike lane striping and symbols have been refreshed on Main Street and throughout town. A green background was added to the bike lane symbol for enhanced visibility. Bike lane symbols will be repainted on Park Ave once CDOT's fiber optic work is completed and the asphalt is repaired.

Staff has also been working on updates to the signage along the Rec Path.

Arts District

Contractor mobilization is planned to begin July 8th and abatement work at the Robert Whyte house will follow later in the week. Parking at the Barney Ford lot and the alley will be closed during the year-long construction. Staff, with help from our CSO's, have contacted parking permit holders and the area merchants with information on the closures for both Harris Street and Arts District projects.

Harris Street Community Building

Work is scheduled to begin at the Harris Street Community Building on July 8th. Access to the building will be restricted as asbestos abatement and removal occurs over the next month. Mobilization and erection of the construction fencing is also scheduled to begin the week of July 8th. The north parking lot will be closed for the duration of the project, but the south side lot will remain open for parking.

Recreation Center Outdoor Basketball Court

The outdoor basketball court at the Rec Center has been revamped with new asphalt, playing surface, and hoops. The court will be used in a tournament on July 5th.

Four O'clock Roundabout

Staff is working with CDOT to finalize the design for the new roundabout. Xcel is scheduled to begin utility relocation in September.

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: July 3, 2013
SUBJECT: Committee Reports for 07-09-2013 Council Packet

The following committee reports were submitted by Town Employees and/or the Town Manager:

Summit Stage Advisory Board Meeting	June 26, 2013	James Phelps
--	----------------------	---------------------

The Summit Stage Advisory Board held their Annual Retreat meeting on June 26, 2013. James Andrew, the new Summit Stage Director, was present. After a brief introduction the meeting began. There was significant discussion of the Strategic Planning Study that was finalized last summer. The board consensus was that the study did not adequately address all the project tasks as defined by the Scope of Work (SOW). The SOW was to include analysis for future population areas, new/expansion routes, and cost (operational & capital) to operate the system in future. The board was uncomfortable with spending additional dollars with the consultant for any additional work. However, Thad Noll – Assistant County Manager will call the consultant and discuss the study shortcomings. The board also directed Thad Noll and James Andrew, to internally analyze costs for circulator service for future service areas. The discussion that led to this was that individual communities may need to help fund for these future requests. Additionally, there was agreement that the Summit Stage mainlines between Town to Town need to be no more than 30 minutes for optimal efficiencies.

Thad Noll updated the board that Summit County will be putting out a Request for Proposal for contracting Summit Stage operations. Commissioner Dan Gibbs was in attendance and supported the decision to seek proposals. There has been no actual decision to contract but rather Summit County Government would like to have information for better understanding and future discussions.

Police Advisory Committee	July 3, 2013	Chief Haynes
----------------------------------	---------------------	---------------------

The Police Advisory Committee (PAC) held its bimonthly meeting on July 3, 2013. The Chief and PAC members discussed the following:

- **Council Items:** Chief Haynes reported on the F Lot development study and the decision to move forward with an economic impact study. She also briefly discussed the Events Evaluation Report.
- **Investigations:** Detective Blank reported that the number of investigation cases has decreased in past few weeks. Detectives are working closely with other agencies to identify suspects in a variety of graffiti investigations within Summit and Lake Counties. Breckenridge is not seeing car break-ins which have been frequent in Silverthorne and Dillon.
- **Fire Danger/Fireworks:** Chief Haynes reiterated the zero tolerance policy on fireworks. She informed the committee that the Town has banned permissible fireworks, but the professional fireworks will go on as scheduled. Chief Haynes asked for their assistance in spreading the “No personal fireworks” message. Assistant Chief Morrison gave a presentation on his time at setting up a wildland fire mobilization center in Grand Junction.
- **Recruiting:** Chief Haynes provided the committee with an update on recruitment and hiring, including a brief description of our newest officer, Stephanie Snyder, a local Summit county resident. The Department has made a conditional offer to another local candidate. With successful completion of the testing process he will likely be sponsored by the Department to attend the Glenwood police academy this fall.

The Department will hold a promotional assessment center for Sergeant on July 22nd. Committee members were asked to participate in the assessment process.

- **Other:** Chief Haynes provided the committee with an update of Blue River traffic enforcement. The department’s participation does not affect normal operations as only volunteer off-duty officers participate.

The committee was provided a brief update on the USA Pro Challenge.

The committee asked a few questions regarding the retail sale of marijuana. The Chief explained that state regulations came out on Monday and are currently being reviewed. The group discussed the anticipated similarities in the regulation of medical and retail marijuana. She also explained upcoming ballot measures regarding marijuana taxes.

The Assistant Chief discussed a recent symposium on school violence he attended with a representative from the Summit School District (Travis Avery). Although our district has made considerable strides in the ensuring the safety of our children there is still more to be done. They returned with a number of ideas for possible implementation.

Committees	Representative	Report Status
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	No Meeting/Report
Mayors, Managers & Commissions Meeting	Mayor Warner	Verbal Report
Summit Leadership Forum	Tim Gagen	No Meeting/Report
Liquor Licensing Authority*	Taryn Power	No Meeting/Report
Wildfire Council	Matt Thompson	No Meeting/Report
Public Art Commission*	Jenn Cram	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	Included
Police Advisory Committee	Chief Haynes	Included
Housing/Childcare Committee	Laurie Best	Verbal Report
CMC Advisory Committee	Tim Gagen	No Meeting/Report

Note: Reports provided by the Mayor and Council Members are listed in the council agenda.

** Minutes to some meetings are provided in the Manager's Newsletter.*

MEMORANDUM

TO: TOWN COUNCIL
CC: TOWN MANAGER, TIM GAGEN; ASSISTANT TOWN MANAGER, RICK HOLMAN
FROM: TAX AUDITOR, LESLIE FISCHER
SUBJECT: TOWN TAX CODE REVISIONS
DATE: 7/3/2013

Purpose:

This memo details changes proposed to the Town of Breckenridge Sales Tax code (attached, with changes highlighted). This need occurs from time to time in order to “catch up” with new technology and other nuances that have come to light since the code was written. Colorado Municipal League has recommended the City of Golden’s Tax Code as a model to follow. Therefore, staff has looked to their code, as well as those of other municipalities with tax policies that mirror those of the Town of Breckenridge. The intent of these revisions is to update our code to provide clarification on current policy and add practical exemptions to the code. We are not creating any new taxes.

The single most significant item would be the exemption of renewable energy assets from sales tax (see **Sources of Renewable Energy** below). Such items are already exempt under State and County sales tax rules. Staff wants to give Council the opportunity to debate this concept before the solar gardens come online. With our code as it is now, Breckenridge would be the only jurisdiction taxing the purchases at the solar gardens.

Please note the changes proposed are attached in draft form. Staff is seeking Council’s input before we proceed to an actual draft ordinance. First reading would be at the July 23rd Council meeting.

Exemptions:

Staff proposes the following new exemptions to our code. The purpose in exempting a transaction in the tax code is either for exempting activities that we wish to promote or making it clear that collecting tax on such a transaction would not be in the best interest of the Town.

Sources of Renewable Energy – To promote the use of renewable energy in the Town. These sources include photovoltaic (PV) and solar thermal systems, and other sources of alternating current electricity from a renewable energy source (including, but not limited to wind power).

Sales by Charitable Organizations –To allow exempt sales by a charitable organization that make “occasional sales” up to 90 non-consecutive days per year and up to \$25,000 in the Town, provided that the funds are retained by the organization to be used in the course of their charitable service.

Sales by Schools –To allow exempt sales by a school (such as lunches, clothing, fundraising sales, etc), provided that the funds are retained by the organization to be used in the course of their service. This exemption does not include schools held or conducted for private or corporate profit.

Garage Sales –To allow exempt transactions at garage, yard or estate sales (not to include automotive sales) provided that the sale is at the residence of the seller, the property to be sold was originally purchased for use by members of that household, the sale is no longer than 3 days in duration, and no more than 3 sales per year.

Other Housekeeping Items:

Taxable Services – Some taxable transactions defined in our code are service transactions. This is made clear in the Purpose of the Code.

Software and Telecommunications – Update definitions and provide clarification on transactions, such as “service transactions”, license fees, maintenance agreements, data processing equipment and programs, Voice over Internet Protocol, and remote access.

Financial Services Manager – To replace “Finance Director.”

Medical Supplies – Prescription drugs are only those that are regulated by the Food and Drug Administration and those that are for human use.

Vending Machines – To allow the amount of tax to be absorbed into the purchase price of vending transactions.

Previous Transactions – The taxability of transactions does not depend on whether or not tax was included in a previous transaction. This is true with the sale of assets of a business, resale stores, improperly assessed tax on a prior transaction, among other situations.

Point of Delivery – We determine the point of taxation based upon the point of delivery to the end user.

Retailer-Contractor – There are times that a construction contractor acts as a retailer. The sale of tangible personal property by such a Retailer-Contractor, versus construction materials that are incorporated into real property, are subject to tax.

Purchases by Exempt Organizations – As is the practice of the State, we require that a purchase by a charitable, religious, or government organizations be billed to and paid for by the exempt organization.

Taxation on the Acquisition, Inception, or Cessation of a Business – Tax is required to be remitted on the sale of assets other than inventory. We also expect that returns will begin to be filed by any new business and a final return will be filed by all businesses ceasing business activity in Town.

Record Retention – In construction audits, we obtain information from the Certificate of Occupancy or Completion process. We would request from the contractor that records be supplied up to 3 years after the issue of the certificate in order to determine taxes collected by the vendor, supplier, or sub-contractor. Change is to make the retention of this type of record clearer in the Code.

Number of days for a hearing – Per State statute, we must provide thirty (30) days for a taxpayer to request a hearing versus the twenty (20) days currently provided for in the code to protest a decision of the financial services manager.

Refunds are not assignable – We only issue refunds to the consumer who paid the tax. We do not permit a third party to request a refund on another's behalf.

Confidentiality – There are times in a tax audit that we request information from the State of Colorado regarding tax returns filed with the Department of Revenue in order to issue an assessment of unfiled taxes or determine the accuracy of the returns filed with the Town. Conversely, this enforcement tool is a necessity for the State in collection of taxes. We also find that in implementing tax enforcement and collection projects designed to level the playing field for all taxpayers, we can gain efficiencies and cost savings by sharing a database that may include other tax collection agencies (such as other municipalities in Summit County). One example of such a project is the VRCompliance database, which may include information on County property tax as well as sales tax obligations across multiple municipalities. Provided that all registered users to such a confidential database are required to hold all information contained within as confidential, this tool should be permitted for the purpose of enforcement of the Tax Codes.

