



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, September 24, 2013; 7:30 PM

Town Hall Auditorium

I	CALL TO ORDER, ROLL CALL	
II	APPROVAL OF MINUTES - SEPTEMBER 10, 2013	3
III	APPROVAL OF AGENDA	
IV	COMMUNICATIONS TO COUNCIL	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
	B. BRECKENRIDGE SKI RESORT UPDATE	
V	CONTINUED BUSINESS	
	A. SECOND READING OF COUNCIL BILLS, SERIES 2013 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 37, SERIES 2013: AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS", CONCERNING RIGHTS-OF-WAY ACQUIRED BY GOVERNMENTAL ENTITIES	8
	2. COUNCIL BILL NO. 38, SERIES 2013 - AN ORDINANCE AMENDING SECTION 1-4-1 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE GENERAL PENALTY TO BE IMPOSED FOR VIOLATIONS OF THE ORDINANCES OF THE TOWN OF BRECKENRIDGE	12
VI	NEW BUSINESS	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2013	
	1. COUNCIL BILL NO. 39, SERIES 2013 - AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE IMPLEMENTATION OF "AMENDMENT 64" TO THE COLORADO CONSTITUTION	16
	2. COUNCIL BILL NO. 40, SERIES 2013 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 13, TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE RESIDENTIAL GROWING OF MARIJUANA	34
	B. RESOLUTIONS, SERIES 2013	
	1. A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2013 TOWN BUDGET	46
	2. A RESOLUTION IN SUPPORT OF BALLOT QUESTIONS 1A AND 2B APPEARING ON THE NOVEMBER 2013 BALLOT	48
	C. OTHER	
VII	PLANNING MATTERS	
	A. PLANNING COMMISSION DECISIONS	52
	B. PLANNING COMMISSION REPORT (MS. MCATAMNEY)	
VIII	REPORT OF TOWN MANAGER AND STAFF	
IX	REPORT OF MAYOR AND COUNCILMEMBERS	
	A. CAST/MMC (MAYOR WARNER)	
	B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)	
	C. BRC (MR. BURKE)	
	D. MARKETING COMMITTEE (MS. WOLFE)	

*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. 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.

- E. SUMMIT COMBINED HOUSING AUTHORITY (MR. DUDICK)
- F. BRECKENRIDGE HERITAGE ALLIANCE (MR. DUDICK)
- G. WATER TASK FORCE (MR. GALLAGHER)
- H. LANDFILL TASK FORCE (MS. WOLFE)
- I. PUBLIC ART COMMISSION (MR. GALLAGHER)

X OTHER MATTERS

XI SCHEDULED MEETINGS

XII ADJOURNMENT

*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. 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.

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
Tuesday, September 10, 2013
PAGE 1**

1 of 5

CALL TO ORDER, ROLL CALL

Mayor Warner called the meeting of September 10, 2013 to order at 7:36 pm. The following members answered roll call: Mr. Gallagher, Mr. Brewer, Ms. McAtamney, Mr. Dudick and Mayor Warner. Mr. Burke and Ms. Wolfe were absent.

APPROVAL OF MINUTES - AUGUST 27, 2013

With no changes or corrections to the meeting minutes of August 27, 2013, Mayor Warner declared they would stand approved as submitted.

APPROVAL OF AGENDA

Mr. Gagen stated there was only one change to the agenda: a brief Executive Session would be added under Other Matters.

COMMUNICATIONS TO COUNCIL

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

Mayor Warner opened Citizen's Comments.

Ms. Carol Rockne, a local citizen, thanked the Council for helping with the Dredge fishing issues. Also, Ms. Rockne stated there are beavers in Warriors Mark, and there was a recent confrontation over the beavers that involved the Police Department.

Mr. David Wilcox and Ms. Peyton Rogers, representing the Breckenridge Lodging Association, read a letter into the record in support of the USA Pro Cycling Challenge. Mayor Warner stated he had met with Aspen and Vail about the future of the race.

With no further comments, Mayor Warner closed the citizen comments section.

CONTINUED BUSINESS

A. Second Reading of Council Bills, Series 2013 - Public Hearings

1. COUNCIL BILL NO. 34, SERIES 2013 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE LICENSING AND REGULATION OF MEDICAL MARIJUANA BUSINESSES AND RETAIL MARIJUANA ESTABLISHMENTS

Mayor Warner read the title into the minutes. Mr. Berry stated the purpose of the ordinance is to authorize retail marijuana starting Jan. 1, 2014. Changes from first reading include a provision that allows a license to be transferred to a buyer, adding language that there is no entitlement to renewal, removing language addressing a specific number of licenses, and allowing the establishment on Main Street until Sept. 1, 2014 to vacate the premises. There are several other small editorial changes.

Mayor Warner opened the public hearing.

Ms. Caitlin McGuire, of Breckenridge Cannabis Club, stated she built the business from the ground up and requested Council consider allowing them to stay on Main Street.

Mr. Brian Rogers, of Breckenridge Cannabis Club, stated the location of his business is important. Mr. Rogers further stated the marketing of his business is specific to the current location and a change in location would result in additional costs. Mayor Warner thanked Mr. Rogers for being open and honest.

TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
Tuesday, September 10, 2013
PAGE 2

2 of 5

Mr. Justin Williams, of Alpenglow Botanicals, stated he supports the Ordinance in its current form.

Mr. Wayne Walton, a local citizen, stated the community should be showcasing marijuana, and encouraged Council to move forward to represent the young people of the community.

Mr. John Pallaoro, of Northside Pizza, stated that as a business owner on Main Street, he is in support of the Cannibus Club staying in its current location.

Mr. Brian Jones, of Northside Pizza, stated liquor is more detrimental to the Town than a marijuana store on Main Street.

Mr. Truett Lennox, a local citizen, stated marijuana is not as violent as alcohol.

Mr. Dan Lefjack, a local citizen, stated he agrees with the ordinance as written because it makes sales fair for everyone and is consistent with the Town goal for family friendly events in the core.

Ms. Lauren Hoover, who works at the Breckenridge Cannibus Club, stated she is a longtime local who is excited that Breckenridge is making history, and stated the Cannibus Club can be a great example of retail marijuana in the core.

Ms. Cassie Nevis, who works in downtown Breckenridge, agreed with the ordinance in its current form and would like to keep marijuana off downtown Main Street.

Mr. Christian Kuchenbrod, a local citizen who lives and works on Main Street, stated the Cannibus Club is setting a good example with helpful staff and by getting the information out.

Ms. Christy Hoffman, the owner of the building where Cannibus Club is located, stated making the business move will affect her. She further stated they are good tenants and their presence has helped her business. Mayor Warner then asked if the building was for sale. Ms. Hoffman stated yes, and she believes buyers would appreciate the MJ tenant. I don't think it's an issue.

Mr. Brian Austin, Christy Sports Assistant Manager, stated he can send guests to the Cannibus Club, where they can get informed about marijuana, and he would like to see it sold legally on Main Street through a dispensary.

Mr. Gagen noted for the record there were a number of additional emails and comments from Engage Breck.

With no other comments, the public hearing was closed.

Mayor Warner then asked Council for feedback on the ordinance. Mr. Brewer stated this ordinance is imperfect and he would prefer not to pass it tonight and pass an emergency ordinance at the next meeting. Mr. Gallagher stated a change in the ordinance is not in the long-term best interest of the people who live in Breckenridge or come to Breckenridge. Ms. McAtamney stated Airport Road isn't far away and Council worked hard to make things fair for everyone, including visitors. Mr. Dudick stated tourism drives our community and he doesn't want Breckenridge to be the leader with dispensaries on Main

Street. He also agrees there is an inequity in allowing one place to stay and shut out the others. Mayor Warner read the Town's Vision Plan and focused on #1: Community Character.

Mr. Gallagher moved to approve COUNCIL BILL NO. 34, SERIES 2013 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE LICENSING AND REGULATION OF MEDICAL MARIJUANA BUSINESSES AND RETAIL MARIJUANA ESTABLISHMENTS. Ms. McAtamney seconded the motion.

The motion passed 4 – 1; Mr. Brewer dissented. Mr. Burke and Ms. Wolfe were absent.

2. COUNCIL BILL NO. 35, SERIES 2013 - AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING CERTAIN VALUE-BASED MUNICIPAL OFFENSES

Mayor Warner read the title into the minutes. Mr. Berry stated there were no changes in this ordinance from first reading. Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Ms. McAtamney moved to Approve COUNCIL BILL NO. 35, SERIES 2013 - AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING CERTAIN VALUE-BASED MUNICIPAL OFFENSES. Mr. Gallagher seconded the motion.

The motion passed 5 – 0. Mr. Burke and Ms. Wolfe were absent.

3. COUNCIL BILL NO. 36, SERIES 2013 - AN ORDINANCE APPROVING A LONG-TERM LEASE WITH BEARTOWN LLC, A COLORADO LIMITED LIABILITY COMPANY

Mayor Warner read the title into the minutes. Mr. Berry stated the ordinance approves a long-term lease as required by Town Code and there are no changes from the first reading. Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Brewer moved to approve COUNCIL BILL NO. 36, SERIES 2013 - AN ORDINANCE APPROVING A LONG-TERM LEASE WITH BEARTOWN LLC, A COLORADO LIMITED LIABILITY COMPANY. Ms. McAtamney seconded the motion. The motion passed 5 – 0. Mr. Burke and Ms. Wolfe were absent.

NEW BUSINESS

A. First Reading of Council Bills, Series 2013

1. COUNCIL BILL NO. 37, SERIES 2013 - AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS", CONCERNING RIGHTS-OF-WAY ACQUIRED BY GOVERNMENTAL ENTITIES

Mayor Warner read the title into the minutes. Mr. Berry stated this ordinance adds a new exception to the definition of subdivision regarding governmental right of way for a public project.

Mr. Gallagher moved to approve COUNCIL BILL NO. 37, SERIES 2013 - AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE SUBDIVISION STANDARDS", CONCERNING RIGHTS-OF-WAY ACQUIRED BY GOVERNMENTAL ENTITIES.

Mr. Brewer seconded the motion.

The motion passed 5 – 0. Mr. Burke and Ms. Wolfe were absent.

2. COUNCIL BILL NO. 38, SERIES 2013 - AN ORDINANCE AMENDING SECTION 1-4-1 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE GENERAL PENALTY TO BE IMPOSED FOR VIOLATIONS OF THE ORDINANCES OF THE

TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
Tuesday, September 10, 2013
PAGE 4

4 of 5

TOWN OF BRECKENRIDGE

Mayor Warner read the title into the minutes. Mr. Berry stated the general penalty ordinance changes the maximum penalty for Municipal Court to \$2650, in accordance with a new state law.

Ms. McAtamney moved to approve COUNCIL BILL NO. 38, SERIES 2013 - AN ORDINANCE AMENDING SECTION 1-4-1 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE GENERAL PENALTY TO BE IMPOSED FOR VIOLATIONS OF THE ORDINANCES OF THE TOWN OF BRECKENRIDGE. Mr. Brewer seconded the motion.

The motion passed 5 – 0. Mr. Burke and Ms. Wolfe were absent.

- B. Resolutions, Series 2013
- C. Other

PLANNING MATTERS

- A. Planning Commission Decisions

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

- B. Planning Commission Report (Ms. McAtamney)
Ms. McAtamney stated there was no report.

- C. Town Project: Cucumber Gulch Wetland Channel Restoration
Mr. Mark Truckey stated this Town Project involves the 2nd phase of restoration of Cucumber Gulch, including the restoration of the stream channel.
Mr. Dudick moved to approve Town Project: Cucumber Gulch Wetland Channel Restoration. Ms. McAtamney seconded the motion.
The motion passed 5-0. Mr. Burke and Ms. Wolfe were absent.

- D. Town Project: Cucumber Gulch Forest Health Treatment
Mr. Truckey stated the forest management project includes the removal of deadfall to improve overall forest health in about 5 acres.
Mr. Dudick moved to approve Town Project: Cucumber Gulch Forest Health Treatment.
Mr. Gallagher seconded the motion.
The motion passed 5-0. Mr. Burke and Ms. Wolfe were absent.

REPORT OF TOWN MANAGER AND STAFF

Mr. Tim Gagen stated there was no report.

REPORT OF MAYOR AND COUNCILMEMBERS

- A. Cast/MMC (Mayor Warner)

Mayor Warner stated he attended the MMC where topics included breed specific dog bans, a housing needs assessment, a ballot question update from each town, water conservation county-wide, an EMS update, senior housing, and a landfill update.

Mayor Warner then gave a CAST update which included presentations from a representative from American Progressive Bag Alliance, Bob Murphy, the Lakewood Mayor, speaking about need for improved transportation, and Mille Hamner, speaking about Colorado Commits to Kids. Mayor Warner also sat on a marijuana panel.

- B. Breckenridge Open Space Advisory Committee (Mr. Brewer)

TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
Tuesday, September 10, 2013
PAGE 5

5 of 5

- Mr. Brewer stated there was no meeting.
- C. BRC (Mr. Burke)
Mr. Burke sent out minutes from the last meeting.
 - D. Marketing Committee (Ms. Wolfe)
Ms. Wolfe was not present for an update.
 - E. Summit Combined Housing Authority (Mr. Dudick)
Mr. Dudick stated there was no update.
 - F. Breckenridge Heritage Alliance (Mr. Dudick)
Mr. Dudick stated he sent an email to Council with an update.
 - G. Water Task Force (Mr. Gallagher)
Mr. Gallagher stated they are preparing an application to submit to Denver Water as a first step.
 - H. Landfill Task Force (Ms. Wolfe)
Ms. Wolfe was not present for update.
 - I. Public Art Commission (Mr. Gallagher)
Mr. Gallagher stated the minutes from the last meeting were sent council members.

OTHER MATTERS

SCHEDULED MEETINGS

EXECUTIVE SESSION

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:04pm. Submitted by Helen Cospolich, Municipal Services Manager.

ATTEST:

John Warner, Mayor

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 37 (Exempting Right-of-Way Acquisitions From Subdivision Ordinance)

DATE: September 17, 2013 (for September 24th meeting)

The second reading of the ordinance exempting right-of-way acquisitions by governmental entities from the Town's Subdivision Ordinance is scheduled for your meeting on September 24th. There are no changes proposed to ordinance from first reading.

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

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

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. 37

9
10 Series 2013

11
12 AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE, KNOWN AS THE “BRECKENRIDGE SUBDIVISION STANDARDS,”
14 CONCERNING RIGHTS-OF-WAY ACQUIRED BY GOVERNMENTAL ENTITIES

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

18
19 Section 1. The definition of “Subdivision” in Section 9-2-2 of the Breckenridge Town
20 Code is amended to read in its entirety as follows:

21
SUBDIVISION: The division of a tract or parcel of land into two (2) or more
parcels, lots, sites or other division for the purpose, whether
immediate or future, transfer of ownership or sale, building
development, including any resubdivision. Subdivision shall
include, but not be limited to, the following types of
developments and/or legal interests:

A. Division Of Land: The division of land, whether by deed,
metes and bounds description, map, plat or other recorded
instrument.

B. Division Of A Structure: The division of a structure into
two (2) or more separate interests through division of the fee
title thereto, whether by conveyance, license, contract for
sale, or any other method of disposition including, but not
limited to, the creation of a common interest community
pursuant to the common interest ownership act, article 33.3,
title 38, Colorado Revised Statutes.

C. Timeshare Interests: The creation of interval estates,
timeshare estates, time span estates and other timesharing
interests as defined by the condominium ownership act,
article 33, title 38, Colorado Revised Statutes.

D. Cooperative: The creation of a cooperative as defined in the Colorado common interest ownership act, article 33.3, title 38, Colorado Revised Statutes.

E. Exclusions: Unless the method of land disposition is adopted for the purpose of evading this chapter, the term "subdivision", as defined in this section shall not apply to any division of land or interests in land:

1. Which is created by any court in this state pursuant to the law of eminent domain, partition or by operation of law.

2. Which is created by lien, mortgage, deed of trust or any other security instrument or the foreclosure of any such instrument.

3. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity.

4. Which creates an interest or interests in oil, gas, minerals or water which are now or hereafter severed from the surface ownership of real property.

5. Which creates a parcel or parcels as a result of the acquisition of land by the town.

6. Which creates a parcel or parcels as a result of the acquisition of right-of-way by the town or other governmental entity.

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

5 Section 3. The Town Council hereby finds, determines and declares that this ordinance is
6 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
7 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
8 thereof.
9

10 Section 4. The Town Council hereby finds, determines and declares that it has the power
11 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
12 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
13 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
14 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to

1 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
2 contained in the Breckenridge Town Charter.

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

6
7 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
8 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
9 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
10 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
11 Town.

12
13 TOWN OF BRECKENRIDGE, a Colorado
14 municipal corporation

15
16
17
18 By _____
19 John G. Warner, Mayor

20
21 ATTEST:

22
23
24
25 _____
26 Helen Cospolich, Town Clerk

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 38 (Amending Town's "General Penalty" Ordinance)

DATE: September 17, 2013 (for September 24th meeting)

The second reading of the ordinance amending the Town's General Penalty Ordinance is scheduled for your meeting on September 24th. You will recall that this ordinance implements a new Colorado statute by authorizing the Municipal Judge to impose a fine of up to \$2,650.00 for a municipal law violation, and also provides for an annual cost of living adjustment to the maximum fine that can be imposed in the Municipal Court.

There are no changes proposed to ordinance from first reading.

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

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

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. 38

9
10 Series 2013

11
12 AN ORDINANCE AMENDING SECTION 1-4-1 OF THE BRECKENRIDGE TOWN CODE
13 CONCERNING THE GENERAL PENALTY TO BE IMPOSED FOR VIOLATIONS OF THE
14 ORDINANCES OF THE TOWN OF BRECKENRIDGE

15
16 WHEREAS, HB13-1060, which became effective April 18, 2013, increased the
17 maximum monetary fine that may be assessed by a municipal court of record (such as the
18 Breckenridge Municipal Court) from One Thousand Dollars (\$1,000.00) to Two Thousand Six
19 Hundred Fifty Dollars (\$2,650.00), and further provides for an annual cost of living adjustment
20 to reflect inflation; and

21
22 WHEREAS, the Town Council of the Town of Breckenridge desires to amend the
23 Town's "General Penalty Ordinance" to reflect the increase in the maximum monetary fine that
24 may be assessed by a municipal court under HB13-1060.

25
26 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
27 BRECKENRIDGE, COLORADO:

28
29 Section 1. Section A of Section 1-4-1 of the Breckenridge Town Code is amended so as
30 to read in its entirety as follows:

31
32 A. It is unlawful for any person to violate any ordinance of the town, this code, or
33 any code adopted by reference. Each violation is a misdemeanor offense, except
34 those violations specifically classified as infractions in any Town ordinance, this
35 code, or any code adopted by reference. Any person convicted of a misdemeanor
36 violation of this code, any ordinance of the town, any code adopted by reference,
37 or any regulation adopted pursuant to this code or town ordinance shall be
38 punished by a fine of not more than ~~nine hundred ninety nine dollars (\$999.00)~~
39 **two thousand six hundred fifty dollars (\$2,650.00)**, or by imprisonment not to
40 exceed ~~one day less than~~ one year, or by both such fine and imprisonment;
41 provided, however, that no person under the age of eighteen (18) years as of the
42 date of the offense for which he is convicted shall be subject to a jail sentence,
43 except in the case of a conviction of a traffic offense under title 7 of this code.
44 Any persons found to have committed a violation of an infraction shall be

1 punished as provided in Section 1-4-1-1. **The maximum amount of the fine that**
2 **may be imposed under this section shall automatically be increased annually**
3 **as provided in Section 13-10-113(1)(b), C.R.S.**
4

5 Section 2. Section 1 of this ordinance shall apply to municipal offenses committed on or
6 after November 1, 2013. Any person convicted of violating a Town ordinance the date of
7 violation of which was prior to November 1, 2013 shall be punished in accordance with the
8 provisions of Section 1-4-1 of the Breckenridge Town Code as the same existed at the time of
9 the commission of such offense.
10

11 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the
12 various secondary codes adopted by reference therein, shall continue in full force and effect.
13

14 Section 4. The Town Council hereby finds, determines and declares that this ordinance is
15 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
16 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
17 thereof.
18

19 Section 5. The Town Council hereby finds, determines and declares that it has the power
20 to adopt this ordinance pursuant to the provisions of Section 13-10-113, C.R.S., and the powers
21 possessed by home rule municipalities in Colorado.
22

23 Section 6. The Town Council hereby finds, determines and declares that it has the power
24 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
25 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
26

27 Section 7. This ordinance shall be published and become effective as provided by
28 Section 5.9 of the Breckenridge Town Charter.
29

30 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
31 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
32 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
33 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
34 Town.
35

36 TOWN OF BRECKENRIDGE, a Colorado
37 municipal corporation
38

39
40 By _____
41 John G. Warner, Mayor
42
43

1 ATTEST:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54

Helen Cospolich
Town Clerk



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: September 10, 2013
Subject: Omnibus Amendment 64 Regulation Ordinance

In November of 2012 the Colorado voters approved Amendment 64 which allows for the legal sale of marijuana in a retail establishment to those persons 21 years of age and older. Effective July 1, 2013 the State of Colorado, Department of Revenue, provided a number of regulations for use by both the state and municipalities in structuring compliance and enforcement laws and ordinances.

As a result, staff is proposing the implementation of an Omnibus Ordinance concerning the Implementation of Amendment 64. Staff is proposing the Omnibus ordinance to address a variety of changes within a number of different ordinances. These amendments cover the following:

- Modify the Town's Smoking Ordinance to include Marijuana
- Amend the Town's Open Container Ordinance to specifically relate to alcohol as open container marijuana violations are covered elsewhere in code.
- Repeal the Town's current Cannabis Ordinance as provisions are replaced with a new Chapter of Code specific to Marijuana offenses.
- Modify the Drug Paraphernalia Ordinance to accommodate Amendment 64 provisions.
- Creates a new Chapter of Town Code dealing specifically with Marijuana offenses.

The creation of a new Chapter of Town Code related to Marijuana offenses replaces the current Town Code 6-3H-1, Offenses Related to Cannabis, and incorporates the following changes:

- Adds consuming, using, purchasing or transporting marijuana to violations for those under age 21.
- Allows for the open and public display of marijuana by those over age 21.
- Defines and prohibits open or public consumption or use by any person.
- Changes the penalty for open or public consumption or use from a summons to an infraction (mail in fine).
- Prohibits the burning, smoking, inhaling of vapors, or any other form of consumption of marijuana in any place of business.
- Prohibits open containers or consumption of marijuana in a motor vehicle.

I will be available at the Town Council work session and meeting on September 24th to answer any questions.

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

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 AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE
11 IMPLEMENTATION OF “AMENDMENT 64” TO THE COLORADO CONSTITUTION

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

15
16 Section 1. Section 5-9-1(A) of the Breckenridge Town Code is amended to read as
17 follows:

18 A. The Town Council hereby finds and determines as follows:

- 19 1. It is in the best interest of the people of the Town to protect nonsmokers from
20 involuntary exposure to environmental tobacco **and marijuana** smoke in most
21 indoor areas open to the public, public meetings, food service establishments, and
22 places of employment;
- 23 2. A balance should be struck between the health concerns of nonconsumers of
24 tobacco **and marijuana** products and the need to minimize unwarranted
25 governmental intrusion into, and regulation of, private spheres of conduct and
26 choice with respect to the use or nonuse of tobacco **and marijuana** products in
27 certain designated public areas and in private places;
- 28 3. Smoking should not be prohibited in the entryway of any building or facility, and
29 such determination is expressly authorized to be made by the Town pursuant to
30 Section 25-14-207(2)(a), Colorado Revised Statutes; and
- 31 4. “Cigar-tobacco bars,” as defined in Section 25-14-203(4), Colorado Revised
32 Statutes, should not be exempted from the Town ’s smoking regulations as set
33 forth in this Chapter.

34
35 Section 2. Section 5-9-2 of the Breckenridge Town Code is amended by the addition of

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

1 the following definition:
2

MARIJUANA:

**Has the same meaning as in Section 16(2)(f)
of Article XVIII of the Colorado
Constitution.**

3
4 Section 3. The definition of “Environmental Tobacco Smoke” in Section 5-9-2 of the
5 Breckenridge Town Code is amended to read as follows:
6

ENVIRONMENTAL TOBACCO
SMOKE:

The complex mixture formed from the
escaping smoke of a burning tobacco **or**
marijuana product, also known as “sidestream
smoke”, and smoke exhaled by the smoker.

7
8 Section 4. The definition of “Smoking” in Section 5-9-2 of the Breckenridge Town Code
9 is amended to read as follows:

SMOKING:

The burning of a lighted cigarette, cigar, pipe,
or any other matter or substance that contains
tobacco, or ~~medical marijuana, as defined by~~
~~Section 12-43.3-104(7), Colorado Revised~~
~~Statutes.~~

10
11 Section 5. The introductory portion of Section 5-9-3(A) of the Breckenridge Town Code
12 is amended to read as follows:

13 A. Except as provided in Section 5-9-4 of this Chapter, and in order to reduce the
14 levels of exposure to environmental tobacco **and marijuana** smoke, smoking
15 shall not be permitted and no person shall smoke in any indoor area, including,
16 but not limited to:

17 Section 6. Section 5-9-3(A)(12) of the Breckenridge Town Code is amended to read as
18 follows:

19 12. Any place of employment that is not exempted. In the case of employers who own
20 facilities otherwise exempted from this Chapter, each such employer shall provide
21 a smoke free work area for each employee requesting not to have to breathe
22 environmental **tobacco and marijuana** smoke. Every employee shall have a right
23 to work in an area free of environmental tobacco **and marijuana** smoke;

24 Section 7. The introductory portion of Section 5-9-4 of the Breckenridge Town Code is
25 amended to read as follows:

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

1 5-9-4: EXCEPTIONS TO SMOKING RESTRICTIONS: **Except as otherwise**
2 **expressly provided in this Code.** This Chapter shall not apply to:

3 Section 8. Section 5-9-4(G) of the Breckenridge Town Code is amended to read as
4 follows:

5 G. A place of employment that is not open to the public and that is under the
6 control of an employer that employs three (3) or fewer employees; **provided,**
7 **however, that this exemption does not apply to the smoking of marijuana;** or
8

9 Section 9. Section 5-9-4 of the Breckenridge Town Code is amended by the addition of a
10 new Section I, which shall read as follows:

11 **I. The open and public consumption of marijuana in an outdoor area as described**
12 **in Article I of Chapter 3 of Title 6 of the Breckenridge Town Code.**
13

14 Section 10. The definitions of “cannabis” and “cannabis concentrate” in Section 6-3-5 of
15 the Breckenridge Town Code are repealed.

16 Section 11. The title of Section 6-3F-16 of the Breckenridge Town Code is amended to
17 read “Open Containers Of Alcohol Prohibited.”

18 Section 12. Section 6-3H-1¹ of the Breckenridge Town Code is repealed.

19 Section 13. Section 6-3H-6 of the Breckenridge Town Code is amended to read as
20 follows:

21
22 6-3H-6: POSSESSION OF DRUG PARAPHERNALIA:

23 A. **This Section does not apply to the possession, use, display, purchase,**
24 **transport, sale or manufacture of marijuana accessories as defined in Section**
25 **16(2)(g) of Article XVIII of the Colorado Constitution by a person age**
26 **twenty-one years or older.**
27

28 **AB.** As used in this Section, unless the context otherwise requires:

29
30 1. "Drug paraphernalia" means all equipment, products, and materials of any kind
31 which are used, intended for use, or designed for use in planting, propagating,
32 cultivating, growing, harvesting, manufacturing, compounding, converting,
33 producing, processing, preparing, testing, analyzing, packaging, repackaging,

¹ NOTE: Section 6-3H-1 is the Town’s current ordinance on possession of cannabis. [NOT TO BE CODIFIED]

1 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
2 introducing into the human body a controlled substance in violation of the laws of
3 the state of Colorado. "Drug paraphernalia" includes, but is not limited to:

4
5 a. Testing equipment used, intended for use, or designed for use in identifying or
6 in analyzing the strength, effectiveness, or purity of controlled substances under
7 circumstances in violation of the laws of the state of Colorado;

8
9 b. Scales and balances used, intended for use, or designed for use in weighing or
10 measuring controlled substances;

11
12 c. Separation gins and sifters used, intended for use, or designed for use in
13 removing twigs and seeds from or in otherwise cleaning or refining marijuana;

14
15 d. Blenders, bowls, containers, spoons, and mixing devices used, intended for use,
16 or designed for use in compounding controlled substances;

17
18 e. Capsules, balloons, envelopes, and other containers used, intended for use, or
19 designed for use in packaging small quantities of controlled substances;

20
21 f. Containers and other objects used, intended for use, or designed for use in
22 storing or concealing controlled substances; or

23
24 g. Objects used, intended for use, or designed for use in ingesting, inhaling, or
25 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human
26 body, such as:

27
28 (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
29 screens, permanent screens, hashish heads, or punctured metal bowls;

30
31 (2) Water pipes;

32
33 (3) Carburetion tubes and devices;

34
35 (4) Smoking and carburetion masks;

36
37 (5) Roach clips, meaning objects used to hold burning material, such as a
38 marijuana cigarette that has become too small or too short to be held in the hand;

39
40 (6) Miniature cocaine spoons and cocaine vials;