We ask that Council review the proposed revisions. Staff will be present during the July 9th Work Session to respond to any questions that Council may have and note the direction provided. Then, per the feedback provided from Council, staff will present a revised version of the Town Tax Code for Council's consideration at the July 23rd Town Council meeting

Chapter 1

SALES TAX

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3-1-1: PURPOSE:

It is the intent of this chapter that every person in the town who purchases at retail or leases any tangible personal property or purchases a taxable service as defined by this chapter is exercising a taxable privilege. All sales, leases, and purchases of "tangible personal property" as defined in this chapter are taxable unless specifically exempted in this chapter. The sales tax imposed on tangible personal property by this chapter applies to each transfer of ownership, possession, and control of such property and may occur more than once during the life of the property. (Ord. 45, Series 1986)

3-1-2: DEFINITIONS:

When not clearly indicated otherwise by the context, the following words and phrases, as used in this chapter, shall have the following meanings:

ACCESS SERVICE: The services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

APPLICANT: A person who has made an application for the initial issuance or renewal of a sales tax license under the provisions of this chapter.

AUCTION: Any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

AUTOMOTIVE VEHICLE: Any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. "Automotive vehicles" includes, but is not limited to, motor vehicles, trailers, semitrailers, or mobile homes. "Automotive vehicle" shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

BUSINESS: All activities engaged in, or caused to be engaged in, with the object of gain, benefit or advantage, direct or indirect.

CHARITABLE ORGANIZATION: Any entity which: a) has been certified as a not for profit organization under section 501(c)(3) of the internal revenue code, and b) is a religious or charitable organization. As used in this definition, a "charitable organization" is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.

~~COMPUTER~~-SOFTWARE: *The internalized instruction code which controls the basic operations (i.e., arithmetic and logic) of the computer, causing it to execute instructions contained in system programs, as an integral part of the computer. It is not normally accessible or modifiable by the user. A software program is one in which instructions and routines (programs) are determined necessary to program the customer's electronic data processing equipment to enable the customer to accomplish specific functions with his EDP system. The software may be in the form of:*

- A. *Systems programs (except for the instruction codes which are considered tangible personal property in this definition) - programs that control the hardware itself and allow it to compile, assemble and process application programs.*

B. Application programs - programs that are created to perform business functions or control or monitor processes.

C. Prewritten (canned) - programs that are either systems programs or application programs ~~and are~~ in which the base program is not written specifically for the user.

SOFTWARE AS A SERVICE: Software that is rented, leased or subscribed to from a provider d at the consumer's location, including but not limited to applications, systems or programs.

Software License Fee: A fee charged for the right to use, or maintain a copy of, software, regardless of the form of the software.

SOFTWARE MAINTANENCE AGREEMENT: An agreement, typically with a software provider, that may include (1) provisions to maintain the right to use the software; (2) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or (3) technical support.

CONSTRUCTION MATERIALS: Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builder's hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lathe, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.

CONSUMER: A. Any individual person; or

B. Any person engaged in business in the town who uses, stores, distributes or otherwise consumes in the town tangible personal property or taxable services purchased from sources inside or outside the town.

C. Any person residing or engaged in business in the ~~city~~Town who is an end user of software that was purchased, leased, rented, or subscribed from sources inside or outside the ~~city~~Town.

COMPONENTS USED IN SOLAR THERMAL SYSTEMS:

A. Solar collectors including flat-plate collectors, evacuated tube collectors, solar air collectors, and concentrating solar thermal collectors;

B. Tanks for the storage of gases or liquids that have been heated or cooled by solar-generated energy;

C. Pumps, impellers, and fans for circulation of gases or liquids that have been heated or cooled by solar-generated energy;

D. Heat exchangers used to transfer solar-generated energy;

E. Support structures, racks, and foundations for any components listed in subparagraphs A to D of this paragraph; and

F. Any other system components such as piping, valves, gauges, fittings, insulation, and controls for any components listed in subparagraphs A to D of this paragraph.

COMPONENTS USED IN THE PRODUCTION OF ALTERNATING CURRENT ELECTRICITY FROM A RENEWABLE ENERGY SOURCE:

- A. Shall include, but not be limited to, wind turbines, rotors and blades, solar modules, trackers, generating equipment, supporting structures or racks, inverters, towers and foundations, balance of system components such as wiring, control systems, switchgear, and generator step-up transformers, and concentrating solar power components that include, but are not limited to, mirrors, plumbing, and heat exchangers.
- B. Shall not include any components beyond the point of generator step-up transformers located at the production site, labor, energy storage devices, or remote monitoring systems.

COVER CHARGE: An admission charge made by a nightclub or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

DATA PROCESS EQUIPMENT: Any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information including, but not limited to, computers, software, hardware or firmware.

DATA PROCESSING PROGRAMS: Systems or applications that organize or manipulate data including, but not limited to, software, software as a service and internet subscription services.

DRUGS DISPENSED IN ACCORDANCE WITH A PRESCRIPTION: Drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

ENGAGED IN BUSINESS IN THE TOWN: Performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the town. "Engaged in business in the town" includes, but is not limited to, any one of the following activities by a person:

- A. Directly, indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- B. Sends one or more employees, agents or commissioned salespersons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;
- C. Maintains one or more employees, agents or commissioned salespersons on duty at a location within the taxing jurisdiction;
- D. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
- E. Makes more than one delivery into the taxing jurisdiction within a twelve (12) month period.

EXEMPT COMMERCIAL PACKAGING MATERIALS: Containers, labels and shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all of the following conditions:

- A. Is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

- B. Is transferred by said person along with and as part of the finished product to the purchaser; and
- C. Is not returnable to said person for reuse.

FINANCIAL SERVICES MANAGER: The *financial services manager* of the town or such other person designated by the municipality; "*financial services manager*" shall also include such person's designee.

GROSS SALES: The total amount received in money, credit, property or other consideration valued in money for all sales, leases or rentals of tangible personal property or services.

LICENSE: A town sales and accommodation tax license.

LIMITED LIABILITY COMPANY: A limited liability company organized under Colorado law, or a limited liability company organized under the laws of another state.

LOCAL EXCHANGE COMPANY: Any person which provides public telephone or telecommunication exchange access liens, mobile telecommunications or channels necessary to effect the transfer of two-way voice or data grade information between the final user and the local telecommunications network.

LODGING SERVICES: The furnishing, for a consideration, of a room or other accommodation in a hotel, inn, bed and breakfast establishment, apartment hotel, lodging house, condominium, condominium hotel, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court or trailer park, for a period less than thirty (30) consecutive days, under any rental agreement, concession, permit, right of access, license to use or other agreement, or otherwise, whereby any person uses, possesses or has the right to use or possess any such room or accommodation.

MEDICAL SUPPLIES: Drugs, *as regulated by the FDA*, dispensed *for humans* in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine and blood testing kits and materials; insulin measuring and injecting devices. Including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or hearing aids.

MOBILE MACHINERY AND SELF-PROPELLED CONSTRUCTION EQUIPMENT: Those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells and the digging of ditches.

NEWSPAPER: A publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term newspaper does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

PAY TELEVISION: Shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

PERSON: Any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity cityTown, whether appointed by court or otherwise, or any group or combination acting as a unit.

PRICE OR PURCHASE PRICE: A. The price to the consumer, exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange if:

1. Such exchanged property is to be sold thereafter in the usual course of the retailer's business, or
 2. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.
- B. "Price" or "purchase price" includes:
1. The amount of money received or due in cash and credits.
 2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
 3. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
 4. The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
 5. Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.
 6. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
 7. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
 8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

(9) *Software license fees.*

- C. "Price" or "purchase price" shall not include:
1. Any sales or use tax imposed by the state of Colorado or by any political subdivision thereof.
 2. The fair market value of property exchanged if such property is to be sold thereafter in the retailers usual course of business. This is not limited to exchanges in Colorado. Out of state trade ins are an allowable adjustment to the purchase price.
 3. Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

PROSTHETIC DEVICES: Any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

PURCHASE OR SALE: A. The acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installment and credit sales, and property and services acquired by:

1. Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;
2. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services. The utilization of coin operated devices, except coin operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property;
3. Performance of taxable services; or
4. Barter or exchange for other property or services including coupons.

B. The terms "purchase" and "sale" do not include:

1. A division of partnership assets among the partners according to their interests in the partnership;
2. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;
3. The transfer of assets of shareholders in the formation or dissolution of professional corporations;
4. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
5. A transfer of a partnership interest;
6. The transfer in a reorganization qualifying under section 368(a)(1) of the internal revenue code of 1954, as amended;
7. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;
8. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
9. The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;
10. The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent (80%) by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;
11. The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share by share basis, when a tax imposed by this article was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. To such extent any transfer referred to in this subsection B11 shall constitute a sale. For the purposes of this subsection B11, a

closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

RELIGIOUS ORGANIZATION: An organization which has qualified for tax exempt status as a religious organization under section 501(c)(3) of the internal revenue department and the accompanying regulations, and which is described in section 170(C) of the internal revenue code.

RETAIL SALES: All sales except wholesale sales.

RETAILER: Any person selling, leasing or renting tangible personal property or services at retail. Retailer shall include any:

- A. Auctioneer;
- B. Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- C. Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.

RETURN: The sales and accommodation tax reporting form used to report sales and accommodation tax.

SALES TAX: The tax to be collected and remitted by a retailer on sales taxed under this code.

SCHOOL: An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

SOLAR THERMAL SYSTEM:

A system whose primary purpose is to use energy from the sun to produce heat or cold for:

- A. Heating or cooling a residential or commercial building;
- B. Heating or cooling water; or
- C. Any industrial, commercial, or manufacturing process.

TANGIBLE PERSONAL PROPERTY: Corporeal personal property.

TAX: The sales tax due from a retailer.

TAX DEFICIENCY: Any amount of tax that is not reported or not paid on or before the due date.

TAXABLE SALES: Gross sales less any exemptions and deductions specified in this code.

TAXABLE SERVICES: Services subject to tax pursuant to this code.

TAXPAYER: Any person obligated to collect and/or pay tax under the terms of this code.

TELECOMMUNICATIONS SERVICE: The transmission or facilitation of any two-way interactive electromagnetic communications including, but not limited to, voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), remote access to computers and electronic storage equipment, or any combinations

of such media. "Telecommunications service" includes, but is not limited to, basic local exchange telephone service, toll telephone service and teletypewriter service, including, but not limited to, residential and business service, directory assistance, cellular mobile telephone or telecommunication service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communication. Telecommunications service does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.

THERAPEUTIC DEVICE: Devices, appliances, or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality; if such device, appliance or related accessory has a retail value of more than one hundred dollars (\$100.00), it must be sold in accordance with a written recommendation from a licensed doctor to qualify as a "therapeutic device" for purposes of this code.

TOTAL TAX LIABILITY: The total of all tax, penalties or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

TOWN: The town of Breckenridge, Colorado.

VENDING MACHINE: Any device operated by coins, currency, or any substitute therefor

WHOLESALE SALES: Sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

WHOLESALE: Any person selling to retailers, jobbers, dealers, or other wholesalers, for resale, and not for storage, use, consumption or distribution. (Ord. 32, Series 1991; amd. Ord. 31, Series 1992; Ord. 33, Series 1996)

3-1-3: TAXABLE TRANSACTIONS AND ITEMS:

There is hereby levied and shall be collected and paid a tax in the amount stated in section [3-1-5](#) of this chapter, as follows:

A. On the purchase price paid or charged upon all sales, purchases, rentals and leases of any duration of tangible personal property at retail, whether or not such property has been included in a previous taxable transaction.

B. All sales are consummated at the place of business of the retailer unless the property sold is delivered by the retailer, his agent, a common carrier, or by mail. In the event of such delivery, the sale is consummated at the place of delivery.

BC. In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding, however, from the consideration or purchase price the fair market value of the exchanged property, provided such exchanged property is to be sold thereafter in the usual course of the retailer's business.

CD. Upon telecommunication services including access services sold by local telephone exchange companies to providers of telecommunication services for use in providing such services for all intrastate telecommunication services originating from or received on telecommunication equipment in the town if the

charge for the service is billed to a person in the town or billed to an affiliate or division of such person in the town on behalf of a person in the town.

~~D-E.~~ Upon access services sold by local telephone exchange companies to providers of telecommunication services for use in providing such services, whether furnished by public or private corporations or enterprises for all interstate telecommunication services originating from or received on telecommunication equipment in the town if the charge for the service is billed to a person in the town, or billed to an affiliate or division of such person in the town on behalf of a person in the town.

~~E-F.~~ Upon gas and electric service, whether furnished by municipal, public or private corporations or enterprises, and upon gas and electricity Town furnished and sold for domestic and commercial consumption and not for resale and upon steam when consumed or used by the purchaser and not resold in original form whether furnished or sold by municipal, public or private corporations or enterprises, if the charge is billed to a person in town.

~~F-G.~~ Upon the entire amount charged to any person or persons for lodging services.

~~G-H.~~ Upon the amount paid for all meals and beverages furnished in any restaurant, eating house, hotel, drugstore, club, resort, hospital, or other such place at which meals or food are regularly sold.

~~H-I.~~ Upon cover charges, if tangible personal property, such as food and/or beverages, is received as consideration for the amount paid.

~~I-J.~~ Upon all sales of food.

~~J-K.~~ Upon the sale, lease or transfer of computer programs (software).

~~K-L.~~ Upon pay, cable or subscription television services sold, purchased, leased, rented, furnished or used, including any equipment rentals furnished as a part of the price or separately stated, if the charge is billed to a person in the town. (Ord. 31, Series 1992)

M. Pre-written (canned) Software that is sold, licensed for use, subscribed to, leased or rented when delivered electronically or by any other method. Software is deemed to be used within the Town if one of the following is true:

(a) The end-user of the software is engaged in business in the Town or resides in the Town while using or accessing the software; or

(b) The server or other computer equipment upon which the software, electronic files or electronic data reside or are maintained is located within the Town.

N. Software Maintenance Agreements when:

(c) (i) the agreement is mandatory to maintain the right to use the associated software: or

(d) (ii) the agreement includes software upgrades and the cost for upgrading is not separately calculated and stated from other aspects; or

(iii) the agreement includes technical support and the cost associated with technical support is not separately stated or calculated.

O. Software as a service, data processing equipment and data processing programs.

P. Sales of tangible personal property by a Retailer-Contractor, when acting as a retailer, shall be subject to sales tax on the total sales price. Labor and installation charges are not taxable if separately stated.

3-1-4: ITEMS EXEMPT FROM TAX:

There shall be exempt from taxation under the provisions of this chapter the following:

A. All sales to the United States government, to the state, its departments and institutions, and the political subdivisions thereof in their governmental capacities only when billed to and paid for by the governmental entity.

B. All sales made to "charitable organizations" as defined in section [3-1-2](#) of this chapter, in the conduct of their charitable functions when billed to and paid for by the charitable organization.

C. All sales made to "religious organizations" as defined in section [3-1-2](#) of this chapter, in the conduct of their religious functions when billed to and paid for by the religious organization.

D. All sales which the town is prohibited from taxing under the constitution or laws of the United States or the state.

E. Food for domestic home consumption, as defined in 7 USC section 2012(g) as amended, for purposes of the federal food stamp program as defined in 7 USC section 2012(h), as amended, purchased with food

stamps pursuant to the federal food stamp program; or food purchased with WIC vouchers or checks pursuant to the federal special supplemental program for women, infants and children.

F. Cover charges, if the amount paid is strictly for admission to the vendor's place of business and tangible personal property, such as food and/or beverages, is not received as consideration for the amount paid.

G. All sales of cigarettes.

H. All sales made to schools, other than schools held or conducted for private or corporate profit.

I. All sales of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by parts one and two of chapter 26 of title 39, Colorado Revised Statutes.

J. Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance, commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping cases thereof, shall be deemed to be wholesale sales and shall be exempt from taxation under this chapter.

K. Sales of "exempt commercial packaging materials" as defined in section [3-1-2](#) of this chapter.

L. Sales and purchases of electricity, coal, fuel, oil, gas or coke for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses, the newsprint and printers ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under this chapter.

M. All sales and purchases of automotive vehicles which are required to be registered under the Colorado motor vehicle laws whether new or used under the following conditions:

1. The purchaser is not a resident of the town, and
2. The vehicle or mobile home is to be registered under an address outside of the town and will be primarily housed, located or occupied at such address or other place outside the town. (Ord. 31, Series 1992)

N. Sales of tangible personal property shall be exempted from the operation of this section if both of the following conditions exist:

1. The sales are to those who are residents or doing business outside the town, and
2. The articles purchased are to be delivered to the purchaser outside the town by common carrier or by the conveyance of the seller or by mail.

N.5. Drugs, medical devices:

1. All sales of "medical supplies" as defined in section [3-1-2](#) of this chapter.
2. All sales of "therapeutic devices" as defined in section [3-1-2](#) of this chapter.
3. All sales of "prosthetic devices" as defined in section [3-1-2](#) of this chapter. (Ord. 33, Series 1996)

O. Fifty percent (50%) of the purchase price of: 1) factory built housing (including mobile homes), as such housing is defined in section 24-32-703(3), Colorado Revised Statutes, and of 2) other buildings or structures including conventional buildings shall be exempt from taxes under the provisions of this chapter; except that the entire purchase price in any subsequent sale of factory built houses or other buildings severed from real estate after such housing or severed building has once been subject to the payment of sales or use tax under the provisions of this chapter shall be exempt from taxes under the provisions of this chapter.

P. The transfer of tangible personal property without consideration (other than the purchase, sale or promotion of the transferor's product) to an out of state vendee for use outside of this state in selling products normally sold at wholesale by the transferor.

Q. The sale of tangible personal property for testing, modification, inspection, or similar type of activities in this state if the ultimate use of such property in manufacturing or similar type of activities occurs outside of this state and if the test, modification, or inspection period does not exceed ninety (90) days.

R. Any sale of any article to a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail, if a separate charge is not made for the article to the consumer or user, if such article becomes the property of the consumer or user, together with the foods, meals or beverages purchased, and if a tax is paid on the retail sale as required by subsection [3-1-3G](#) of this chapter.

S. Any sale of any container or bag to a retailer or vendor of food, meals, or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packaging or bagging articles of tangible personal property purchased at retail, if a separate charge is not made for the container or bag to the consumer or user, together with the food, meals or beverages purchased, and if a tax is paid on the retail sales as required in section [3-1-3](#) of this chapter.

T. All transactions specified in subsection [3-1-3B](#) of this chapter in which the fair market value of the exchanged property is excluded from the consideration or purchase price because such exchanged property is covered by subsection [3-1-3A](#) or B of this chapter, and in which, because there is no additional consideration involved in the transaction, there is no purchase price within the meaning of section [3-1-2](#) of this chapter.

U. All sales of construction materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned ~~and used~~ by:

1. The United States government, the state, its departments and institutions, the political subdivisions thereof in their governmental capacities only;
2. Charitable organizations, as defined in section [3-1-2](#) of this chapter, in the conduct of their regular charitable functions and activities; or
3. Schools, other than schools held or conducted for private or corporate profit.

V. All sales of newspapers as defined in section [3-1-2](#) of this chapter.

W. All sales of customized ~~computer~~ software where the design or writing of a computer program is for a specific application of an individual user. (Ord. 31, Series 1992)

X. All sales, storage, of components used in photovoltaic or solar thermal systems and in the production of alternating current electricity from a renewable energy source, including but not limited to wind, as defined in Section 3-1-2 of this Chapter.

Y. All occasional sales by a charitable organization under the following conditions:

1. The sale of tangible personal property or concessions by the charitable organization takes place no more than ninety days, whether consecutive or not, during any one calendar year;

2. The funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service; and

3. The funds raised in Town by the charitable organization through these sales do not exceed twenty-five thousand dollars during any calendar year.

Z. All sales of tangible personal property by a school, other than schools held or conducted for private or corporate profit, under the condition that the funds raised by the school are retained by the organization to be used in the course of the school's service.

AA. All sales of tangible personal property, except automotive vehicles, at garage sales, yard sales or estate sales; provided that such sales are conducted no more than three times a year, each sale is limited to a maximum of 3 days in duration, that the sale occurs at the residence of the seller and that the property to be sold was originally purchased for use by members of the household where such sale is being conducted.

3-1-5: SCHEDULE OF TAX:

There is hereby imposed a tax upon all sales of commodities and services specified in section [3-1-3](#) of this chapter and not exempt therefrom as specified in section [3-1-4](#) of this chapter at the rate of two and one-half percent (2¹/₂%) on the amount of the sale which shall be rounded off to the nearest penny; provided, however, that sales under the amount of twenty five cents (\$0.25) shall not be taxable. (Ord. 3, Series 1997)

3-1-6: SALES TAX, NONAPPLICABILITY:

For transactions consummated on or after January 1, 1986, the Breckenridge sales tax shall not apply to the sale of construction and building materials, as the term is used in section 29-2-109, Colorado Revised Statutes, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the town evidencing that a local use tax has been paid or is required to be paid. (Ord. 45, Series 1986)

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

A. Every retailer or vendor engaged in business and selling at retail as defined in this chapter shall be liable and responsible for the payment of an amount equivalent to two and one-half percent (2¹/₂%) of all sales made by him of commodities or services as specified in section [3-1-3](#) of this chapter, and shall file a return each month with the ~~finance director~~[financial services manager](#) on or before the twentieth day of each month for the preceding month and remit an amount equivalent to said two and one-half percent (2¹/₂%) of such sales to the ~~finance director~~[financial services manager](#). (Ord. 3, Series 1997)

B. Every retailer or vendor conducting a business in which the transaction between the vendor and the consumer consists of the supply of tangible personal property and services in connection with the maintenance or servicing of same, shall be required to pay the tax levied under this chapter on the full contract price, unless application is made to the ~~finance director~~[financial services manager](#) for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under such contract. The ~~finance director~~[financial services manager](#) is hereby authorized to determine the percentage based on the ratio of the tangible personal property included in the consideration as it bears to the total of the consideration paid under said combination contract or sale which shall be subject to the tax levied pursuant to the provisions of this chapter. This subsection shall not be construed to include terms upon which the tax is imposed on the full purchase price as defined herein. (Ord. 45, Series 1986)

Acquisition, inception or cessation of business

Acquisition of an existing business.