41

- 1 (7) Chamber pipes;
- 2
- 3 (8) Carburetor pipes;
- 4
- 5 (9) Electric pipes;
- 6
- 7 (10) Air driven pipes;
- 8
- 9 (11) Chillums;
- 10
- 11 (12) Bongs; or
- 12
- 13 (13) Ice pipes or chillers.
- 14

15 BC. In determining whether an object is drug paraphernalia, a court, in its
16 discretion, may consider, in addition to all other relevant factors, the following:

- 17
- 18 1. Statements by an owner or by anyone in control of the object concerning its
- 19 use;
- 20
- 21 2. The proximity of the object to controlled substances;
- 22
- 23 3. The existence of any residue of controlled substances on the object;
- 24
- 25 4. Direct or circumstantial evidence of the knowledge of an owner, or of anyone
- 26 in control of the object, or evidence that such person reasonably should know, that
- 27 it will be delivered to persons who he knows or reasonably should know, could
- 28 use the object to facilitate a violation of Subsection E of this Section;
- 29
- 30 5. Instructions, oral or written, provided with the object concerning its use;
- 31
- 32 6. Descriptive materials accompanying the object which explain or depict its use;
- 33
- 34 7. National or local advertising concerning its use;
- 35
- 36 8. The manner in which the object is displayed for sale;
- 37
- 38 9. Whether the owner, or anyone in control of the object, is a supplier of like or
- 39 related items to the community for legal purposes, such as an authorized
- 40 distributor or dealer of tobacco products;
- 41

- 1 10. The existence and scope of legal uses for the object in the community; and
2
3 11. Expert testimony concerning its use.
4

5 ED. In the event a case brought pursuant to this Section is tried before a jury, the
6 court shall hold an evidentiary hearing on issues raised pursuant to Subsection B
7 of this Section. Such hearing shall be conducted in camera.
8

9 DE. A person commits possession of drug paraphernalia if he possesses drug
10 paraphernalia and knows or reasonably should know that the drug paraphernalia
11 could be used under circumstances in violation of the laws of the Town or the
12 state of Colorado, ~~unless the person is twenty one (21) years of age or older and~~
13 ~~the drug paraphernalia is reasonably associated with marijuana.~~
14

15 EE. Any person convicted of having violated Subsection E of this Section shall
16 be punished by a fine of not more than one hundred dollars (\$100.00).
17
18

19 Section 14. Title 6 of the Breckenridge Town Code is amended by the addition of a new
20 Chapter 3I, entitled “Offenses Concerning Marijuana”, which shall read as follows:
21

22 CHAPTER 3

23 GENERAL OFFENSES

24 ARTICLE I: OFFENSES CONCERNING MARIJUANA

25 SECTION:

26 6-3I-1: Definitions

27 6-3I-2: Unlawful Possession or Open and Public Display, Consumption, Or Use of
28 Marijuana By An Underage Person

29 6-3I-3: Unlawful Possession of Marijuana

30 6-3I-4: Open and Public Display, Consumption, or Use of Marijuana

31 6-3I-5: Unlawful Transfer of Marijuana to Underage Person

32 6-3I-6: Unlawful Transfer of Marijuana to Person Twenty-One Years of Age or
33 Older

34 6-3I-7: Open Containers of Marijuana Prohibited

35 6-3I-8: Unlawful Acts in Marijuana Consumption Establishment; Public
36 Nuisance

37 6-3I-9: Defendant to be Issued Summons and Must Promise to Appear in Court;
38 When; Penalty Assessment Notice
39
40
41
42

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

1 6-3I-10: Immunity For Persons Who Suffer or Report An Emergency Drug Overdose
2 Event

3 6-3I-11: Evidence at Trial

4 6-3I-12: Constitutional Provisions

5
6 6-3I-1: Definitions: As used in this Article the following words have the following
7 meanings:

8

<u>BUSINESS:</u>	<u>Has the meaning provided in Section 4-1-2 of this Code, but such term also includes any private club or membership club of any kind, regardless of how created, organized or denominated.</u>
<u>EMERGENCY DRUG OVERDOSE:</u>	<u>Means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires medical assistance.</u>
<u>FIRST OFFENSE:</u>	<u>Means that the person has not had a previous conviction, deferred prosecution, or deferred judgment for a violation of the same Section of this Article.</u>
<u>MARIJUANA:</u>	<u>Includes all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative mixture, or preparation of such plant, its seeds, or resin but shall not include the mature stalks of such plant, fiber produced from its stalk, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.</u>
<u>MARIJUANA</u>	<u>Hashish, tetrahydrocannabinols or any alkaloid,</u>

<u>CONCENTRATE:</u>	<u>salt, derivative, preparation, compound or mixture, whether natural or synthesized, or tetrahydrocannabinols.</u>
<u>MARIJUANA CONSUMPTION ESTABLISHMENT:</u>	<u>Means a business that is open to the general public and permits the burning, smoking, inhaling the vapors of, or otherwise consuming marijuana in any form on the premises of the business, even if: (i) admission requires the payment of a charge, admission fee, entry fee, membership fee, or other monetary charge or payment of any kind, or (ii) an entry fee, membership fee, or other monetary charge of any kind is suggested, recommended, or accepted by the operator of the business prior to admission.</u>
<u>MOTOR VEHICLE:</u>	<u>Has the meaning provided in the Town’s Traffic Code adopted in Chapter 1 of Title 7 of this Code.</u>
<u>OPENLY AND PUBLICLY:</u>	<u>Means the commission of an unlawful act as described in Section 6-3I-2 or Section 6-3I-4 in any of the following places: 1) any land or area owned or controlled by the Town, such as public ways, streets, sidewalks, alleys, parking lots, or playgrounds, 2) public grounds or other outdoor areas owned and operated by any governmental entity other than the Town, 3) the common areas of buildings usually open to the general public, 4) the exterior balconies, decks, lawns, grounds, outdoor recreational areas, and other outdoor portions of residential structures not constituting rooms designed for actual residence if visible from a public street, sidewalk or alley by a person of normal visual acuity, and 5) any other outdoor area open to the general public, which includes a place to which the public or a substantial number of the public have access without restriction, including, without limitation, the exterior areas of buildings and facilities that are generally open or accessible to members of the public without restriction.</u>

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

<u>OPEN MARIJUANA CONTAINER:</u>	<u>A receptacle or marijuana accessory as defined in Section 16(2)(g) of Article XVIII of the Colorado Constitution that contains any amount of marijuana and: (i) that is open or has a broken seal; (ii) the contents of which are partially removed; or (iii) there is evidence that marijuana has been consumed with the interior of the motor vehicle.</u>
<u>OUTDOOR AREA:</u>	<u>Any area or place outside of a building or other structure.</u>
<u>OWNER:</u>	<u>A sole proprietor if the business is operated as a proprietorship; the owner of the most shares if the business is operated as a corporation; the owner of the largest ownership interest in a limited liability company; a general partner if the business is operated as a general partnership; the general partner if the business is operated as a limited partnership; or the owner of the largest ownership interest in the business if the business is operated in any other form of business entity. If a business has more than one person who meets the definition of “owner”, the term “owner” applies to all such persons.</u>
<u>SECOND OFFENSE:</u> _____	<u>Means an offense after the person is subject to a first offense.</u>
<u>SUBSEQUENT OFFENSE:</u>	<u>Means an offense after the person is subject to a third offense.</u>
<u>THIRD OFFENSE:</u>	<u>Means an offense after the person is subject to a second offense.</u>

1
2
3
4
5
6

6-3I-2: UNLAWFUL POSSESSION OR OPEN AND PUBLIC CONSUMPTION OR USE OF MARIJUANA BY AN UNDERAGE PERSON:

A. Except as described in Section C of this Section and in Section 6-3I-10, it is unlawful for any person under twenty-one years of age to possess or openly and publicly consume or use

1 marijuana or marijuana concentrate. Any person convicted of having violated this Section
2 A shall be punished by a fine as follows:
3

<u>Offense No.</u>	<u>Fine Amount</u>
<u>First Offense</u>	<u>\$100 or less</u>
<u>Second Offense</u>	<u>\$250 or less</u>
<u>Third Offense and Each Subsequent Offense</u>	<u>\$500</u>

4
5 B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the
6 Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed
7 for a First Offense or a Second Offense violation of Section A of this Section.
8

9 C. The possession, consumption, or use of marijuana by any person under twenty-one
10 years of age shall not constitute a violation of Section A of this Section if such possession,
11 use, or consumption is lawful under Article 43.3 of Title 12, C.R.S.
12

13 D. Prima facie evidence of a violation of Section A of this Section shall consist of:
14

15 (1) evidence that the defendant was under twenty-one years of age and possessed or openly
16 and publicly displayed, consumed, or used marijuana or marijuana concentrate anywhere
17 within the Town; or
18

19 (2) evidence that the defendant was under twenty-one years of age and manifested any of
20 the characteristics commonly associated with marijuana intoxication or impairment while
21 present anywhere within the Town.
22

23 E. The procedure described in Section 6-3I-9 shall apply to persons charged with a
24 violation of Section A of this Section.
25

26 6-3I-3: UNLAWFUL POSSESSION OF MARIJUANA:
27

28 A. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of
29 age or older to possess more than one ounce but no more than two ounces of marijuana.
30 Any person convicted of having violated this Section A shall be punished by a fine as
31 follows:
32

<u>Offense No.</u>	<u>Fine Amount</u>
<u>First Offense</u>	<u>\$100 or less</u>
<u>Second Offense</u>	<u>\$250 or less</u>
<u>Third Offense and Each Subsequent Offense</u>	<u>\$500</u>

1 **B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the**
2 **Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed**
3 **for a First Offense or a Second Offense violation of Section A of this Section.**

4
5 **C. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of**
6 **age or older to possess more than two ounces of marijuana but no more than twelve ounces**
7 **of marijuana, or not more than three ounces of marijuana concentrate. Any person**
8 **convicted of having violated this Section C shall be punished as provided in Section 1-4-1 of**
9 **this Code.**

10
11 **D. The procedure described in Section 6-3I-9 shall apply to persons charged with a**
12 **violation of either Section A or Section C of this Section.**

13
14 **6-3I-4: OPEN AND PUBLIC CONSUMPTION OR USE OF MARIJUANA:**

15
16 **A. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of**
17 **age or older to openly and publicly consume, or use marijuana or marijuana concentrate.**
18 **Any person convicted of having violated this Section A shall be punished by a fine as**
19 **follows:**

20

<u>Offense No.</u>	<u>Fine Amount</u>
<u>First Offense</u>	<u>\$100 or less</u>
<u>Second Offense</u>	<u>\$250 or less</u>
<u>Third Offense</u>	<u>\$500</u>

21
22 **B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the**
23 **Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed**
24 **for a First Offense or a Second Offense violation of Section A of this Section.**

25
26 **C. Any person convicted of having committed a fourth violation Section A of this Section,**
27 **or any violation of Section A of this Section subsequent to a fourth violation, shall**
28 **punished, at a minimum, by a fine of not less than one thousand dollars (\$1,000.00) or, at a**
29 **maximum, by a fine of not more than two thousand dollars (\$2,000.00) and by fifteen days**
30 **in the county jail.**

31
32 **D. The procedure described in Section 6-3I-9 shall apply to persons charged with a**
33 **violation of Section A of this Section; provided, however, the procedure described in**
34 **Section 6-3I-9 shall not apply to a person charged with a fourth violation of Section A of**
35 **this Section, or any violation of Section A of this Section subsequent to a fourth violation.**

36
37 **6-3I-5: UNLAWFUL TRANSFER OF MARIJUANA TO UNDERAGE PERSON:**

1 It is unlawful for any person who is twenty-one years of age or older to transfer any
2 amount of marijuana to any person who is less than twenty-one years of age. Any person
3 convicted of having violated this Section shall be punished as provided in Section 1-4-1 of
4 this Code.

5
6 **6-3I-6: UNLAWFUL TRANSFER OF MARIJUANA TO PERSON TWENTY-ONE**
7 **YEARS OF AGE OR OLDER:**

8
9 A. It is unlawful for any person who is twenty-one years of ago or older to transfer more
10 than one ounce but no more than two ounces of marijuana to any person who is twenty-one
11 years of age or older for no consideration. Any person convicted of having violated this
12 Section A shall be punished by a fine as follows:

<u>Offense No.</u>	<u>Fine Amount</u>
<u>First Offense</u>	<u>\$100 or less</u>
<u>Second Offense</u>	<u>\$250 or less</u>
<u>Third Offense and Each Subsequent Offense</u>	<u>\$500</u>

13
14
15 B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the
16 Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed
17 for a First Offense or a Second Offense violation of Section A of this Section.

18
19 C. It is unlawful for any person who is twenty-one years of ago or older to transfer more
20 than two ounces but no more than twelve ounces of marijuana to any person who is twenty-
21 one years of age or older for no consideration. Any person convicted of having violated this
22 Section B shall be punished as provided in Section 1-4-1 of this Code.

23
24 D. The procedure described in Section 6-3I-9 shall apply to persons charged with a
25 violation of Section A of this Section, but not to a persons charged with a violation of
26 Section C of this Section.