(1) Seller's responsibilities. Any person engaged in business in the Town who sells such business shall file a final return. The reporting period for such return shall end on the date of the transfer of ownership of the business.

(2) Purchaser's responsibilities.

A) Any person who purchases an existing business shall be responsible for determining the total tax liability of that business and shall withhold from the initial purchase payment an amount sufficient to cover any such tax liability.

(B) Any amount so withheld shall be paid to the Town within ten (10) days of the date of the sale of the business on forms prescribed by the Financial Services Manager.

(C) Any purchaser who fails to withhold such tax due or fails to pay to the Town the amount so withheld within the ten (10) day period allowed, shall, as well as the seller, be held liable for any unpaid tax due.

(b) Inception of business; initial tax. Any person who purchases or establishes a business inside the Town shall file an initial tax return.

(1) Existing businesses. Sales tax shall be due on tangible personal property, except inventory held for lease, rental or resale, which is acquired with the purchase, transfer of ownership, or any other form of acquisition of a business. The tax shall be based on the price of such property as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great or greater than the fair market value of such property. If the fair market value of the property is greater than the price recorded in the bill of sale or agreement, then the fair market value of the property shall be the basis for calculating the amount of tax due. Such tax shall be reported on a sale of assets tax return.

(2) New businesses. Sales tax shall be paid on the price of all tangible personal property, except inventory held for lease, rental or resale, which is purchased inside the Town. Such tax shall be reported on the seller's sales tax return.

(3) Exceptions. In the case of businesses where the tangible personal property purchased is or shall be affixed to a building or premises and intended to be utilized in that fashion (i.e. automated or self serve car wash equipment, Laundromat washers and dryers, bowling lanes, and such properties), the business owner shall deduct this equipment on the sale of assets tax return and collect and remit sales tax on each trasaction where the equipment is utilized by the customer or patron.

(c) Cessation of business. Every person engaged in business in the Town who quits doing business in the Town shall file a final return. The reporting period for such return shall end on the last day of business in the Town.

3-1-8: RETAILER TO COLLECT TAX:

Retailers shall add the tax imposed to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts; provided, however, that the retailer shall be entitled, as collection agent of the town, to apply and credit the amount of this collection against the two and one-half percent (2¹/₂%) rate to be paid by him under the provisions of section 3-1-5 of this chapter remitting any excess collected over said two and one-half percent (2¹/₂%) to the ~~finance director~~financial services manager in the retailer's next monthly sales tax returns. (Ord. 3, Series 1997)

3-1-9: TAX ON CREDIT SALES, ETC.:

Whenever tangible personal property is sold which is taxable hereunder, under a conditional sales contract whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a chattel mortgage on such tangible personal property to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. The tax shall be charged, or

collected and remitted by the vendor. No refund or credit shall be allowed to either party of the transaction in case of repossession. (Ord. 45, Series 1986)

3-1-10: SALES TAX, CREDIT FOR SALES OR USE TAXES PREVIOUSLY PAID TO ANOTHER MUNICIPALITY:

For transactions consummated on or after June 1, 1997, the town's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of two and one-half percent (2¹/₂%). A credit shall be granted against the town's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed two and one-half percent (2¹/₂%). (Ord. 3, Series 1997)

3-1-10-1: CLAIMS FOR RECOVERY:

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales ~~and use~~ taxes to the town.

- A. As used herein, "claim for recovery" or "claim" means a claim for reimbursement of sales ~~and use~~ taxes paid to the wrong taxing jurisdiction.
- B. When it is determined by the ~~finance director~~financial services manager of the town that sales tax owed to the town has been reported and paid to another municipality, the town shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice, the vendor must cease improper tax collections and remittances.
- C. The town may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the town, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the town. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the town submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the town shall not be unreasonably withheld.
- D. Within ninety (90) days after receipt of a claim for recovery, the town shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the town shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

E. The town may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

F. The period subject to a claim for recovery shall be limited to the thirty six (36) month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. 32, Series 1991)

3-1-11: EXEMPTION; BURDEN OF PROOF:

The burden of proving that any vendor, retailer, consumer or purchaser is exempt from collecting or paying the tax upon goods sold or purchased, paying the same to the ~~finance director~~financial services manager or from making such returns, shall be on the vendor, retailer, consumer, or purchaser under such reasonable requirements of proof as the ~~finance director~~financial services manager may prescribe. (Ord. 45, Series 1986)

3-1-12: EXCESS COLLECTIONS:

If any vendor shall during any reporting period collect as a tax any amount in excess of two and one-half percent (2¹/₂%) of his total taxable sales, he shall remit to the ~~finance director~~financial services manager the full net amount of the tax herein imposed, and also such excess. The retention by the retailer or vendor of any excess tax collections or the intentional failure to remit punctually to the ~~finance director~~financial services manager the full amount required to be remitted by the provisions of this chapter is hereby declared to be a violation of this chapter. (Ord. 3, Series 1997)

3-1-13: UNLAWFUL TO ASSUME OR ABSORB TAX:

It shall be unlawful, except as provided below, for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this chapter shall be assumed or absorbed by the retailer, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof shall be refunded. Any person violating any provision of this section shall be subject to the penalties herein provided in this chapter.

A. Nothing herein contained shall be deemed to prohibit any retailer selling malt, vinous or spirituous liquors by the drink from including in his sales price any tax levied under this chapter.

B. Sales tax may be included in the price of tangible personal property sold through vending machines or the price of utilizing such automatic sale devices as a rental of equipment.

B. C. No retailer selling malt, vinous or spirituous liquors by the drink or sales of personal tangible property through a vending machine shall advertise or hold out to the public in any manner, directly or indirectly, that the tax levied by this chapter is not considered as an element in the sales price to the consumer. (Ord. 45, Series 1986)___

3-1-14: SPECIAL ACCOUNTING BASIS FOR REMITTANCE OF TAX:

If the accounting methods employed by the vendor or licensed consumer in the transaction of his business, or other conditions, are such that returns made on the calendar month basis will impose unnecessary hardship, the ~~finance director~~financial services manager may, upon request of the vendor or licensed consumer, accept returns at such intervals as will, in his opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax. If any taxpayer who has been granted permission to file reports and pay tax on other than a monthly basis shall become delinquent, then authorization for such alternative method of reporting may be revoked by the ~~finance director~~financial services manager or his authorized agent, and

immediately following notice of revocation, the taxpayer will be required to file reports and pay tax, interest and penalties on a monthly basis for all unreported or unpaid tax in the same manner required by law under conditions that would prevail if he has never been granted the alternate method of reporting and paying the tax. (Ord. 45, Series 1986)

3-1-15: DUTY TO KEEP BOOKS AND RECORDS:

Every person engaged in business in the town shall keep and preserve for a period of at least three (3) years adequate records of all sales and purchases made by him, and such other books and records as may be necessary to determine the amount of tax he is liable to collect or pay. These records must include the normal books of account maintained by the ordinarily prudent business person engaged in such business, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of accounts together with all schedules or working papers used in connection with the preparation of tax returns. (Ord. 45, Series 1986)_____

Every person who uses construction equipment inside the Town shall keep and preserve for at least three (3) years after the final certificate of occupancy or certificate of completion for such project is issued, records of the time each piece of construction equipment that was located inside the Town and any sales tax paid on such construction equipment and related materials.

3-1-16: INVESTIGATION OF BOOKS:

For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the ~~finance director~~financial services manager, or his duly authorized agent, may hold investigations and hearings concerning any matters covered by this chapter and may examine any relevant books, journals, ledgers, business bank account records, work papers of the taxpayer or accountant, records or memorandum of any such person and may require the attendance and testimony of such person. (Ord. 45, Series 1986)

3-1-16-1: COORDINATED AUDIT:

- A. Any taxpayer licensed in this town pursuant to section [3-1-20](#) of this chapter, and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.
- B. Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the ~~finance director~~financial services manager of this town, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage of time based limitation upon this town's right to recover tax owed by the vendor for the audit period.
- C. Except as provided in subsection G of this section, any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of section [3-1-18](#) of this chapter may be audited by this town during the twelve (12) months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

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

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

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

G. The coordinated audit procedure set forth in this section shall not apply:

1. When the proposed audit is a jeopardy audit,
2. To audits for which a notice of audit was given prior to the effective date of this section,
3. When a taxpayer refuses to promptly sign a waiver of section [3-1-18](#) of this chapter, or
4. When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in subsection B of this section. (Ord. 32, Series 1991)

3-1-17: SALES TAX INFORMATION CONFIDENTIAL²:

(Rep. by Ord. 4, Series 2005)

3-1-18: STATUTE OF LIMITATIONS:

No sales tax, interest or penalties shall be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable. A lien shall not continue after such period, except on taxes assessed before the expiration of the period for which a notice of a tax lien has been filed prior to the expiration of such period.

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

When a taxpayer fails or refuses to file a return the sales tax may be assessed and collected without regard to the statute of limitations.

The period of limitation provided herein shall not run against the town for an audit period if written notice is given to the taxpayer prior to the expiration of the statute of limitations that the latter's records will be audited pursuant to this chapter. "Audit period" is the thirty six (36) month reporting period preceding the date of the notice of audit. (Ord. 45, Series 1986)

3-1-19: SUBPOENAS:

The ~~finance director~~financial services manager may issue a subpoena to compel a person to attend and give testimony or to produce books and records, workpapers, photographs or such other information that may be deemed necessary for the purpose of determining the amount of tax due from any person. (Ord. 45, Series 1986)

3-1-20: LICENSES FOR RETAIL SELLERS:

It shall be unlawful for any person to engage in the business of selling at retail on or after July 1, 1984, without having first obtained a Breckenridge sales tax license. (Ord. 45, Series 1986)

3-1-21: SALES TAX LICENSES; APPLICATION AND CONTENT:

Breckenridge sales tax licenses shall be granted only upon application stating the name and address of the person desiring such license, the name of such business and the character thereof, the location, including the street number of such business and such other facts as may be required by the ~~finance director~~financial services manager. Any person doing business as a wholesaler shall obtain a retailer's license if any sales are made at retail as defined herein. In case business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required. The license shall be posted in a conspicuous place in the place of business for which it is used. No license shall be transferable. (Ord. 45, Series 1986)

3-1-21-1: DENIAL OF LICENSE:

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

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

B. Before denying an application the ~~finance director~~financial services manager shall cause a hearing to be held using the general procedures provided for the revocation of a license in section 3-1-23 of this chapter. In the event an application is denied, the ~~finance director~~financial services manager shall deliver to the applicant a written order of denial stating the reason for denial. (Ord. 33, Series 1996)

3-1-22: SALE AT RETAIL WITHOUT LICENSE:

Any person engaging in the business of selling at retail in the town, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this chapter. (Ord. 45, Series 1986)

3-1-23: REVOCATION OF LICENSE:

The ~~finance director~~financial services manager may, on a reasonable notice and after full hearing, revoke the license of any person found by the ~~finance director~~financial services manager to have violated any provisions of this chapter. (Ord. 45, Series 1986)

3-1-24: APPEAL:

Any finding and order of the ~~finance director~~financial services manager revoking the license of any person shall be subject to review by the district court of the district where the business of the licensee is conducted, upon application of the aggrieved party. The procedure for review shall be as nearly as possible the same as now provided for review of findings by writ of certiorari in accordance with rule 106(a)(4) of the Colorado rules of civil procedures. (Ord. 45, Series 1986)

3-1-25: WHEN LICENSE NOT REQUIRED:

No license shall be required of any person engaged exclusively in the business of selling commodities which are exempt from taxation under this chapter. (Ord. 45, Series 1986)

3-1-26: MAP OR LOCATION GUIDE OF CITY/TOWN BOUNDARIES:

The finance department shall make available to any requesting vendor a map or location guide showing the boundaries of the town. The requesting vendor may rely on such map or location guide and any update thereof available to such vendor in determining whether to collect a sales tax. No penalty shall be imposed or action or deficiency maintained against a vendor who in good faith complies with the most recent map or location guide available to such vendor. (Ord. 45, Series 1986)

3-1-27: COLLECTION AND REFUND OF DISPUTED TAX:

Should a dispute arise between the purchaser and seller as to whether or not any sale or commodity or service is exempt from taxation hereunder, nevertheless, the seller shall collect and the purchaser shall pay such tax, and the seller thereupon issues to the purchaser a receipt or certificate, on forms prescribed by the ~~finance director~~financial services manager, showing the names of the seller and purchaser, the items purchased, the date, price, amount of tax paid, and a brief statement of the claim of the exemption. The purchaser may thereafter apply to the ~~finance director~~financial services manager to determine the question of exemption, subject to review by the courts, as herein provided. (Ord. 45, Series 1986)

3-1-28: REFUNDS:

A. A refund shall be made, or credit allowed, for the sales tax so paid under dispute by any purchaser or user who claims an exemption pursuant to section 3-1-4 of this chapter. Such refund shall be made by the ~~finance director~~financial services manager after compliance with the following conditions precedent: Applications for refund must be made within sixty (60) days after the purchase of the goods or services whereon an exemption is claimed and must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller and shall be made upon such forms as shall be prescribed therefor. (Ord. 45, Series 1986)

- B. Upon receipt of such application, the ~~finance director~~financial services manager shall examine the same with due speed and shall give notice to the applicant in writing of his decision thereon. Aggrieved applicants, within twenty (20) calendar days after such decision is mailed to them, may petition the ~~finance director~~financial services manager for a hearing on the claim in the manner provided in section 3-1-35 of this chapter and may either appeal to the district court in the manner provided in section 3-1-36 of this chapter or to the department of revenue in the manner provided in section 3-1-37 of this chapter. The right of any person to a refund under this chapter shall not be assignable, and except as provided in subsection C of this section, such application for refund must be made by the same person who purchased the goods or services and paid the tax thereon as shown in the invoice of the sale thereof. (Ord. 32, Series 1991)
- C. A refund shall be made or a credit allowed by the ~~finance director~~financial services manager to any person entitled to an exemption where such person establishes that: 1) a tax was paid by another person, the purchaser, on a purchase made on behalf of the person entitled to an exemption; 2) a refund has not been granted to such purchaser; and 3) the person entitled to the exemption paid or reimbursed such purchaser for such tax. The burden of proving that sales, services, and commodities on which tax refunds are claimed are exempt from taxation under this chapter or were not at retail shall be on the person making such claim under such reasonable requirements of proof as set forth in the rules and regulations prescribed therefor. No such refund shall be made or credit allowed in an amount greater than the tax paid less the expense allowance on such purchase retained by the vendor pursuant to section 3-1-8 of this chapter. (Ord. 45, Series 1986)
- D. Such application for refund under subsection C of this section shall be made on forms furnished by the finance department. Upon receipt of such application and proof of the matters contained therein, the ~~finance director~~financial services manager shall give notice to the applicant by order in writing of his decision thereon. Aggrieved applicants within ~~twentythree~~ (2030) calendar days after such decision is mailed to them, may petition the ~~finance director~~financial services manager for a hearing on the claim in the manner provided in section 3-1-35 of this chapter and may either appeal to the district court in the manner provided in section 3-1-36 of this chapter or to the department of revenue in the manner provided in section 3-1-37 of this chapter. Any applicant for a refund under the provisions of this subsection D, or any other person, who makes any false statement in connection with an application for a refund of any taxes is guilty of a violation of this chapter and shall be punished in the manner provided by state law. (Ord. 32, Series 1991)
- E. Claims for tax monies paid in error or by mistake shall be made within three (3) years after the date or purchase of the goods or services for which the refund is claimed and shall be processed for refund in accordance with the rules and regulations prescribed therefor under subsection D of this section, except that the proceeds of any such claim for a refund shall first be applied by the finance department to any tax deficiencies or liabilities existing against the claimant before allowance for such claim by the finance department, and further except that if such excess payment of tax monies in any period is discovered as a result of an audit by the finance department, and deficiencies are discovered and assessed against the taxpayer as a result of such audit, then such excess monies shall be first applied against any deficiencies outstanding to the date of the assessment but shall not be applied to any future tax liabilities.
- F. If any person is convicted under the provisions of this section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the ~~finance director~~financial services manager is empowered to bring appropriate action for recovery of such refunds.

A brief summary statement of the above described penalties shall be printed on each form application of a refund. (Ord. 45, Series 1986)

G. Right of Refund not assignable. The right of any person to obtain a refund pursuant to this chapter shall not be assignable.

3-1-29: RECOVERY OF TAXES, PENALTY AND INTEREST:

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

B. 1. If any person neglects or refuses to make a return in payment of the sales tax or to pay any sales tax as required by this chapter, then the ~~finance director~~financial services manager shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars (\$15.00) for such failure or ten percent (10%) thereof, whichever is greater, and interest on such delinquent taxes at the rate imposed under section 3-1-32 of this chapter, plus one-half percent ($\frac{1}{2}\%$) per month from the date when due, not exceeding eighteen percent (18%) in the aggregate. (Ord. 45, Series 1986)

2. Promptly thereafter, the ~~finance director~~financial services manager shall give to the delinquent taxpayer written notice of such estimated taxes, penalty, and interest, which notice shall be sent by first class mail directed to the last address of such person on file with the finance department. Such estimate shall thereupon become a notice of deficiency. Within twenty (20) calendar days after the notice of deficiency is mailed, the taxpayer may petition the ~~finance director~~financial services manager for a hearing in the manner provided in section 3-1-35 of this chapter and either may appeal to the district court as provided in section 3-1-36 of this chapter or to the department of revenue as provided in section 3-1-37 of this chapter. (Ord. 32, Series 1991)

C. 1. If any taxes, penalty, or interest imposed by this chapter and shown due by returns filed by the taxpayer or as shown by assessments duly made as provided in this section are not paid within five (5) days after the same are due, then the ~~finance director~~financial services manager may issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the town claims a first and prior lien therefor on the real and personal property of the taxpayer, including, without limitation, the goods, inventory (stock in trade) and business fixtures of such taxpayer.

2. Said notice shall be on forms furnished by the finance department and shall be verified by the ~~finance director~~financial services manager or any duly qualified agent of the ~~finance director~~financial services manager whose duties are the collection of such tax, and may be filed in the office of the county clerk and recorder in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create a lien on such property in that county and constitute notice thereof. After said notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice shall have been filed or not, the ~~finance director~~financial services manager may issue a warrant directed to any duly authorized revenue collector, or to the sheriff of the county, commanding him to levy upon, seize, and sell sufficient of the real and personal property of the tax debtor found within his county to satisfy the amount due together with interest, penalties, and costs, as may be provided by law. Any such sales shall be made free and clear of all liens and encumbrances. (Ord. 24, Series 1990)

- D. Such revenue collector or the sheriff shall forthwith levy upon sufficient of the property of the taxpayer or any property used by such taxpayer in conducting his retail business, and said property so levied upon shall be sold in all respects with like effect and in the same manner as prescribed by law with respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply. The sheriff shall be entitled to such fee in executing such warrants as are allowed by law for similar services.
- E. Any lien for taxes as shown on the records of the county clerks and recorders as provided in this section, upon payment of all taxes, penalties, and interest covered thereby shall be released by the ~~finance director~~financial services manager in the same manner as mortgages and judgments are released. (Ord. 45, Series 1986)
- F. The ~~finance director~~financial services manager may also treat any such taxes, penalties, and interest due and unpaid as a debt due to the town from the vendor. The return of the taxpayer of the assessment made by the ~~finance director~~financial services manager, as provided in this chapter, shall be prima facie proof of the amount due. Such debt may be collected by civil action brought against the vendor in a court of competent jurisdiction, and in such action the town shall be entitled to recover from the vendor, in addition to the tax, penalties and interest, its reasonable attorney fees incurred in the prosecution of such action. (Ord. 24, Series 1990)
- G. In any action affecting the title to real estate or the ownership or rights to possession of personal property, the town may be made a party defendant for the purpose of obtaining an adjudication or determination of its lien upon the property involved therein. In any such action, the service of summons upon the ~~finance director~~financial services manager or any person in charge of the office of the ~~finance director~~financial services manager shall be sufficient service and shall be binding upon the town.
- H. The ~~finance director~~financial services manager is authorized to waive, for good cause shown, any penalty assessed as provided in this chapter, and any interest imposed in excess of the rate determined pursuant to subsection B of this section shall be deemed a penalty. (Ord. 45, Series 1986)

3-1-29-1: FAILURE TO COLLECT AND PAY OVER TAX, ATTEMPTING TO EVADE OR DEFEAT TAX:

- A. It shall be unlawful for any person required to collect, truthfully account for, and pay over to the town any tax imposed by this chapter to intentionally or knowingly fail to collect such tax, or to intentionally or knowingly fail to truthfully account for and pay over such tax to the town, or to intentionally or knowingly attempt to evade or defeat any such tax or the payment thereof.
- B. If a corporation has failed to collect or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that the president, vice president, secretary and treasurer of the corporation are the persons required to collect, truthfully account for and pay over the tax on behalf of the corporation. Such presumption may be rebutted by evidence demonstrating that another person or persons were responsible for the collection and payment of the tax on behalf of the corporation.