27
28 **6-3I-7: OPEN CONTAINERS OF MARIJUANA PROHIBITED:**

29
30 A. It is unlawful for any person to possess any marijuana in any open marijuana container,
31 or to consume marijuana, in the interior of a motor vehicle while the motor vehicle is either
32 parked on a public street, right of way or alley within the Town, or is being operated on a
33 public street, right of way or alley within the Town. A person convicted of having violated
34 Section A of this Section shall be punished by a fine as follows:

<u>Offense No.</u>	<u>Fine Amount</u>
<u>First Offense</u>	<u>\$100 or less</u>

<u>Second Offense</u>	<u>\$250 or less</u>
<u>Third Offense and Each Subsequent Offense</u>	<u>\$500</u>

1
2 **B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the**
3 **Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed**
4 **for a First Offense or a Second Offense violation of Section A of this Section.**

5
6 **C. Any peace officer is authorized to seize any marijuana or open marijuana container**
7 **that is used in the commission of a violation of Section A of this Section. If no summons or**
8 **notice is issued for a violation of Section A, and if the circumstances reasonably permit, the**
9 **peace officer may require the person who has committed a violation of Section A to**
10 **abandon the marijuana to the officer for destruction.**

11
12 **D. The procedure described in Section 6-3I-9 shall apply to persons charged with a**
13 **violation of Section A of this Section.**

14
15 **6-3I-8: UNLAWFUL ACTS IN A MARIJUANA CONSUMPTION ESTABLISHMENT;**
16 **DECLARED PUBLIC NUISANCE:**

17
18 **A. It is unlawful for any person to burn, smoke, inhale the vapors of, or otherwise consume**
19 **marijuana in any form within a marijuana consumption establishment. Any person**
20 **convicted of having violated this Section A shall be punished, at a minimum, by a fine of**
21 **not less than one hundred dollars (\$100.00) or, at a maximum, by a fine of not more than**
22 **one hundred dollars (\$100.00) and by fifteen (15) days in the county jail.**

23
24 **B. It is unlawful to own or operate a marijuana consumption business within the Town.**
25 **Any person convicted of having violated this Section B shall be punished as provided in**
26 **Section 1-4-1 of this Code. Each day during any portion of which a violation of this Section**
27 **B occurs shall be a separate offense, and shall be punished accordingly.**

28
29 **C. Any marijuana consumption business that operates within the Town is a nuisance, and**
30 **is subject to abatement as provided in Title 5, Chapter 1 of this Code.**

31
32 **6-3I-9: DEFENDANT TO BE ISSUED SUMMONS AND MUST PROMISE TO APPEAR**
33 **IN COURT; WHEN; PENALTY ASSESSMENT NOTICE:**

34
35 **A. Whenever a person is arrested or detained for a violation of any Section of this Article**
36 **to which this Section applies, the arresting or detaining officer shall prepare a written**
37 **notice or summons for such person to appear in court. The written notice or summons shall**
38 **contain the name and address of such arrested or detained person, the date, time, and place**
39 **where such person shall appear, and a place for the signature of such person indicating the**

1 person's written promise to appear on the date and at the time and place indicated on the
2 notice or summons. One copy of said notice or summons shall be given to the person
3 arrested or detained, one copy shall be sent to the Municipal Court, and such other copies
4 as may be required by the law enforcement agency employing the arresting or detaining
5 officer shall be sent to the places designated by such law enforcement agency. The date
6 specified in the notice or summons to appear shall be at least seven days after such arrest
7 or detention unless the person arrested or detained demands an earlier hearing. The place
8 specified in the notice or summons to appear shall be the Municipal Court. The arrested or
9 detained person, in order to secure release from arrest or detention, shall promise in
10 writing to appear in the Municipal Court by signing the notice or summons prepared by
11 the arresting or detaining officer. Any person who does not honor such written promise to
12 appear commits a misdemeanor municipal offense, and upon conviction shall be punished
13 as provided in Section 1-4-1 of this Code.

14
15 **B. At the time that any person is arrested for the commission of a violation of Section 6-3I-**
16 **3 (Unlawful Possession of Marijuana), Section 6-3I-4 (Open and Public Consumption or**
17 **Use of Marijuana), (6-3I-6 (Unlawful Transfer of Marijuana to Person Twenty-One Years**
18 **of Age or Older), or Section 6-3I-7 (Open Containers of Marijuana Prohibited) the**
19 **arresting officer may offer to give a penalty assessment notice to the defendant. Such**
20 **penalty assessment notice shall contain all the information required of a summons under**
21 **the Colorado Municipal Court Rules of Procedure. The fine or penalty specified by the**
22 **Municipal Judge in the schedules adopted pursuant to Rule 210(b)(5) of the Colorado**
23 **Municipal Court Rules of Procedure for the violation charged and the surcharge thereon**
24 **may be paid at the office of the Clerk of the Municipal Court, either in person or by**
25 **postmarking such payment within twenty days from the date the penalty assessment notice**
26 **is served upon the defendant. A defendant who does not furnish satisfactory evidence of**
27 **identity or who the officer has reasonable and probable grounds to believe will disregard**
28 **the summons portion of such notice may be issued a penalty assessment notice only if the**
29 **defendant consents to be taken by the officer to the nearest mailbox and to mail the amount**
30 **of the fine or penalty and surcharge thereon to the department. Acceptance of a penalty**
31 **assessment notice and payment of the prescribed fine or penalty and any applicable**
32 **surcharge thereon to the Clerk of the Municipal Court shall be deemed a complete**
33 **satisfaction for the violation, and the defendant shall be given a receipt which so states**
34 **when such fine or penalty and surcharge thereon is paid in currency or other form of legal**
35 **tender. Checks tendered by the defendant to and accepted by the Clerk of the Municipal**
36 **Court and on which payment is received by the Clerk of the Municipal Court shall be**
37 **deemed sufficient receipt.**

38
39 **C. The penalty assessment shall not apply when it appears that the offense is a fourth or**
40 **any subsequent alleged violation of any of the Sections described in Section A of this**
41 **Section.**

1
2 **D. In no case may an officer issue a penalty assessment notice for a violation of any offense**
3 **described in Section B of this Section to a minor under the age of eighteen years. All**
4 **charges against minors shall be processed in accordance with Section A of this Section.**
5

6 **E. If the defendant refuses to accept service of the penalty assessment notice when such**
7 **notice is tendered, the peace officer shall proceed in accordance with Section A of this**
8 **Section.**
9

10 **F. Should the defendant accept service of the penalty assessment notice but fail to post the**
11 **prescribed penalty and surcharge thereon within twenty days thereafter, the notice shall be**
12 **construed to be a summons and complaint, and the case shall thereafter be heard in the**
13 **Municipal Court. The maximum penalty that may be imposed shall not exceed the penalty**
14 **set forth in the applicable penalty assessment notice and any applicable surcharge.**
15

16 **6-3I-10: IMMUNITY FOR PERSONS WHO SUFFER OR REPORT AN EMERGENCY**
17 **DRUG OVERDOSE EVENT:**
18

19 **A. A person shall be immune from prosecution for an offense described in Section C of this**
20 **Section if:**
21

22 **(1) The person reports in good faith an emergency drug overdose event to a law**
23 **enforcement officer, to the 911 system, or to a medical provider;**
24

25 **(2) The person remains at the scene of the event until a law enforcement officer or an**
26 **emergency medical responder arrives, or the person remains at the facilities of the medical**
27 **provider until a law enforcement officer arrives;**
28

29 **(3) The person identifies himself or herself to, and cooperates with, the law enforcement**
30 **officer, emergency medical responder, or medical provider; and**
31

32 **(4) The offense arises from the same course of events from which the emergency drug**
33 **overdose event arose.**
34

35 **B. The immunity described in Section A of this Section also extends to the person who**
36 **suffered the emergency drug overdose event if all of the conditions of Section A are**
37 **satisfied.**
38

39 **C. The immunity described in Section A of this Section shall apply to any offense described**
40 **in this Article.**
41

1 **D. Nothing in this Section shall be interpreted to prohibit the prosecution of a person for an**
2 **offense other than an offense listed in Section C of this Section or to limit the ability of the**
3 **Town Attorney, municipal prosecutor, or a law enforcement officer to obtain or use**
4 **evidence obtained from a report, recording, or any other statement provided pursuant to**
5 **Section A of this Section to investigate and prosecute an offense other than an offense listed**
6 **in Section C of this Section.**

7
8 **6-3I-11: EVIDENCE AT TRIAL: If determined by the Municipal Judge to be relevant to**
9 **the charge brought against the defendant, during any trial for a violation of any Section of**
10 **this Article:**

11
12 **A. Any container with labeling indicating the contents of the container is admissible into**
13 **evidence, and the information contained on any label on the container is admissible into**
14 **evidence and is not hearsay. The Municipal Judge may consider the information upon the**
15 **label in determining whether the contents of the container were composed in whole or in**
16 **part of marijuana or marijuana concentrate.**

17
18 **B. The qualitative result of a drug test or tests performed by or on behalf of a law**
19 **enforcement agency with relevant jurisdiction shall be admissible at the trial of any person**
20 **charged with a violation of this Section upon a showing that the device or devices used to**
21 **conduct such test or tests have been approved as accurate in detecting drugs by the**
22 **executive director of the Colorado Department of Public Health and Environment.**

23
24 **C. The Municipal Court shall take judicial notice of methods of testing a person's blood or**
25 **urine for the presence of marijuana and of the design and operation of devices certified by**
26 **the Colorado Department of Public Health and Environment for testing a person's blood**
27 **or urine for the presence of marijuana. This Section does not prevent the necessity of**
28 **establishing during a trial that the testing devices were working properly and that such**
29 **testing devices were properly operated. Nothing in this Section precludes a defendant from**
30 **offering evidence concerning the accuracy of testing devices.**

31
32 **6-3I-12: CONSTITUTIONAL PROVISIONS: The provisions of this Article do not apply**
33 **to: (i) a person twenty-one years of age or older acting in conformance with Section 16 of**
34 **Article XVIII of the state constitution; and (ii) a person acting in conformance with Section**
35 **14 of Article XVIII of the state constitution.**

36
37 Section 15. Except as specifically amended hereby, the Breckenridge Town Code, and
38 the various secondary Codes adopted by reference therein, shall continue in full force and effect.

39 Section 16. The Town Council hereby finds, determines and declares that this ordinance
40 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
41 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants

1 thereof.

2 Section 17. The Town Council hereby finds, determines and declares that it has the
3 power to adopt this ordinance pursuant to: (i) Section 16 of Article XVIII of the Colorado
4 Constitution; (ii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iii) Section
5 31-15-401, C.R.S.(concerning municipal police powers); (iv) the authority granted to home rule
6 municipalities by Article XX of the Colorado Constitution; and (v) the powers contained in the
7 Breckenridge Town Charter.

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

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

15
16 TOWN OF BRECKENRIDGE, a Colorado
17 municipal corporation
18

19
20
21 By _____
22 John G. Warner, Mayor
23

24 ATTEST:
25
26
27

28 _____
29 Helen Cospolich, Town Clerk
30
31
32
33
34
35
36
37
38
39
40
41
42
43



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: September 10, 2013
Subject: Residential Growing of Marijuana Ordinance

As a result of the approval of Amendment 64 by Colorado voters in November 2012 staff has reviewed the current Town of Breckenridge Residential Growing of Marijuana ordinance to ensure compliance.

We are proposing a limited number of edits to the current Chapter 13, Title 9, Residential Growing Ordinance. Essentially, the changes do not change the intent or implementation of the current ordinance and serve primarily to clean up the current language.

The residential growing ordinance will continue to:

- Allow for possessing, growing, or processing of marijuana in a residence by persons twenty-one years old or older.
- Allow for possessing, growing, processing or transporting of not more than 6 plants by an individual.
- Prohibit the growing of marijuana openly or publicly or in an area outside of a residential structure.
- Require any residential cultivation area to be enclosed and locked.
- Limit the location of marijuana plants to specific areas within a residential structure.
- Allow for not more than twelve marijuana plants to be growing within a residential structure at any one time, regardless of the number of persons occupying the residence.
- Prohibit any perception of growing marijuana from the exterior of the residence.
- Require written consent from the property owner for growing, cultivating or processing on a property the individual does not own.
- Prohibits the use of chemicals to extract THC and the use of compressed, flammable gases as solvents for the extraction of THC.
- Provides for inspections by Town staff.

I will be available at the Town Council work session and meeting on September 24th to answer any questions.

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

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 REPEALING AND READOPTING WITH CHANGES CHAPTER 13 OF
11 TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE RESIDENTIAL
12 GROWING OF MARIJUANA

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

16
17 Section 1. Chapter 13 of Title 9 of the Breckenridge Town Code is repealed and readopted
18 with changes so as to read in its entirety as follows:

19
20 CHAPTER 13

21 RESIDENTIAL GROWING OF ~~MEDICAL~~ MARIJUANA

22
23
24 SECTION:

- 25
26 9-13-1: SHORT TITLE
27 9-13-2: FINDINGS
28 9-13-3: PURPOSE
29 9-13-4: AUTHORITY
30 9-13-5: DEFINITIONS
31 9-13-6: REGULATIONS FOR THE GROWING OF ~~MEDICAL~~ MARIJUANA IN A
32 RESIDENTIAL STRUCTURE
33 9-13-7: INSPECTION; INSPECTION WARRANT
34 9-13-8: APPLICABILITY OF NUISANCE ORDINANCE
35 9-13-9: CONDITION PRECEDENT TO CHALLENGE

36
37 9-13-1: SHORT TITLE: This Chapter is to be known and may be cited as the “2013 Town Of
38 Breckenridge Residential ~~Medical~~ Marijuana Ordinance.”

39
40 9-13-2: FINDINGS: The Town Council adopts this Chapter based upon the following findings
41 of fact:

- 42
43 A. On November 7, 2000 the voters of the State of Colorado approved Amendment 20.
44 Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution,

 RESIDENTIAL MARIJUANA ORDINANCE

1 and created a limited exception from criminal liability under Colorado law (as
2 opposed to federal law) for seriously ill persons who are in need of marijuana for
3 specified medical purposes and who obtain and use medical marijuana under the
4 limited circumstances described in ~~Amendment 20~~ **Section 14 of Article XVIII of**
5 **the Colorado Constitution.**

6 B. The Colorado legislature recently passed and the governor signed into law
7 HB10-1284, entitled “An Act Concerning Regulation of Medical Marijuana, and
8 Making an Appropriation Therefor.” HB10-1284 adopted the “Colorado Medical
9 Marijuana Code.” HB10-1284 became effective July 1, 2010.

10 C. ~~The growing of marijuana plants in a residential setting presents significant~~
11 ~~regulatory challenges not currently addressed by Town ordinances.~~ **On November**
12 **6, 2012 the voters of the State of Colorado approved Amendment 64.**
13 **Amendment 64 added Section 16 of Article XVIII to the Colorado**
14 **Constitution.**

15 **D. Section 16(3)(b) of Article XVIII of the Colorado Constitution provides that it**
16 **is not unlawful under Colorado law for a person twenty-one years of age or**
17 **older to possess, grow, process, or transport not more than six marijuana**
18 **plants, with three or fewer being mature, flowering plants, and to possess the**
19 **marijuana produced by the plants on the premises where the plants were**
20 **grown, provided that the growing takes place in an enclosed, locked space, is**
21 **not conducted open or publicly, and is not made available for sale.**

22 **E.** ~~D.~~ ~~The growing~~ **or processing** of marijuana plants in a residential setting can affect
23 the health, safety, and welfare of both the occupants of the residential
24 ~~building~~ **structure** within which the marijuana is grown **or processed**, and of
25 persons occupying nearby ~~buildings~~ **structures**.

26 **F.** ~~E.~~ ~~The Town has about a year’s worth of experience with the unregulated growing~~
27 ~~of marijuana in a residential setting. To date, the Town’s experience is that the~~
28 ~~unregulated growing of residential medical~~ **growing or processing of** marijuana
29 results in a significant number of instances of non-compliance with the Town’s
30 building and other technical codes. In addition to other potentially serious
31 problems, non-compliance with the Town’s building and other technical codes has
32 the potential to result in a fire emanating from the residential structure within which
33 the ~~medical~~ marijuana is grown **or processed**. Such a fire would affect the health,
34 safety, and welfare of both the occupants of the residential ~~building~~ **structure**
35 within which the marijuana is grown **or processed**, and of persons occupying
36 nearby ~~buildings~~ **structures**.

37 ~~F.~~ ~~Neither Amendment 20 nor HB10-1284 specifically address the growing of~~
38 ~~medical marijuana in a residential setting, or the local regulation of such activity.~~

- 1 G. Nothing in ~~Amendment 20, HB10-1284,~~ Section 14 or Section 16 of Article
2 XVIII of the Colorado Constitution, or any other applicable law,
3 ~~immunize~~immunizes persons who grow ~~medical~~or process marijuana in a
4 residential setting from local regulation, ~~or establish a fundamental legal right to~~
5 ~~grow medical marijuana within a residence or its curtilage.~~
- 6 ~~H. Section 12-43.3-103(2)(a), C.R.S., which is part of the Colorado Medical~~
7 ~~Marijuana Code, provides that prior to July 1, 2011 a municipality may adopt and~~
8 ~~enforce an ordinance regulating the cultivation of medical marijuana. The~~
9 ~~provisions of this Chapter are such an ordinance.~~
- 10 ~~I. The Colorado Medical Marijuana Code further recognizes the power of a~~
11 ~~municipality to adopt and enforce its own rules and regulations within respect to the~~
12 ~~growing of medical marijuana within its jurisdiction. Specifically, the Colorado~~
13 ~~Medical Marijuana Code authorizes municipalities to:~~
- 14 1. ~~Enact ordinances or resolutions concerning matters authorized to local~~
15 ~~governments (Section 12-43.3-305(3), C.R.S.); and~~
- 16 2. ~~Enact reasonable regulations or other restrictions based on local~~
17 ~~government zoning, health, safety and public welfare laws for the~~
18 ~~distribution of medical marijuana that are more restrictive than the~~
19 ~~Colorado Medical Marijuana Code (Section 12-43.3-310(1), C.R.S.);~~
- 20 ~~J. Section 12-43.3-305(3), C.R.S., further specifically provides that nothing in the~~
21 ~~Colorado Medical Marijuana Code preempts or otherwise impairs the power of a~~
22 ~~local government to enact an ordinance concerning matters authorized to local~~
23 ~~governments.~~
- 24 ~~K. The Town Council finds, determines, and declares that to the extent the~~
25 ~~requirements of this Chapter differ from the requirements of the Colorado Medical~~
26 ~~Marijuana Code, the requirements of this Chapter are more restrictive than the~~
27 ~~Colorado Medical Marijuana Code.~~
- 28 ~~L. As of the date of the adoption of this Chapter there are numerous licensed retail~~
29 ~~medical marijuana outlets within the Town. As a result, medical marijuana is~~
30 ~~readily available for purchase within the Town by those persons licensed to~~
31 ~~purchase and possess it.~~
- 32 H. ~~M.~~ The Town is a home rule municipal corporation organized and existing under its
33 Charter and Article XX, Section 6 of the Colorado Constitution. As such, the Town
34 possesses all powers granted to home rule municipalities by Colorado law.
- 35 I. ~~N.~~ This Chapter is necessary and proper to provide for the safety, preserve the
36 health, promote the prosperity, and improve the order, comfort, and convenience of

1 the Town and the inhabitants thereof, and to reduce the number of public nuisances
2 that exist within the Town.

3 9-13-3: PURPOSE: It is the purpose of this Chapter to require that persons growing ~~medical~~
4 **processing** marijuana in a residential setting within the Town **pursuant to Sections 14 or 16 of**
5 **Article XVIII of the Colorado Constitution** do so in a safe manner that does not endanger the
6 public health, safety, and welfare, or create a public nuisance.

7
8 9-13-4: AUTHORITY: The Town Council ~~hereby~~ finds, determines, and declares that it has the
9 power to adopt this Chapter pursuant to:

10
11 A. The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.;

12 **B. Section 16 of Article XVIII to the Colorado Constitution;**

13 ~~C.~~ ~~B.~~The Local Government Land Use Control Enabling Act, Article 20 of Title 29,
14 C.R.S.;

15 ~~D.~~ ~~C.~~Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);

16 ~~E.~~ ~~D.~~Section 31-15-103, C.R.S. (concerning municipal police powers);

17 ~~F.~~ ~~E.~~Section 31-15-401, C.R.S. (concerning municipal police powers, including, but
18 not limited to, the power to declare what is a nuisance and to abate the same);

19 ~~G.~~ ~~F.~~The authority granted to home rule municipalities by Article XX, Section 6 of
20 the Colorado Constitution; and

21 ~~H.~~ ~~G.~~The powers contained in the Breckenridge Town Charter.

22 9-13-5: DEFINITIONS:

23
24 A. The definitions contained in ~~Amendment 20, the Colorado Medical Marijuana~~
25 ~~Code, Sections 14 and 16 of Article XVIII of the Colorado Medical Marijuana~~
26 ~~Program, all as amended from time to time, Constitution~~ are incorporated into this
27 Chapter by reference.

28 B. As used in this Chapter the following words have the following meanings, unless
29 the context clearly requires otherwise:

~~—AMENDMENT 20:~~

~~The voter-initiated amendment to the Colorado~~
~~Constitution adopted November 7, 2000.~~
~~Amendment 20. Amendment 20 added Article~~
~~XVIII to the Colorado Constitution.~~

ENCLOSED AND LOCKED
SPACE:

Means the area within the residential structure
where marijuana is cultivated pursuant to

RESIDENTIAL MARIJUANA ORDINANCE

Sections 14 and 16 of Article XVIII of the Colorado Constitution, and that is secured at all points of ingress or egress with a locking mechanism such as a key or combination lock designed to limit access.

MARIJUANA:

Has the same meaning as in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

~~COLORADO MEDICAL MARIJUANA CODE:~~

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

~~COLORADO MEDICAL MARIJUANA PROGRAM:~~

~~Section 25-1.5-106, C.R.S., as amended from time to time.~~

~~MEDICAL MARIJUANA PLANT:~~

~~A marijuana plant that is grown, cultivated, or processed pursuant to the provisions of Amendment 20, the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program, or other applicable law regulating the growing or cultivation of medical marijuana.~~

~~MULTI-UNIT RESIDENTIAL USE:~~

~~Has the meaning provided in Section 9-1-5 of this Code.~~

OPENLY:

Means that the area within the residential structure where the marijuana is grown is not protected from unaided observation lawfully made from outside the perimeter of the residential structure not involving physical intrusion.

~~PERSON:~~

~~Has the meaning provided in Section 1-3-2 of this Code.~~

~~POLICE CHIEF:~~

~~The Police Chief of the Town, or his~~ the Police Chief's designee.

~~PRIMARY RESIDENCE~~

~~The place that a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes;~~

~~such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery (if available), vehicle and voter registration, or credit, water and other utility billing. a person shall have only one primary residence. A primary residence must be within a residential structure. A primary residence does not include any accessory buildings.~~

PUBLICLY:

Means that the area within the residential structure where the residential marijuana is grown is open to general access without restriction.

RESIDENTIAL STRUCTURE:

~~A~~**Means a** structure devoted to a residential use.

RESIDENTIAL USE:

Has the meaning provided in Section 9-1-5 of this Code.

SECURE:

~~An area within a primary residence that is accessible only to the patient or primary caregiver. Secure premises shall be located or partitioned off to prevent access by children, visitors, passersby, thieves or anyone else not licensed to possess medical marijuana.~~

SINGLE-FAMILY RESIDENTIAL UNIT:

Has the meaning provided in Section 9-1-5 of this Code.

STRUCTURE:

Has the meaning provided in Section 9-1-5 of this Code.

THC:

Means tetrahydrocannabinol.

TOWN:

Has the meaning provided in Section 1-3-2 of this Code.

1
2 9-13-6: REGULATIONS FOR THE GROWING OF MEDICAL MARIJUANA IN A
3 RESIDENTIAL STRUCTURE: ~~Medical marijuana may~~**Marijuana plants shall** not be
4 **possessed, grown, cultivated, or processed, or transported** in or around any residential structure
5 within the Town except in compliance with the following regulations: **It is unlawful and a**
6 **misdemeanor offense for a person to violate any provision of this Section. In accordance**
7 **with Section 1-4-1(B) of this Code, a person shall be guilty of a separate offense for each and**
8 **every day during any portion of which any violation of the requirements of this section is**
9 **committed, continued, or permitted by such person.**
10

- 1 A. The possession, growing, cultivation, or processing and transportation of
2 medical marijuana plants within a residential structure shall be done in full
3 compliance with all applicable provisions of Amendment 20, the Colorado Medical
4 Marijuana Code, the Medical Marijuana Program, and other applicable law. Section
5 14 and Section 16 of Article XVIII of the Colorado Constitution.
- 6 B. Medical marijuana may be grown, cultivated, or processed only within a patient's
7 or his or her primary caregiver's primary residence. Medical marijuana may not be
8 grown, cultivated, or process in the yard, curtilage, or other area outside of the
9 patient's or his or her primary caregiver's primary residence. Marijuana may be
10 possessed, grown, or processed within a residential structure only by a person
11 twenty-one years of age or older.
- 12 C. Medical marijuana may be grown, cultivated, or processed within a primary
13 residence only by a primary caregiver for his or her patients, or a patient for himself
14 or herself. A primary caregiver may not lawfully grow, cultivate, or process
15 medical marijuana for a patient who does not reside at the primary residence where
16 the growing, cultivating, or processing occurs. One person twenty-one years of
17 age or older may not possess, grow, process, or transport more than six
18 marijuana plants within a residential structure at any one time. Not more
19 than three of the plants may be mature flowering plants.
- 20 D. The owner of the marijuana plants described in Section C may lawfully
21 possess the marijuana produced by the six marijuana plants described in
22 Section C on the premises where the plants were grown.
- 23 E. None of the marijuana plants or the marijuana described in Section C or D
24 may be sold or offered for sale.
- 25 F. Marijuana may not be grown openly or publicly, or in any area that is located
26 outside of the exterior walls of a residential structure.
- 27 G. If a person under twenty-one years of age lives at the residential structure, the
28 cultivation area for the marijuana plants must be enclosed and locked.
- 29 H. D. Not more than six medical marijuana plants may be grown, cultivated, or
30 processed within a primary residence; provided, however, that up to twelve medical
31 marijuana plants may be grown, cultivated, or processed within a primary residence
32 if more than one patient or primary caregiver resides within the primary
33 residence. If no person under twenty-one years of age lives at the residential
34 structure, the external locks of the residential structure constitute an enclosed
35 and locked space but if a person under twenty-one years of age enters the
36 residential structure, the person must ensure that access to the marijuana
37 cultivation site is reasonably restricted for the duration of that person's
38 presence in the residential structure.

1 **I.** ~~E.~~ The **possession, growing, cultivation, and processing, or transportation** of
2 ~~medical~~ marijuana plants shall be limited to the following areas within a patient's
3 or primary caregiver's primary residence **residential structure**:

- 4 1. Within a detached single-family residential unit, ~~medical~~ marijuana may be
5 grown, cultivated, or processed only within a ~~secure, defined,~~ **and**
6 contiguous 150 square foot area;
- 7 2. Within any residential structure other than a detached single-family
8 residential unit, ~~medical~~ marijuana may be grown, cultivated, or processed
9 only within a ~~secure, defined,~~ **and** contiguous 100 square feet area; ~~and~~
- 10 3. ~~Medical marijuana~~ **Marijuana** shall not be **possessed,** grown, cultivated, or
11 processed, **or transported** within the common area of any real property
12 that is devoted to a residential use; **and**
- 13 4. **Not more than twelve marijuana plants may be growing within a**
14 **residential structure at any one time, regardless of the number of**
15 **persons twenty-one years of age or older who then occupy the**
16 **residential structure.**

17 ~~F.~~ If a patient or primary caregiver is authorized by law to grow, cultivate, and process
18 quantities of medical marijuana requiring more than the square footage or number
19 of plant limitations set forth above, such patient or primary caregiver must act in
20 full compliance with all applicable laws, and:

- 21 1. ~~Such patient or caregiver may grow, cultivate, and process medical~~
22 ~~marijuana plants in excess of the square footage limitation and plant~~
23 ~~number limitations set forth above only in those locations where a medical~~
24 ~~marijuana center may be licensed under Chapter 14 of Title 1 of this Code;~~
25 ~~and~~
- 26 2. ~~Such patient or caregiver must ensure that such premises are secure, and~~
27 ~~that no children, visitors, passersby, thieves or anyone else not licensed to~~
28 ~~possess medical marijuana may access the premises.~~
- 29 3. ~~Such growing is subject to the requirements of subsections G and H of this~~
30 ~~section.~~

31 **J.** ~~G.~~ The growing, cultivation, and processing of ~~medical~~ marijuana shall not be
32 perceptible from the exterior of the primary residence **residential structure where**
33 **the plants are grown,** including, but not limited to:

- 34 1. Common visual observation;
- 35 2. Light pollution, glare, or brightness that disturbs the repose of another;

RESIDENTIAL MARIJUANA ORDINANCE

1 3. Undue vehicular or foot traffic, including unusually heavy parking in front
2 of the ~~primary residence~~residential structure; and

3 4. Noise from an exhaust fan in excess of the maximum permissible noise
4 level described in Section 5-8-5 of this Code.

5 K. ~~H.~~ The smell or odor of marijuana growing within the ~~primary residence~~a
6 residential structure shall not be capable of being detected by a person with a
7 normal sense of smell from any adjoining lot, parcel, or tract of land not owned by
8 the owner of the ~~primary residence~~residential structure, or from any adjoining
9 public right of way.

10 L. ~~I.~~ The space within the ~~primary residence~~residential structure where ~~medical~~
11 marijuana is grown, cultivated, or processed shall meet all applicable requirements
12 of the Town's building and technical codes adopted in Chapter 1 of Title 8 of this
13 Code.

14 M. ~~J.~~ If a ~~patient or primary caregiver~~person grows, cultivates, or processes ~~medical~~
15 marijuana within a ~~primary residence~~residential structure that he or she does not
16 own, ~~the primary caregiver~~he or ~~patients~~she shall obtain the written consent of the
17 property owner before commencing to grow, cultivate or process ~~medical~~
18 marijuana on the property.

19 N. ~~K.~~ No chemical shall be used by a ~~patient or primary caregiver~~ to enhance or extract
20 tetrahydrocannabinol (THC) from ~~medical~~ marijuana that is grown in a ~~primary~~
21 ~~residence~~residential structure.

22 O. ~~L.~~ It is unlawful and a misdemeanor offense for a person to violate any provision of
23 this section. In accordance with Section 1-4-1(B) of this Code, a person shall be
24 guilty of a separate offense for each and every day during any portion of which any
25 violation of the requirements of this section is committed, continued, or permitted
26 by such person. Compressed, flammable gas shall not be used in a residential
27 structure as a solvent for the extraction of THC or other cannabinoids.