- C. If a partnership has failed to collect or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that all partners of a general partnership, or the general partner(s) of a limited partnership, are the persons required to collect, truthfully account for and pay over the tax on behalf of the partnership. Such presumption may be rebutted by evidence demonstrating that another person or persons were responsible for the collection and payment of the tax on behalf of the partnership. (Ord. 24, Series 1990)

- D. If a limited liability company has failed to collect or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that all managers of the limited liability or, if none, all members of the limited liability company, are the persons required to collect, truthfully account for and pay over the tax on behalf of the limited liability company. Such presumption may be rebutted by evidence demonstrating that another person or persons were responsible for the collection and payment of the tax on behalf of the limited liability company. (Ord. 33, Series 1996)

3-1-29-2: IMPOSITION OF CIVIL PENALTY ON RESPONSIBLE PARTIES:

- A. Any party responsible for the collection and payment of the tax imposed by this chapter on behalf of a corporation or partnership who wilfully fails to collect such tax, or truthfully account for and pay over such tax to the town, or who wilfully attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to the other penalties provided by law, be liable for the payment of a civil penalty equal to the total amount of tax evaded, or not collected, or not accounted for and paid over. Such civil penalty shall include all penalties and interest due to the town under this chapter, together with the town's reasonable attorney fees incurred in collecting such civil penalty. The civil penalty provided for in this subsection A shall apply only to the collection, accounting for, and payment over of taxes imposed on a person other than the vendor who is required to collect, account for and pay over such taxes pursuant to this chapter. An action to collect the civil penalty provided for in this subsection A may be brought in the district court and shall be governed by the Colorado rules of civil procedure.

- B. If a corporation has failed to collect, account for or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that the president, vice president, secretary and treasurer of the corporation are the persons responsible for the collection and payment of the tax on behalf of the corporation. Such presumption may be rebutted by evidence demonstrating that another person or persons were responsible for the collection and payment of the tax on behalf of the corporation.

- C. If a partnership has failed to collect, account for or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that all partners of a general partnership, or the general partner(s) of a limited partnership, are the persons responsible for the collection and payment of the tax on behalf of the partnership. Such presumption may be rebutted by evidence demonstrating that another person or persons were responsible for the collection and payment of the tax on behalf of the partnership. (Ord. 24, Series 1990)

3-1-29-3: AUTHORITY OF ~~FINANCE DIRECTOR~~FINANCIAL SERVICES MANAGER TO REQUIRE IMMEDIATE PAYMENT OF TAX:

Notwithstanding the provisions of section [3-1-7](#) of this chapter with respect to the time for the payment of sales tax due to the town, whenever it appears from the records of the finance department or otherwise that sales tax due to the town has not been paid, or has not been paid in a timely fashion, the ~~finance director~~financial

services manager, after notice and hearing, shall have the authority to require the payment to the town of the tax due under this chapter on a daily or weekly basis, as the ~~finance director~~financial services manager shall determine to be required to adequately assure that the tax due under this chapter will be paid to the town. The ~~finance director~~financial services manager shall give the vendor at least ten (10) days' notice of the time and place of such hearing. Notice shall be mailed to the vendor at the address shown on the town sales tax license. The ~~finance director~~financial services manager shall further have the authority to require payment of such tax on a daily or weekly basis into a separate account maintained by the vendor solely for payment of sales tax and accessible only to parties approved by the ~~finance director~~financial services manager. Failure to comply with any order of the ~~finance director~~financial services manager lawfully entered pursuant to this section [3-1-29-3](#) shall be sufficient grounds for the revocation of the vendor's sales tax license as provided in section [3-1-23](#) of this chapter. (Ord. 24, Series 1990)

3-1-30: TAX LIEN; EXEMPTION FROM LIEN:

A. 1. Except as provided in subsection A1.5 of this section, the sales tax imposed pursuant to section [3-1-5](#) of this chapter shall be a first and prior lien upon the real and personal property of or used by the taxpayer, including, without limitation, the goods, inventory (stock in trade) and business fixtures of such taxpayer, and shall take precedence over the other liens, encumbrances, security interest and claims of whatsoever kind or nature.

1.5. Any retailer or person in possession shall provide a copy of any lease pertaining to the assets and property described in subsection A1 of this section to the ~~finance director~~financial services manager within ten (10) days after seizure by the town of such assets and property. The ~~finance director~~financial services manager shall verify that such lease is bona fide and notify the owner that such lease has been received by the ~~finance director~~financial services manager. The ~~finance director~~financial services manager shall use his or her best efforts to notify the owner of the real or personal property which might be subject to the lien created in subsection A1 of this section. The real or personal property of an owner who has made a bona fide lease to a retailer shall be exempt from the lien created in subsection A1 of this section, a) if such property can reasonably be identified from the lease description, or b) if the lessee is given the option to purchase in such lease and has not exercised such option to become the owner of the property leased. This exemption shall become effective from the date of the execution of the lease. Such exemption shall also apply if the lease is recorded with the clerk and recorder of Summit County. Motor vehicles which are properly registered in this state, showing the lessor as owner thereof, shall be exempt from the lien created in subsection A1 of this section; except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee. Where the lessor and lessee are blood relatives or relatives by law or have twenty five percent (25%) or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for the purpose of this subsection A1.5. (Ord. 25, Series 1993)

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

3. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in subsection A2 of this section, and the taxes are due and unpaid after the ten (10) day period allowed, he, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of or used by any retailer under lease, title retaining contract, or other contract arrangement, by purchase, foreclosure sale, or otherwise, takes the same subject to the lien for any delinquent sales taxes owned by such retailer and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of property so taken or acquired. (Ord. 45, Series 1986)

B. Whenever the business or property of any taxpayer subject to this chapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for property taxes, all taxes, penalties, and interest imposed by this chapter and for which said retailer is in any way liable under the terms of this chapter shall be a prior and preferred claim against all the property of said taxpayer. No sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this chapter under process or order of any court without first ascertaining from the ~~finance director~~financial services manager the amount of any taxes due and payable under this chapter, and if there are any such taxes due, owing, or unpaid, it is the duty of such officer to first pay the amount of said taxes out of the proceeds of said sale before making payment of any monies to any judgment creditor or other claims of whatsoever kind or nature. For the purposes of this subsection B, "taxpayer" includes "retailer". (Ord. 24, Series 1990)

3-1-31: NEGLIGENT OR INTENTIONAL TAX DEFICIENCY:

If any part of the deficiency in payment of the sales tax is due to negligence or intentional disregard of authorized rules and regulations of the town with knowledge thereof, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under section [3-1-32](#) of this chapter, in addition to the interest provided by section [3-1-33](#) of this chapter on the amount of such deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable ten (10) days after written notice and demand to such person by the ~~finance director~~financial services manager. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent (100%) of the total amount of the deficiency, and in such case, the whole amount of the tax unpaid, including the additions shall become due and payable ten (10) days after written notice and demand by the ~~finance director~~financial services manager, and an additional three percent (3%) per month on said amount shall be added from the date that the return was due until paid. (Ord. 45, Series 1986)

3-1-32: INTEREST RATE ON DELINQUENT TAXES:

When interest is required or permitted to be charged under subsection [3-1-29B](#), section [3-1-31](#) or subsection [3-1-33A](#) of this chapter, the annual rate of interest shall be that rate of interest established by the state commissioner of banking pursuant to section 39-21-110.5, Colorado Revised Statutes. (Ord. 45, Series 1986)

3-1-33: INTEREST ON UNDERPAYMENT, OVERPAYMENT, NONPAYMENT OR EXTENSIONS OF TIME FOR PAYMENT OF TAX:

A. If any amount of sales tax is not paid on or before the last date prescribed for payment, then interest on such amount at the rate imposed under section [3-1-32](#) of this chapter shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without any regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment shall be deemed to be the date that the liability for the tax arises, and in no event shall such date be later than the date that notice and demand for the tax is made by the ~~finance director~~financial services manager.

B. Interest prescribed under this section and subsection [3-1-29B](#) and section [3-1-31](#) of this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which such interest is applicable.

C. If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit has not been made, interest would have been allowed with respect to such overpayment.

D. Interest prescribed under this section and subsection [3-1-29B](#) and section [3-1-31](#) of this chapter on any sales tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected. (Ord. 45, Series 1986)

3-1-34: OTHER REMEDIES:

No provision of this chapter shall preclude the town from utilizing any other lawful penalties or other remedies applicable to the collection of sales taxes. (Ord. 45, Series 1986)

3-1-35: HEARINGS BY ~~FINANCE DIRECTOR~~FINANCIAL SERVICES MANAGER:

A. If any person contests the ~~finance director~~financial services manager's deficiency notice or denial of a claim for refund, then he may apply to the ~~finance director~~financial services manager by petition in writing within ~~thirty (30) twenty (20)~~ calendar days after such deficiency notice is mailed to him for a hearing and a correction of the amount of the tax so assessed, in which petition he shall set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The ~~finance director~~financial services manager shall notify the petitioner in writing of the time and place fixed by him for such hearing. After such hearing, the ~~finance director~~financial services manager shall make such order in the matter as is just and lawful and shall furnish a copy of such order to the petitioner. (Ord. 32, Series 1991)

B. Every decision of the ~~finance director~~financial services manager shall be in writing, and notice thereof shall be mailed to the petitioner within ten (10) days, and all such decisions shall become final upon the expiration of thirty (30) days after notice of such decision shall have been mailed to the petitioner, unless proceedings are begun within such time for review thereof as provided in section [3-1-36](#) or [3-1-37](#) of this chapter. (Ord. 45, Series 1986)

3-1-36: REVIEW BY DISTRICT COURT:

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

B. Within fifteen (15) days after filing a notice of appeal as provided in this section, the taxpayer shall file with the district court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the ~~finance director~~financial services manager that are contested on appeal. The taxpayer may, at his option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank or by a state or federal savings and loan association, in accordance with the provisions of section 11-35-101(1), Colorado Revised Statutes, equal to twice the amount of the taxes, interest and other charges stated in the final decision by the ~~finance director~~financial services manager. The taxpayer may, at his option, deposit the disputed amount with the ~~finance director~~financial services manager in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the supreme court or the court of appeals of the state or after the time for such appeal has expired, the funds deposited shall be, at the direction of the district court, either retained by the ~~finance director~~financial services manager and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed pursuant to section [3-1-32](#) of this chapter. No claim for refund of amounts deposited with the ~~finance director~~financial services manager need be

made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the district court. (Ord. 32, Series 1991)

3-1-37: ALTERNATIVE REVIEW BY DEPARTMENT OF REVENUE:

In lieu of the procedure provided for in section [3-1-36](#) of this chapter, the taxpayer may elect a hearing on the ~~finance director~~[financial services manager](#)'s final decision on a deficiency notice or claim for refund pursuant to procedure set forth in this section.