28 9-13-7: INSPECTION; INSPECTION WARRANT:
29

30 A. Subject to the requirements and limitations of this section, the Police Chief shall
31 have the right to enter upon any residential structure within the Town where
32 ~~medical~~ marijuana is being grown, cultivated, or processed during reasonable hours
33 for the purpose of conducting a physical inspection of the premises to determine if
34 the premises comply with the requirements of this Chapter. However, no agent or
35 employee of the Town shall enter upon any property to conduct such an inspection
36 without either the permission of the landowner or occupant, or without an
37 inspection warrant issued pursuant to this section.

- 1 B. If verbal permission to inspect the residential structure from the affected landowner
2 or occupant is not obtained, or if the residential structure is locked and the Police
3 Chief has been unable to obtain permission of the landowners or occupant, the
4 Police Chief may request that an inspection warrant be issued by the municipal
5 court judge pursuant to Rule 241 of the Colorado Municipal Court Rules of
6 Procedure.

- 7 C. In case of an emergency involving imminent danger to public health, safety, or
8 welfare, the Police Chief may enter any residential structure within the Town to
9 conduct an emergency inspection for the growing, cultivation, or processing of
10 ~~medical~~ marijuana without a warrant and without complying with the requirements
11 of section.

- 12 D. The Town Council declares that this Chapter is an ordinance involving a serious
13 threat to the public safety or order within the meaning of Rule 241(a)(1) of the
14 Colorado Municipal Court Rules of Procedure.

- 15 E. The municipal court judge may issue an inspection warrant authorizing the
16 inspection of a residential structure for the growing, cultivation, or processing of
17 ~~medical~~ marijuana in accordance with Rule 241(b) of the Colorado Municipal
18 Court Rules of Procedure. Any inspection warrant issued pursuant to this section
19 shall fully comply with the applicable provisions of Rule 241 of the Colorado
20 Municipal Court Rules of Procedure.

- 21 F. The municipal judge may impose such conditions on an inspection warrant as may
22 be necessary in the judge’s opinion to protect the private property rights of the
23 landowner of the property to be inspected, or to otherwise make the warrant comply
24 with applicable law.

- 25 G. It shall be unlawful and a misdemeanor offense for any landowner or occupant to
26 deny the Police Chief or other authorized person access to the property owned or
27 occupied by such landowner or occupant if the Police Chief or other authorized
28 person presents an inspection warrant issued pursuant to this Section.

29 9-13-8: APPLICABILITY OF NUISANCE ORDINANCE: The ~~cultivation~~**growing or**
30 **processing** of ~~medical~~ marijuana within a residential structure in the Town in any manner that is
31 not in compliance with the requirements of Section 9-13-6 is declared to be a public nuisance, and
32 may be abated in the manner provided in Chapter 1 of Title 5 of this Code. Section 5-1-12 of this
33 Code concerning the non-exclusivity of the nuisance abatement procedure described in Chapter 1
34 of Title 5 of this code applies with respect to the enforcement of this Chapter as well.

35
36 9-13-9: CONDITION PRECEDENT TO CHALLENGE: It is a condition precedent to any legal
37 challenge to any portion of this chapter, or the application of any portion of this chapter to any
38 specific property, that the person initiating such challenge shall have first given the Town written
39 notice of intent to bring such challenge not less than ninety days before filing any legal proceeding.
40 Such notice shall be sent to the Town Council of the Town of Breckenridge by certified mail,

RESIDENTIAL MARIJUANA ORDINANCE

1 return receipt requested, at P.O. Box 168, Breckenridge, Colorado 80424, and shall set forth: (i)
2 the name and address of the claimant and the claimant's attorney, if any; and (ii) a concise
3 statement of the factual and legal basis for the claimant's challenge to the this chapter, or the
4 application of this chapter to the claimant's property. To the extent that the provisions of this
5 section conflict with the notification requirements of section 24-10-109, C.R.S., or any other
6 applicable law, the provisions of such statute or other applicable law shall control.
7

8 Section 2. Except as specifically amended by this ordinance, the Breckenridge Town
9 Code, and the various secondary codes adopted by reference therein, continue in full force and
10 effect.
11

12 Section 3. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any
13 reason held to be unconstitutional or otherwise invalid or ineffective by the final, nonappealable
14 order or judgment of any court of competent jurisdiction, such decision will not affect the validity
15 or effectiveness of the remaining portions of this ordinance. The Town Council hereby declares
16 that it would have adopted each section, paragraph, sentence, clause and phrase of this ordinance
17 irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases
18 may be declared unconstitutional, invalid or ineffective.
19

20 Section 4. This ordinance shall be published and become effective as provided by Section
21 5.9 of the Breckenridge Town Charter.
22

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

28 TOWN OF BRECKENRIDGE, a Colorado
29 municipal corporation
30

31
32
33 By _____
34 John G. Warner, Mayor
35

36 ATTEST:
37
38
39
40

41 _____
42 Helen Cospolich,
43 Town Clerk
44
45

900-174\Residential Marijuana Ordinance_2 (09-18-13)(Blacklined vs. current ordinance)(First Reading)

RESIDENTIAL MARIJUANA ORDINANCE

A RESOLUTION

SERIES 2013

A RESOLUTION MAKING SUPPLEMENTAL APPROPRIATIONS TO THE 2013 TOWN BUDGET

WHEREAS, the Town Council of the Town of Breckenridge desires to amend the Town's 2013 budget by making supplemental appropriations in the amount of \$5,806,786 in revenues and \$13,178,514 in expenditures; and

WHEREAS, pursuant to Section 10.12(a) of the Breckenridge Town Charter, the Finance Department, on behalf of the Town Manager, has certified that there are available for appropriation revenues in excess of those estimated in the Town's 2013 budget or revenues not previously appropriated in an amount sufficient for the proposed supplemental appropriations; and

WHEREAS, a public hearing on the proposed supplemental appropriations was held on September 24, 2013, in accordance with the requirements of Section 10.12(a) of the Breckenridge Town Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO that the 2013 budget is amended, and supplemental appropriations for the amended 2013 Town budget are made as follows:

General Fund Revenues (001):

• Municipal Services grant	\$ 9,672
• Transit Admin. grant	\$ 15,000
• Transit Services grant	\$ 113,000
• Public Safety grant	\$ 10,155
• Transfer from Open Space-Main St. Park	\$ 200,000
• Sale of Property 308 N. French St.	\$ 431,459
Total General Fund Revenue Increase:	\$ 779,286

General Fund Expense (001):

• Acquisitions:	
o Abby Hall	\$1,100,000
o Theobald Lot	\$ 950,264
• Solar garden purchase	\$ 972,000
• F-Lot Study/Lowe Enterprises	\$ 42,000
• Fiscal impact study for hotel development on F-Lot	\$ 9,250
• Reusable bag purchase	\$ 50,000
Total General Fund Expenditure Increase:	\$3,123,514

Excise Fund Expense (006):

• Transfer to Capital Fund:	\$4,902,500
• Transfer to Special Projects Fund:	\$ 125,000
Total Excise Fund Expenditure Increase:	\$5,027,500

Capital Fund Revenue (003):

• Transfer from Excise Fund:	\$4,902,500
Total Capital Fund Revenue Increase:	\$4,902,500

Capital Fund Expense (003):

• Town Hall renovation	\$ 700,000
• Harris St.	\$1,557,500
• Abby Hall Architectural Assessment	\$ 50,000
• Nordic Center Infrastructure/Parking Lot	\$ 100,000
• Arts District acceleration	\$2,350,000
• Backstage Theater Design Fee	\$ 120,000
• Highway 9/Roundabout Median Design Fee	\$ 25,000
Total Capital Fund Expenditure Increase:	\$4,902,500

Special Projects Revenue (013):

• Transfer from Excise:	\$ 125,000
Total Special Project Fund Revenue Increase:	\$ 125,000

Special Projects Expense (013):

• Flight for Life Grant	\$ 25,000
• BHA Railroad Park	\$ 100,000
Total Special Project Fund Expense Increase:	\$ 125,000

This Resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED THIS 24th DAY OF SEPTEMBER 2013.

ATTEST

TOWN OF BRECKENRIDGE

Helen Cospolich, Town Clerk

By _____
John G. Warner, Mayor

APPROVED IN FORM

Town Attorney

Date

MEMO

TO: Breckenridge Town Council

FROM: Laurie Best-Community Development Department

RE: A RESOLUTION IN SUPPORT OF BALLOT QUESTIONS 1A AND 2B APPEARING ON THE NOVEMBER 2013 BALLOT (Childcare)

DATE: September 24, 2013

The local campaign organization (Locals for Early Care & Learning) has asked the Town Council to take a position of advocacy on the two childcare ballot measures that have been submitted to the vote of the registered electors on November 5, 2013. A resolution has been prepared in support of both 1A (Summit County Right Start Renewal) and 2B (Breckenridge Childcare Assistance). Summit County Right Start programs and the Breckenridge Childcare programs improve the quality, availability, and affordability of childcare and early education in the community. Access to quality care promotes school readiness and success, and is also important to retaining a stable workforce and a diverse community.

The Resolution has been drafted in accordance with the Fair Campaign Practices Act and is scheduled for your consideration on September 24th. Staff will also attend your meeting to discuss the resolution and answer questions.

1 **FOR WORKSESSION/ADOPTION – SEPT. 24**

2
3 A RESOLUTION

4
5 SERIES 2013

6
7 A RESOLUTION IN SUPPORT OF BALLOT QUESTIONS 1A AND 2B APPEARING ON
8 THE NOVEMBER 2013 BALLOT
9

10 WHEREAS, the Town Council has submitted to the vote of the registered electors of the
11 Town, as a referred measured under Article X, Section 20 of the Colorado Constitution and
12 Section 31-11-111(2), C.R.S., the following question:
13

14 SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED BY \$800,000,
15 IN 2013 FOR COLLECTION IN 2014, AND BY SUCH AMOUNT AS MAY
16 BE DERIVED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN
17 ADDITIONAL AD VALOREM MILL LEVY OF 1.653 MILLS; AND SHALL
18 THE REVENUES COLLECTED BY THE TOWN AS A RESULT OF SUCH
19 MILL LEVY BE USED TO OFFSET THE COST OF PROVIDING CHILD
20 CARE ASSISTANCE AND EARLY CHILDHOOD EDUCATION FOR
21 QUALIFIED RECIPIENTS, INCLUDING, BUT NOT LIMITED TO,
22 PROVIDING SCHOLARSHIPS TO OFFSET A PORTION OF THE COST OF
23 CHILD CARE FOR QUALIFIED RECIPIENTS AND GRANTS FOR
24 EQUIPMENT AND OTHER CAPITAL EXPENDITURES FOR QUALIFIED
25 PROVIDERS OF CHILD CARE ASSISTANCE AND EARLY CHILDHOOD
26 EDUCATION; AND SHALL THE PROCEEDS OF SUCH TAXES AND
27 INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE
28 TOWN AS A VOTER-APPROVED REVENUE CHANGE WITHOUT
29 REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER
30 LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE
31 COLORADO CONSTITUTION , OR ANY OTHER LAW?
32

33 ; and
34

35 Whereas the Town Council’s ballot question will be “Question 2B” on the November 5,
36 2013 coordinated election ballot; and
37

38 WHEREAS, the Board of County Commissioners of Summit County submitted to the
39 vote of the registered electors of the County, as a referred measured under Article X, Section 20
40 of the Colorado Constitution, the following question:

41 WITHOUT RAISING ANY ADDITIONAL TAXES, SHALL THE EXISTING
42 EARLY CHILDHOOD CARE AND LEARNING LEVY BE EXTENDED
43 COMMENCING JANUARY 1, 2016, TO IMPROVE THE QUALITY,
44 AVAILABILITY AND AFFORDABILITY OF EARLY CHILDHOOD CARE
45 AND LEARNING FOR LOCAL SUMMIT COUNTY FAMILIES BY THE

1 ONGOING EXTENSION OF THE EXISTING ONE-HALF MILL PROPERTY
2 TAX LEVY AS A VOTER-APPROVED REVENUE CHANGE
3 NOTWITHSTANDING THE LIMITATIONS IN ARTICLE X, SECTION 20 OF
4 THE COLORADO CONSTITUTION OR ANY OTHER LAW?
5

6 ; and
7

8 WHEREAS, the Board of County Commissioner's ballot question will be "Question 1A"
9 on the November 5, 2013 coordinated election ballot; and
10

11 WHEREAS, approval of Questions 1A and 2B will increase the number of residents who
12 will have access to quality early childhood care that is affordable; and
13

14 WHEREAS, approval of Questions 1A and 2B will promote school success by preparing
15 children for learning when they start school; and
16

17 WHEREAS, approval of Questions 1A and 2B will ensure that local families have safe,
18 quality care for their children by attracting and retaining the best early childhood teachers who
19 will prepare local children for future academic success; and
20

21 WHEREAS, approval of Questions 1A and 2B will result in lasting educational benefits
22 for qualified children and families by providing early childhood learning programs; and
23

24 WHEREAS, approval of Questions 1A and 2B will provide affordable quality early
25 childhood care and learning program capacity to meet the needs of local families; and
26

27 WHEREAS, approval of Questions 1A and 2B will better enable Summit County and the
28 Town of Breckenridge to retain the character of our communities by enabling local families to
29 live, work, and raise their families in the communities; and
30

31 WHEREAS, approval of Questions 1A and 2B will support our local economy by
32 increasing access to safe, affordable, quality childcare for working families.
33

34 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
35 BRECKENRIDGE, COLORADO, as follows:
36

37 Section 1. The Town Council of the Town of Breckenridge unanimously supports both
38 Ballot Question 1A and Ballot Question 2B that will appear on the November 5, 2013
39 coordinated election ballot, and strongly urges the electors of the Town to vote in favor of both
40 ballot questions.

41 Section 2. This resolution is effective upon adoption.
42

43 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2013.
44
45
46

TOWN OF BRECKENRIDGE

By _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

APPROVED IN FORM

Town Attorney Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: September 18, 2013

Re: Planning Commission Decisions of the September 17, 2013, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF September 17, 2013:

CLASS C APPLICATIONS:

- 1) Goldreyer Residence (SG) PC#2013076, 422 Timber Trail Road
Construct a new, single family residence with 7 bedrooms, 8.5 bathrooms, 7,866 sq. ft. of density and 8,999 sq. ft. of mass for a F.A.R. of 1:3.44. Approved.
- 2) Hart Residence (MM) PC#2013077, 201 South Pine Street
Construct a new, single family residence with 5 bedrooms, 5 bathrooms, 3,620 sq. ft. of density and 4,036 sq. ft. of mass for a F.A.R. of 1:4.53. Approved.
- 3) Hauer Residence (MGT) PC#2013081, 312 Westerman Road
Construct a new, single family residence with 4 bedrooms, 5 bathrooms, 4,692 sq. ft. of density and 5,722 sq. ft. of mass for a F.A.R. of 1:11.00. Approved.
- 4) Hirsch Retail Building Master Sign Plan (MGT) PC#2013080, 216 South Main Street
New Master Sign Plan for Hirsch Retail Building. Approved.
- 5) Project X (MGT) PC#2013079, 103 North Pine Street
Construct a new, single family residence with 4 bedrooms, 4.5 bathrooms, 3,232 sq. ft. of density and 3,443 sq. ft. of mass for a F.A.R. of 1:5.57. Approved.

CLASS B APPLICATIONS:

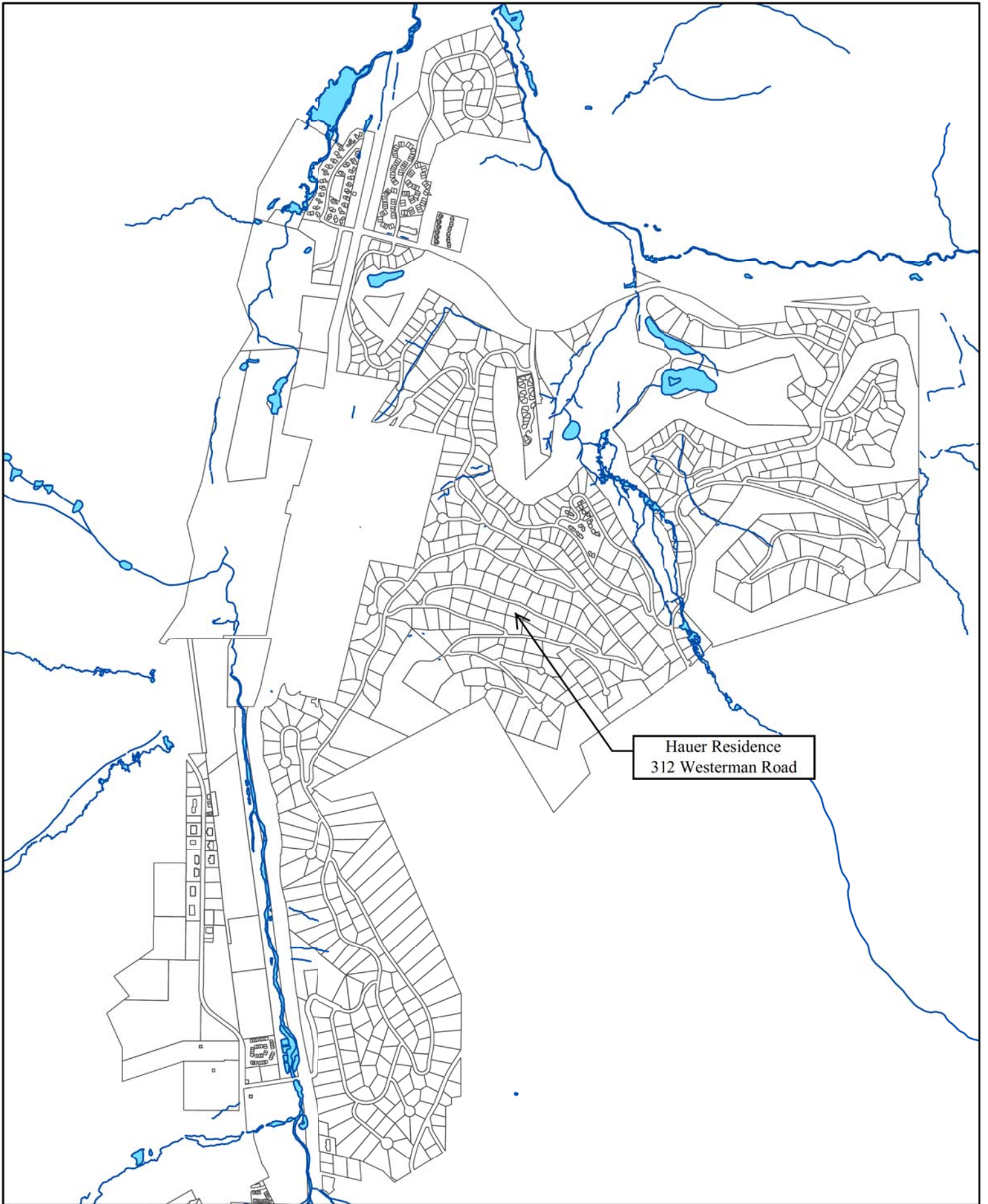
None.

CLASS A APPLICATIONS:

None.

TOWN PROJECT HEARINGS:

None.



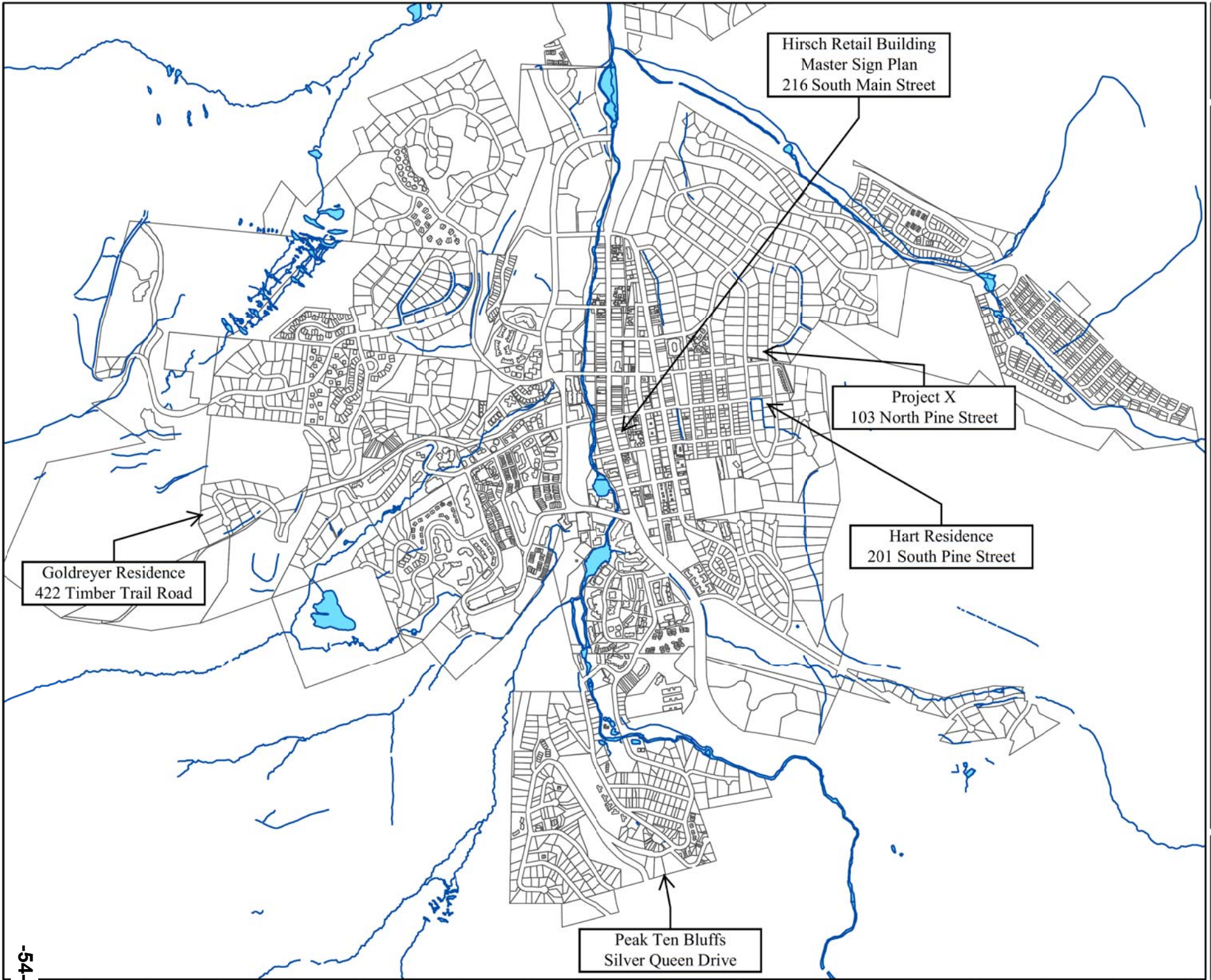
Breckenridge North

printed 4/12/2011



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





printed 4/12/2011

Breckenridge South

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



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 Trip Butler
Dave Pringle
Jennifer McAtamney, Town Council Liaison

APPROVAL OF AGENDA

With no changes, the September 17, 2013 Planning Commission meeting agenda was approved unanimously (7-0).

APPROVAL OF MINUTES

With no changes, the September 3, 2013, Planning Commission Minutes were approved as presented.

CONSENT CALENDAR:

1. Goldreyer Residence (SG) PC#2013076, 422 Timber Trail
2. Hart Residence (MM) PC#2013077, 201 South Pine Street
3. Hauer Residence (MGT) PC#2013081, 312 Westerman Road
4. Hirsch Retail Building Master Sign Plan (MGT) PC#2013080, 216 South Main Street
5. Project X (MGT) PC#2013079, 103 North Pine Street

Mr. Mosher: Some members of the HOA of Hart Residence might be present and it is our understanding that the Harts have not come to an understanding with HOA, but that is not the Planning Commission's matter. (Mr. Lamb: Do they not get a permit if not approved by the HOA?) (Mr. Mamula: No, that has nothing to do with the Town of Breckenridge. The issues are between private property owner and HOA.) Nothing in the code that says we have to make a comment in report, but planning staff usually do.

Mr. Mamula: Question on Goldreyer: Steep slope with fairly long driveway and it looks like the driveway has an unusual switch back? (Mr. Greenburg: That was a private drive, but we requested that they improve it.) Ok, I understand. Now that we see really steep lots being developed that the driveways get longer.

Mr. Thompson: Regarding the Hauer residence, to meet the 8% grade they had to keep it that long. (Mr. Mamula: Are we asking for increased landscaping?) Yes, we did ask for extra landscaping.

Mr. Pringle: Please clarify on the Master Sign Plan. (Mr. Thompson: It gives them a few more feet because previously they weren't using everything available with the previous sign plan, so proposal is to use the full signage allowed. The mature trees make it hard to see the upper level signs.)

With no requests for call up, the Consent Calendar was approved as presented.

WORKSESSIONS:

1. Planning Application Reclassifications (JP)

Ms. Puester presented an update to the memo for the September 3 worksession on Planning Applications. Major changes are:

- Class A:
 - Wireless Towers and Antennas (establish a new permit classification addressing land use, visibility and location).

- Class B: (Minor)
 - Vendor Carts, Large (duration of up to 3 years – no change to existing regulations).
- Class C:
 - Vendor Carts, Small (reclassification-currently a Class B, but public notice still required to adjacent property owners within 300’ of proposed location. These would go on consent calendar.)
 - Temporary Structures (new category added for seasonal structures)
 - Clarify that additions to commercial, office or industrial structures of less than 10% of the existing structure mass and under 1,000 sq ft. require Class C permits.
- Class D:
 - Single family, duplex structure or major remodel outside of the Conservation District, with or without an accessory apartment, except where development a) warrants any negative points (including applications which achieve a passing point analysis); b) is located on a lot, tract or parcel without a platted disturbance envelope outside of the Conservation District as defined in Section 9-1-19 4A (Mass); c) has no Homeowners Association Architectural Review mechanism accepted by the Town.
 - Master Sign Plan Modification (new category added).
 - Substitution or modification to employee unit (modification to floor plans added).
 - Minor remodel definitions (clarify 10% residential mass addition).

Commissioner Questions / Comments:

- Mr. Mamula: Class D Single family proposal: can we add that there is no issue with HOA? (Ms. Puester: If we are going to condition that they have something, then we’d have to be responsible to see if the HOA is going to respond. Really can’t hold an applicant up because a third party will not issue an approval. Different if issue is with the code.) It is less about responding and more about responding in the negative situation. (Ms. Puester: Don’t think we can hold it, can ask Tim Berry to confirm.)
- Ms. Dudney: They are going to have to get through the HOA but it is not the town’s responsibility to figure out how the HOA is going to get through it with the individual. Private matter.
- Mr. Mamula: But we are saying that we trust the HOA to not bring an issue to us.
- Ms. Dudney: It will vary by circumstance and the HOA bylaws. (Mr. Grosshuesch: What would we care about if they aren’t objecting to something within the code?) What if the HOA doesn’t believe their style agrees with the HOA? (Mr. Grosshuesch: When it comes to us we look at some different things than they would. We would look at architectural compatibility.)
- Mr. Mamula: When we did the one with the skylight in Miner’s Candle and the HOA came here. How do we handle that? We ended up coming to an agreement with everyone and said that skylight was not compatible. (Ms. Puester: It went through a court process. It’s what we do currently and I can scratch the HOA mechanism part.)
- Mr. Pringle: We must have something in the bylaws/code that the Town does not rely on HOA, could reference if needed.
- Ms. Dudney: It comes down to the Highlands goes through a rigorous process, but if there is not HOA it comes to us. But I think it is well written because there is very few things that get by the HOA and staff. We don’t get in the business of being between the HOA and individual. What does “mechanism accepted by the Town” mean? (Ms. Puester: There could be a subdivision out there without an HOA but you could make one up, not sure on this item. I feel comfortable taking C out.)
- Mr. Lamb: Doesn’t staff still have authority to say that we question it and bring it up to the Commission?
- Ms. Dudney: The issue is that they would be forced to.
- Mr. Pringle: Eliminate C (HOA language).

Mr. Schroder: Eliminate C.

Ms. Christopher: Eliminate it.

Mr. Mamula: Neighborhood preservation; policy 4A Mass applies to those without envelopes. (Ms. Puester: We looked at all neighborhoods that didn't have platted envelopes when we went through that process. When subdivisions are platted with envelopes, we looked at ridgelines, gulch, wetlands setback, any significant environmental features and made sure they were platted through the subdivision process when it went through Planning Commission. At question are those lots without envelopes.) (Mr. Grosshuesch: We looked at driveways at grade issues. In the Highlands, we did fit tests to see if structures would fit in envelope, so a good amount of site planning that have envelopes have already had planning review, so what is left is architecture and landscaping.)

Ms. Dudney: Are we ok with not forcing it to come to us, just because it is not ridgeline?

Mr. Pringle: I was opposed to this change and still am. I think it is still the Planning Commission's role to look at single family home development. I would like to have all of them come to Planning Commission except the ones that are no brainers and this list has gotten bigger and I think we need to be more critical. Question on duplex or major remodel: what is a major remodel?

Ms. Dudney: Add the word "a major remodel to" single family homes. (Ms. Puester: Please see page 77-would be included as a class D, major remodel is defined on page 79 "major remodel". Of 10% or more of the existing structure square footage; this is how its currently defined, no change is proposed. Trying to clarify some language on the minor remodel definition regarding less than 10%. A major remodel would follow suite with new single family. If no, envelope than it goes to us.

Ms. Dudney: A, B and striking C does this work? I'm ok.

Mr. Schroder: I'm ok.