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

B. When the ~~finance director~~[financial services manager](#) asserts that sales taxes are due in an amount greater than the amount paid by a taxpayer, then the ~~finance director~~[financial services manager](#) shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional sales taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to section 29-2-106.1(3), Colorado Revised Statutes. The taxpayer shall also have the right to elect a state hearing on the ~~finance director~~[financial services manager](#)'s denial of such taxpayer's claim for a refund of sales tax paid.

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

1. The taxpayer has timely requested in writing a hearing before the ~~finance director~~[financial services manager](#), and the ~~finance director~~[financial services manager](#) has held such hearing and issued a final decision thereon. Such hearing shall be informal, and no transcript, rules of evidence or filing of briefs shall be required, but the taxpayer may elect to submit a brief, in which case the ~~finance director~~[financial services manager](#) may submit a brief. The ~~finance director~~[financial services manager](#) shall hold such hearing and issue the final decision thereon within ninety (90) days after the ~~finance director~~[financial services manager](#)'s receipt of the taxpayer's written request therefor, except that the town may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the ~~finance director~~[financial services manager](#) shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or
2. The taxpayer has timely requested in writing a hearing before the ~~finance director~~[financial services manager](#), and the ~~finance director~~[financial services manager](#) has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in subsection C1 of this section.

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

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

F. No provision of this section shall prohibit the taxpayer from pursuing judicial review of a final decision of the ~~finance director~~[financial services manager](#) as otherwise provided in section [3-1-36](#) of this chapter. (Ord. 45, Series 1986)

3-1-38: AMENDMENTS:

The town council may amend, alter or change any provision of this chapter, except as to the two and one-half percent (2¹/₂%) rate of tax herein imposed, by ordinance duly adopted in accordance with the town charter. Such amendment, alteration or change need not be submitted to the electors of the town for their approval. (Ord. 3, Series 1997)

3-1-38-1: NOTICE OF SALES ~~AND USE~~ TAX ORDINANCE AMENDMENT:

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

B. In order to keep current the central register of sales ~~and use~~ tax ordinances for municipalities that administer local sales tax collection, the ~~finance director~~[financial services manager](#) of the town shall file with the Colorado municipal league prior to the effective date of any amendment a copy of each sales tax ordinance amendment enacted by the town.

C. Failure of the town to file such ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales ~~and use~~ tax ordinance or any amendment thereto. (Ord. 32, Series 1991)

3-1-39: VIOLATION; PENALTIES:

A. It is an "infraction", as defined in section [1-3-2](#) of this code, for any person to violate any of the provisions of this chapter. Every person found liable for a violation of any provision of this chapter shall be punished as provided in section [1-4-1-1](#) of this code. (Ord. 16, Series 2000)

B. In addition to other remedies available to the town, the town may commence an action pursuant to section [1-8-10](#) of this code to enjoin the alleged violation of any provision of this chapter. (Ord. 8, Series 1994)

Footnotes - Click any footnote link to go back to its reference.

[Footnote 1](#); See [chapter 7](#) of this title.

[Footnote 2](#); See [chapter 7](#) of this title.

Chapter 7

3-7-4

B. Notwithstanding the provisions of this section, the Financial Services Manager may furnish to the taxing officials of the State of Colorado, its political subdivisions, any other state, or political subdivision, or the United States, any information contained in tax returns and related documents filed pursuant to this title or in the report of an audit or investigation made with respect to a return, if the recipient jurisdiction agrees with the manager to grant similar privileges to the Town and if such information is to be used by the jurisdiction only for tax purposes.

TO: Breckenridge Town Council
FROM: Laurie Best-Community Development Department
RE: Breckenridge Childcare -2013 Special Town Election Ordinance
DATE: July 1, 2013 (for worksession July 9th)

Attached to this memo is a draft of the Ordinance which will place the Breckenridge Childcare tax on the November 5, 2013 ballot. The purpose of the worksession is to review the specific ballot language with the Council so the language can be finalized for first reading on July 24th.

The language as drafted asks the voters to consider a new property tax that will generate \$800,000 annually to be used to offset the cost of providing childcare assistance and early childhood education for qualified recipients and to offset cost of grants for equipment and other capital expenditures for qualified providers. Specific guidelines for the childcare fund, including policies and governance, will need to be established by the Council if the property tax is approved.

The goal of the tax is to create a permanent revenue stream to offset the costs of the program. The Council and Task Force have had several discussions regarding the amount of tax that should be generated. The projected budget for 2013 is \$661,192 and we would not expect significant increase in the annual costs provided the local Centers continue to manage expenses and to cover their costs with moderate annual tuition increases (approximately 3%), and provided local incomes increase over time at a similar rate.

Staff will be available to discuss this Ordinance at your meeting on July 9th and we look forward to your comments.

1 ***FOR WORKSESSION ONLY – JULY 9***

2
3 COUNCIL BILL NO. ____

4
5 Series 2013

6
7 AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF
8 BRECKENRIDGE AT A SPECIAL TOWN ELECTION TO BE HELD ON NOVEMBER 5,
9 2013 THE QUESTION OF WHETHER THE TOWN’S GENERAL FUND MILL LEVY
10 SHOULD BE INCREASED TO PROVIDE FUNDS TO PAY A PORTION OF THE COST OF
11 OBTAINING CHILD CARE FOR QUALIFIED RECIPIENTS; SETTING FORTH THE
12 BALLOT TITLE; AND PROVIDING FOR THE CONDUCT OF THE ELECTION
13

14 WHEREAS, the Town of Breckenridge (“**Town**”) is a home rule municipal corporation
15 organized and existing under Article XX of the Colorado Constitution; and
16

17 WHEREAS, the electors of the Town adopted the Breckenridge Town Charter on April
18 1, 1980; and
19

20 WHEREAS, Section 12.1 of the Breckenridge Town Charter provides that the Town
21 Council of the Town (“**Town Council**”) may levy and collect general ad valorem property taxes;
22 and
23

24 WHEREAS, Article X, Section 20 of the Colorado Constitution (“**TABOR**”) requires the
25 Town to submit certain questions to the electorate in the manner prescribed therein; and
26

27 WHEREAS, November 5, 2013 is one of the election dates at which ballot issues may be
28 submitted to the eligible electors of the Town pursuant to TABOR; and
29

30 WHEREAS, Section 31-11-111(2), C.R.S., authorizes the Town Council to refer a
31 question to the vote of the registered electors of the Town; and
32

33 WHEREAS, Section 1-41-103, C.R.S., provides that a local government question
34 involving a matter arising under TABOR, including, but not limited to, a mill levy above that for
35 the prior year, may be submitted to the voters of the municipality at a local election to be held on
36 the first Tuesday of November in each odd-numbered year; and
37

38 WHEREAS, the Town Council finds and determines that there should be submitted to the
39 registered electors of the Town, at a special Town election to be held on November 5, 2013 in
40 conjunction with the coordinated election to be held on that date, as a referred measure, the
41 question set forth in Section 1 of this ordinance; and
42

43 WHEREAS, Section 31-11-111(2), C.R.S., provides that the Town Council or its
44 designee shall fix a ballot title for the referred measure set forth in Section 1 of this ordinance;
45 and
46

1 WHEREAS, the Town Council has determined that it should fix the ballot title for the
2 referred measure set forth in Section 1 of this ordinance.

3
4 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
5 BRECKENRIDGE, COLORADO:
6

7 Section 1. A special Town election is called and shall be held on Tuesday, November 5,
8 2013 in connection with the coordinated election that is to be held on that day. At such election
9 there shall be submitted to the vote of the registered electors of the Town, as a referred measure
10 under Article X, Section 20 of the Colorado Constitution and Section 31-11-111(2), C.R.S., the
11 ballot issue hereinafter set forth (the “**Ballot Issue**”). At the said election, the official ballot shall
12 state the substance of the Ballot Issue to be voted upon and, as so stated, shall constitute the
13 ballot title, designation, and submission clause. At such election each registered elector voting at
14 the election shall be given the opportunity to indicate his or her choice on the Ballot Issue (either
15 “Yes/For” or “No/Against”), which shall be in the following form:

16 SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED BY \$800,000
17 ANNUALLY, COMMENCING IN 2013 FOR COLLECTION IN 2014, AND
18 BY SUCH AMOUNT AS MAY BE DERIVED ANNUALLY THEREAFTER
19 BY AN ADDITIONAL AD VALOREM MILL LEVY OF NOT MORE THAN
20 [REDACTED] MILLS (PROVIDED THAT THE [REDACTED] MILL LIMIT SHALL BE
21 ADJUSTED UP OR DOWN TO ACCOUNT FOR CHANGES IN STATE LAW
22 OR THE METHOD BY WHICH ASSESSED VALUATION IS CALCULATED
23 PURSUANT TO STATE LAW OCCURRING AFTER 2013, SO THAT, TO
24 THE EXTENT POSSIBLE, THE ACTUAL TAX REVENUES GENERATED
25 BY THE MILL LEVY, AS ADJUSTED, ARE NEITHER DIMINISHED NOR
26 ENHANCED AS A RESULT OF SUCH CHANGES); AND SHALL THE
27 REVENUES COLLECTED BY THE TOWN AS A RESULT OF SUCH MILL
28 LEVY BE USED TO OFFSET THE COST OF PROVIDING CHILD CARE
29 ASSISTANCE AND EARLY CHILDHOOD EDUCATION FOR QUALIFIED
30 RECIPIENTS, INCLUDING, BUT NOT LIMITED TO, PROVIDING
31 SCHOLARSHIPS TO OFFSET A PORTION OF THE COST OF CHILD CARE
32 FOR QUALIFIED RECIPIENTS AND GRANTS FOR EQUIPMENT AND
33 OTHER CAPITAL EXPENDITURES FOR QUALIFIED PROVIDERS OF
34 CHILD CARE ASSISTANCE AND EARLY CHILDHOOD EDUCATION;
35 AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT
36 INCOME THEREON BE COLLECTED AND SPENT BY THE TOWN AS A
37 VOTER-APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY
38 SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED
39 WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION ,
40 OR ANY OTHER LAW?

41
42 YES _____ NO _____
43

44 Section 2. In connection with the fixing of the ballot title for the Ballot Issue, the Town
45 Council of the Town of Breckenridge finds and determines as follows:

1 A. The Town Council has considered the public confusion that might be caused by
2 misleading ballot titles.

3
4 B. The general understanding of the effect of a “yes” or “no” vote on the Ballot Issue
5 will be clear to the electors.

6
7 C. The ballot title for the Ballot Issue will not conflict with those titles selected for any
8 other measure that will appear on the municipal ballot at the November 5, 2013 special Town
9 election; and

10
11 D. The ballot title for the Ballot Issue correctly and fairly expresses the true intent and
12 meaning of the measure.

13
14 Section 3. If a majority of all the votes cast at the election on the question to authorize
15 the levy of ad valorem property taxes submitted at the election shall be in favor of incurring the
16 levy of the ad valorem property taxes as provided in such question, the Town, acting through the
17 Town Council, shall be authorized to proceed with the necessary action to levy ad valorem
18 property taxes in accordance with such question.

19 The authority to levy ad valorem property taxes, if conferred by the results of the
20 election, shall be deemed and considered a continuing authority to levy the ad valorem taxes so
21 authorized at any one time, or from time to time, and neither the partial exercise of the authority
22 so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full
23 authority so conferred.

24 Section 4. The special Town election on November 5, 2013 to consider the Ballot Issue
25 shall be conducted as a coordinated election with Summit County. The Summit County Clerk
26 and Recorder shall conduct the special Town election on behalf of the Town. Pursuant to Section
27 1-12-6 of the Breckenridge Town Code, the election shall be conducted under the Uniform
28 Election Code of 1992. The cost of the election with respect to the Ballot Issue shall be paid
29 from the general fund of the Town.

30 Section 5. The Town Clerk is directed to enter into one or more intergovernmental
31 agreements with the Clerk and Recorder of Summit County, Colorado pursuant to Section 11-7-
32 116, C.R.S., and Section 1-12-7 of the Breckenridge Town Code. Any such intergovernmental
33 agreements heretofore entered into in connection with the election are hereby ratified and
34 approved.

35 Section 6. The Town Clerk, or the coordinated election official if so provided by
36 intergovernmental agreement, shall give or cause to be given the notice of election required by
37 Section 1-5-205, C.R.S. Additionally, the Town Clerk shall cause the notice required by Section
38 20(3)(b) of Article X of the Colorado Constitution to be prepared and delivered in accordance
39 with the requirements of applicable law.

40 Section 7. The Town Clerk shall serve as the designated election official of the Town the
41 purposes of performing acts required or permitted by law in connection with the election on the

1 Ballot Issue, and shall take such action as may be required to comply with all applicable laws
2 pertaining to the conduct of the election.

3 Section 8. The officers and employees of the Town are authorized and directed to take
4 all action necessary or appropriate to effectuate the provisions of this ordinance. All action
5 previously taken by the officers and employees of the Town with respect to the Ballot Issue is
6 ratified, confirmed, and approved.

7 Section 9. If any provision of this ordinance or the application hereof to any person or
8 circumstance is held invalid, the invalidity shall not affect any other provision or application of
9 this ordinance that can be given effect without the invalid provision or application, and, to this
10 end, the provisions of this ordinance are severable.

11 Section 10. All acts, orders, and ordinances, and parts thereof, inconsistent with this
12 ordinance shall be, and the same hereby are, repealed to the extent only of such inconsistency.
13 The repealer shall not be construed to review any act, order, or ordinance, or part thereof
14 heretofore repealed.

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

17 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
18 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
19 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
20 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
21 Town.

22
23 TOWN OF BRECKENRIDGE, a Colorado
24 municipal corporation
25
26

27
28 By _____
29 John G. Warner, Mayor
30

31 ATTEST:
32
33
34
35

36 _____
37 Helen Cospolich
38 Town Clerk
39
40
41
42
43

Memorandum

To: Town Council
From: Jennifer Cram, Planner III
Date: 07/02/2013
Re: Public Art Commission Appointment

We currently have 1 vacancy to fill on the Breckenridge Public Art Commission due to the recent resignation of Stephen Henderson. Stephen was appointed to the Commission for a term through December of 2014. Thus, we have advertised to fill the vacancy through December of 2014.

We have received two letters of interest. Both letters of interest are included in your packet for review. Interviews have been scheduled with the two new applicants for Tuesday, July 9th during the worksession.

We will email separately some example questions to assist you with interviews.

Staff and the existing Chair of the Commission will be present during interviews and in the evening for appointments to answer any questions. As always we thank you for your continued support of the public art program.

Richard E. Hague
PO Box 8475
Breckenridge, Colorado 80424
970-547-9262

RECEIVED
JUL 01 2013

TOWN OF BRECKENRIDGE
PLANNING DEPT

Ms. Jennifer Cram, Planner III
Town of Breckenridge
PO Box 168
Breckenridge, Colorado 80424

July 1, 2013

Dear Ms. Cram:

I wish to apply for the vacant position on the Breckenridge Public Art Commission (BPAC). Based upon my interest in, experience with, and passion for Breckenridge and its heritage, beauty, preservation, and enhancement, I feel that I can bring a unique and valuable perspective to BPAC and its various activities.

It would appear that one of the most challenging programs facing BPAC is the completion of the Arts District and its linkage with the Town center and the Riverwalk Center. Most, if not all, of the structures that will provide the physical infrastructure of the future Arts District are historic cabins and buildings such as the Robert Whyte House, Abby Hall, and the Fuqua Livery Stable. Based upon my experience with restoration and preservation projects with both the Summit Historical Society (SHS) and the Breckenridge Heritage Alliance (BHA) and my engineering background, I have the both the experience and interest to contribute to the planning and implementation of the work that will be required to complete this wonderful project to enhance both the historic and arts perspectives of Breckenridge.

The use of local historic structures to provide a modern setting for cultural activities is a very meaningful melding of past and present, a way to "move forward by looking back". Over the past 15 years, I have worked on a number of projects involving the restoration and preservation, for modern use, of historic buildings including the Carter Museum, the Klack Cabin, the Washington and Lomax Mines, the Rice Barn, the Montezuma Schoolhouse, and the Dillon Schoolhouse. Through both the SHS and BHA, I have also been intimately involved in the development of programs and uses for these buildings as will be the need when the Arts District includes many different types of artisans in the completed complex.

I believe that another opportunity to meld both past and present exists in developing what might be called "heritage art" or "industrial art" sculptures around the Town as part of the existing placement of such pieces in Blue River Plaza, the Blue River, the Ice Rink, and other locations. Properly cleaned, prepared, and mounted, pieces of equipment and artifacts from Breckenridge's mining past can be both artistic and educational for the viewing public. For instance, during the recent development of the Wellington neighborhood, a very large (eight feet in diameter) drive gear from one of the gold dredges that plied French Creek was uncovered. We actually have a 1908 photograph that shows this gear near the location where it was found. With a sandblasting clean-up and mounting on a single pedestal, this huge industrial artifact could become an impressive, beautiful tribute to Breckenridge's past as well as a work of "industrial art".

While I must be honest and admit that I have no artistic background, am not an artist myself, and have no directly related experience for BPAC, I have long sought out and admired many forms of art as an ordinary citizen and traveler. I have visited and enjoyed many of the world's great galleries and art cities. In fact, I would certainly call portions of Rome, Sienna, and Athens works of art in and of themselves and could see parts of Breckenridge aspiring to achieve the same type of attraction, on a much smaller scale of course, through art, other cultural activities, and its historic buildings.

I can certainly point to nearly 15 years in contributing to and participating in local causes and non-profits for the benefit and enhancement of Breckenridge. I have been president of both the SHS and BHA and am currently a founding board member and Secretary of the BHA. I was Chair of the Breckenridge Economic Development Advisory Commission for over two years, currently volunteer as an NRO/BMF concert usher, and am a Guest Services volunteer on the ski slopes in the winter. I have worked for eight years as a visitor information volunteer at the US Forest Service district headquarters in Silverthorne and am active in the Friends of the Dillon Ranger District.

I retired in 2000 from PricewaterhouseCoopers, one of the "big four" international accounting and consulting firms, where I worked in the banking and financial services consulting practice with the world's "Fortune 500" banks and financial institutions doing planning and management consulting work. In a previous career, I was a mining exploration geologist and am a graduate of the Colorado School of Mines with a combined Mining Engineering/MBA masters degree from Mines and the University of Colorado.

I feel very strongly that I can bring not only excellent experience and skill sets to BPAC but also a passion to make Breckenridge an even better place to live and visit than it is today. I would greatly appreciate your favorable consideration of my application to join BPAC.

Yours truly,

Rick Hague



WILSON LASS

July 02, 2013

Jennifer Cram
Planner III
Town of Breckenridge
P.O. Box 168
Breckenridge, CO 80424

RECEIVED
JUL 02 2013
TOWN OF BRECKENRIDGE
PLANNING DEPT

Dear Jenn,

I would be very interested in serving on the Breckenridge Public Art Commission to assist in the enhancement of the art culture in Breckenridge.

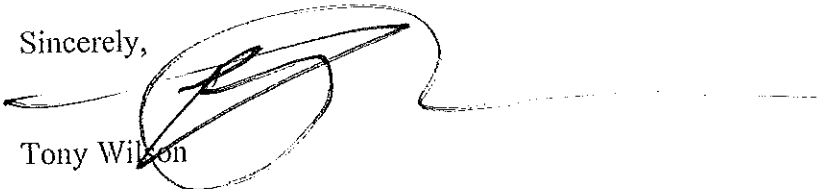
Here is a synopsis of my credentials and experience;

- Raised on the floor of my father's art studio
- Graduated with top honors from the Ringling College of Art + Design in Sarasota, Florida
- Recruited by Hallmark Cards to a special advertising division to promote Hallmark Cards and the Hallmark Hall of Fame
- Co-owner of Wilson Lass, a successful marketing and advertising firm established in 1981 which continues to market the unique attributes of Breckenridge
- Have a keen sense and passion for aesthetically beautiful art

I would be honored to sit on the BPAC and assist in bringing the best art to Breckenridge.

Thank you for your consideration.

Sincerely,



Tony Wilson



Town Council & Red, White & Blue Fire Board
Joint Meeting Agenda

July 9, 2013 6 p.m.
Breckenridge Town Hall Auditorium (Council Chambers)

1. Introductions
2. Brief report from Black Forest fire including mitigation successes
3. County Ambulance analysis, next steps and partnership opportunities
4. Property Insurance
5. Preparedness, Education, Mitigation
6. Current Fire ban status
7. RWB Projects