Mr. Pringle: Not ok. Still would like to see everything.

Mr. Lamb: I'm ok.

Mr. Christopher: I'm ok.

Mr. Butler: I'm ok.

Mr. Mamula: I'm worried about the future with a different planning staff and I'm worried about the worst case of something passing and then I drive by and see it after the fact and then we go through a big process to address it, but it is too late. My concern is that we don't get to see something and then we deal with it after the fact.

Ms. McAtamney: I'm worried about the future and losing the historic perspective of the staff we have now. And all of sudden a stucco house gets built. If everything is on consent calendar then we might miss things that need to go on the Top 10. We have enough left to do that I don't want to see the Town lose the work we've done on planning.

Mr. Pringle: If we just wave things through we don't get the moment to talk things through.

Ms. Dudney: Let me be devil's advocate. The reason they brought this up is that is save significant staff and Commission time and there are very few staff call ups, less than 1% of single family homes and historically we've not had issues and it saves the homeowner 3 weeks time not that that part should matter to us to much but short season.

Mr. Pringle: I still think that the Planning Commission still should weigh in and have the opportunity to look at things.

Ms. Dudney: Ultimately the Town Council needs to weigh in on this.

Mr. Mamula: When we first started seeing hardy board / planks, those were long discussions that led to the way the code was interpreted and we hadn't done this we would have had homes in Sunbeam Estates with terrible looking hardy board siding, if the Planning Commission hadn't brought it up and changed the code.

Ms. Puester: We do point out the issues we see in the application especially when we see new materials and raise that to the Planning Commission.

- Mr. Mamula: Is it possible to do this for a year or some amount of time to look at projects?
- Ms. McAtamney: In Wellington Neighborhood, there is a lot less variety of homes than there were in phase 1. (Mr. Grosshuesch: We could do an annual retreat that we could go and point out the projects for the year but we have worked hard to get the code to this point. No new issues have been brought up in a while. If we see an issue with something we bring it to the Commission's attention.) (Ms. Puester: Second bullet point gets to this issue: to know all the applications that are in the process, we could put this in administrative rules so that is followed into the future with whatever staff is in place then.)
- Mr. Pringle: I don't know how many current staff have sat through the process before we streamlined it to this. We've streamlined quite a bit. (Mr. Grosshuesch: We have written some good code provisions and know what are the key issues of the Town. It is the ones that we don't review frequently that do need review; historic additions, duplexes, etc. I would ask you to consider that we have a lot of these issues dialed in and the idea of having a Planning Commission retreat for single family so that we can see what we think about them after they were built. After a year, if this isn't working we could change it.) I would caution is the notion that familiarity breeds contempt, if someone reviews same type of homes over and over, we need to worry about the incremental creep and we end. (Mr. Grosshuesch: There are six of us that look at these plans, it isn't just one person who is forgetting something, there is good give and take at the internal meetings and we catch a lot of things.) (Ms. Puester: We would still be doing those full planning staff reviews, even if we don't take it to the Commission.)
- Ms. Dudney: We could take it to the Council with removing section c and say that the 2 most experienced commissioners have some qualms.
- Mr. Mamula: I'm willing to try this concept and have a site visits at the end of a year to see what occurred.
- Ms. McAtamney: I will take this to the Council, but believe you are going into with eyes wide open.

Class D Discussion:

- Mr. Mamula: Can we put a cap on the amount of additional mass? (Ms. Puester: Like the amount of additional square footage?) At some point the neighbors need to know and neither Class C nor Class D require notice. (Ms. Puester: Even if we leave single families we currently don't give notices when there are new houses so require it for new additions?) What if I put an addition of 300 square feet? (Ms. Puester: You would still have to get a building permit and staff would look at that, could bump it to Commission if there was a concern or if there was no envelope.)
- Ms. Dudney: Maybe you are getting back to the definition of "major remodel"?
- Mr. Mamula: It is more about the older neighborhoods that don't have envelopes. (Ms. Puester: If it didn't have an envelope than it would be reviewed by the Commission.)
- Ms. Dudney: It needs both definition of square feet and percentage. (Ms. Puester: I would like to put it at 500 square feet to be consistent with policy 4 mass.) Could this be brought to the Town Council?
- Mr. Schroder: On page 78 of the packet; didn't know what satellite earth station was? (Ms. Puester: It is a giant dish, this is outdated and that is why we are going with Class A reclassification for wireless tower and antennas.)

2. Top Ten List / Council Joint Meeting Prep (JP)

Ms. Puester presented a memo outlining the Planning Commission Top Ten list as suggested topics for the joint meeting with the Town Council, scheduled for November 12.

The items accomplished from the prior Top Ten List are: Moving Historic Structures; Solar Panels in the Historic District; Town Solar Gardens; Arts District Expansion; Energy Policy Modification. Suggested Top Ten list priorities, in no particular order, are: Planning Classification Class A-D Modifications; Transition

Standards Near Carter Park; Condo Hotels Update (Amenity Bonus, Check-In Desks, Shuttles); Mass Policy: Airlock Entries and Other Mass Consuming Energy Conservation Features; Wildlife Policy; Snack Bar / Restaurant Water PIFs; Wireless Communication Towers / Antennas; Employee Housing Annexation Positive Point Allocations; Parking: Residential Parking in Garages (Positive Points); Water Conservation Practices.

Commissioner Questions / Comments:

- Ms. Dudney: Is this condo space into saleable space? (Ms. Puester: Previous requirements were check in space and now people are checking in online. This code is outdated, have had inquiries on converting space.)
- Mr. Pringle: There are two different kinds of condo hotels: very small or very large. We don't address the large ones in this code and we need to update this. (Ms. Puester: It needs to be updated.)
- Ms. Dudney: What about marijuana? Is it addressed in the condo hotels? Are people allowed to use it and does this affect our development code? (Mr. Grosshuesch: No, Council is going through this now.) I was worried about private clubs. (Ms. McAtamney: We are not allowing private clubs.)
- Ms. McAtamney: Is the restaurant water PIF issue about paper plates? (Ms. Puester: Yes.) (Mr. Mosher: It is more a council issue and tells us who we see.) Priority on top ten: Employee Housing Positive Point Allocations should be top priority.
- Mr. Mamula: Clarified why we were giving positive points for screened parking when people don't use garage. Staff confirmed this is why this issue is on the list. (Mr. Grosshuesch: Regarding water conservation, there are some jurisdictions that allow only minimal formal landscaping and town could push for more water conserving landscape practices).
- Mr. Lamb: Please clarify the wildlife. (Mr. Truckey: We don't take wildlife into account right now. In certain development applications it may be important to consider negative/positive points. We would need to go through analysis to determine this code.)
- Mr. Lamb: Bear proof trash cans; is this in the wildlife policy issue?
- Mr. Mamula: This is in an enforcement part of the code. We have a law on that. (Mr. Grosshuesch: We could consider wildlife friendly fencing or allow for no fencing. Also, reconsider use of Kentucky blue grass from a habitat compatibility perspective.)
- Ms. Dudney: List of Town Council Retreat: Is this part of this? (Ms. Puester: Should narrow it to discuss the top 2-3 with Council. Employee Housing Annexation. Mass Policy. Condo-hotel?) Need to present info to us about this before November 12. (Ms. Puester: Will do, thanks.)

TOWN COUNCIL REPORT:

Ms. McAtamney: Pleased to see John's lengthy report from last meeting. Big meeting, dealt with licensing on how to govern retail marijuana. Regulations must be in place by October 1 to have control. 6-1 vote that it didn't belong on Main Street. We worked through all the situations that let one grandfathered store stay through September 1, 2014. We had different vendors from Airport Road and Main Street and the opinions were very split between the two locations. We will next look at the questions of marijuana use. Clearly, amendment 64 says no use on public property and would like to have a handout for guests on where they can use. (Ms. Dudney: I would think public areas in private property would be a big deal.) We are going to take the smoking ordinance and update that, but marijuana may have issues, like concerts. We got a letter from the Feds that said as long as the state creates and enforces laws then they won't interfere with legalization of marijuana.

We updated our theft ordinance. We approved a long term lease with the Breck Bear people at McCain property. Subdivision standards cleaned up. How much we can fine you in municipal court changed to \$2,650 with an inflation measure.

Public Project: Harris Street project: the trees that came down were impinging on the foundation and there is an extensive landscaping plan.

Pence Miller: one of first Town Ordinance properties that will be looked at, majority of Council liked it, I believe that it is way too big.

Breed specific regulations based on pit bull issue that occurred on Hosier Pass during bike race. Mr. Gallagher thought we should look at other state regulations and the Chief brought information. We would like to have a bigger discussion about dogs and people being irresponsible with their pets. Look for some more conversation in the community. Reviewed the Weber Hut environmental analysis, which is at the end of public comment period, biggest issues are size (16 people), concerns about trails and parking in this letter.

BOSAC: Cucumber gulch channel restoration.

Joint Meeting with Art Commission: Putting out request for a piece of art for the big roundabout. They also asked for a permanent location to put the “bikeffel” tower and put it on a pedestal that could be moved for future pro cycle challenges. This really captures our community, people liked this idea. When the roundabout is finished people could pose by it. It is currently on the Stillson property. The County is going to put it back together. Another statue called the Nest by Mountain Thunder Lodge and they are talking about moving that to Riverwalk near the river. It is a 15’ sculpture. We also spent time on the fact that the Town is looking for a “culture czar” to help bring Riverwalk and Arts district together.

Marijuana was very interesting and well vetted. (Mr. Butler: The women presenting for the arts district stated that the budget was way out during the council session, why was that?) We are seeing a 10-15% cost of labor increase and also HVAC was a lot more expensive in the metal arts building. Harris Street: The abatement was difficult with asbestos and the costs went over because of this. There is foundation work and contractor prices have really gone up. Our sales tax monies also increase too on a positive point. We are disappointed by local contractor participation; we have been seeking outside contractors because we aren’t getting local bids. Look forward to seeing you for joint session next Nov 12.

(Ms. Dudney motioned for a five minute recess.)

PRELIMINARY HEARINGS:

1. Peak Ten Bluffs Master Plan (MM)

Mr. Mosher presented a proposal to master plan the property previously known as Angel’s Lookout for the development of eight cluster single-family homes on eight individual lots. Two existing private driveways will access the properties. The applicant plans to obtain approval of, and construct, each of these eight cluster single-family homes. Each home will be developed with the Class C Development permit process. With the change from duplex to cluster single-family use, the previously recorded plat, a master plan and a new subdivision must be created first. The purpose of this Master Plan is to review how the proposed cluster single-family development on this property can meet the intent of the Development Code.

Mr. Mosher pointed out the two new additional retaining walls sitting behind the houses and the landscaping with stone retaining walls between each of the units. Homes are being put inside the hillside. Ridgeline hillside development code says that it is discouraged unless there is no alternative, but County already did a variance.

After years of having this as an abandoned development site, Staff was pleased to see a proposal to carry this forward to completion. It is a very difficult site to develop and the applicant has made great efforts to meet all criteria identified in the Development Code. Staff had the following questions for the Planning Commission:

1. Did the Planning Commission support the change from duplex units to cluster single-family home units?
2. Did the Planning Commission have any additional comments regarding the landscaping for this proposal?

Ms. Dudney opened the hearing to public comment.

Mr. Lou Glisan, Applicant: I've been meeting with Mr. Mosher for the last 3 years. I wanted to give you some background on myself and my team, building in the County for 15 years, done 45 real estate transactions, last Breckenridge project was in 2005 and took a downhill lot on 4 O'clock and had it in 2005 Parade of Homes and took the grand prize. 2006 home in Keystone spec home and won Parade of Homes again. We've done difficult projects in the past and have a successful team, Ms. Elena Scott is new as landscape architect, my wife, Julie, is an interior designer and a key player in our success. She also does the exterior color selections and has been very successful. Just completed 20 townhomes in Wilderndest and have been trying to sell them since 2008.

(Ms. Christopher: I'm curious about average distance between units?) (Ms. Elena Scott: The most narrow are 15' between and up to 30-40' between units at the wider parts.) (Mr. Schroder: Page 91 in our packet; the conifers seem to be pushed to steepest part of the area. Why is it so much thinner on conifers on the right side?) (Ms. Scott: Landscaping: Privacy between units was one chief goal, we also want to soften the hillside and there is already a nice existing landscape buffer.) (Mr. Schroder: Minimums were listed for 6' tall trees, is there a way to get taller trees?) (Ms. Scott: Sure, we do have some steep slopes and size of root ball is key starting with 6' as a minimum we will have to hand dig some of the steep slopes. Existing disturbances will allow us to plant larger trees. (Ms. Dudney: What is your plan for materials for pedestrian trail?) (Ms. Scott: We haven't selected any material yet, but we do want switchbacks, buffering and some benches.) (Ms. Dudney: The interim landscaping until it is built out, what will this look like?) (Mr. Glisan: Similar to the poppy fields you see about Town and this will have to be heavily irrigated but can do this temporarily.) (Mr. Mosher: There were two more fire hydrants added to the site per the Fire Department. But, we will need to consider the existing lodge pole and be firewise too and we can do this at next planning session.) (Ms. Dudney: What is time table for construction?) (Mr. Glisan: We are going to build a model and sell that. Hope to start this November and build over the winter and have it ready for Parade of Homes.) (Ms. Christopher: Is there a building plan on what is built first?) (Mr. Glisan: Would like to Build D first as model which is in the middle.)

There was no further comment and the hearing was closed.

Commissioner Questions / Comments:

Mr. Mamula: We would never approve this type of development now, back in 2001 the whole development was a mess back then. I would like to see some assurances that we don't get stuck with another eyesore. (Mr. Glisan: I have 15 years of history to get you comfortable.) I would like to go have a look at the steep home that you just built. I do like the single family home vs. the duplex. This is a "fix it" and I'm glad you are going to take on a difficult eyesore project. My main concern is how the height is reading and how the height will read with code and the 35' max which is not a guarantee. Particularly with A, B, C and how they read from the road which may look like a 45-50' building. A few sides of the buildings are very monolithic, almost like towers in particular on A, B the towers of stone on page 98, west elevation on building A. This reads taller than it actually is, from bottom to top. The profiles and columns make it look looming.

Ms. Christopher: It reads as two stories of stone. (Mr. Dave Nakhjovani, Architect: Distances between residences, I had to address it with fire separation and building code, the way the buildings interact they have points of closeness but the further apart I could separate the better. I understand the concern with two much stone which actually costs my client more money, but it is a function of getting them in under 35' on the steep hillside. When you get into the plan the distance up on the other side of the hill it is different. Some of the verticality may be exaggerated with the two dimensionality of the elevation plan.)

Mr. Mamula: In essence this is a 2-story district but some of the renderings look like a 3-story project from below. (Mr. Nakhjovani: I understand. In most of these cases, these residences are next

to each other.) Except for the west side of A. That is the biggest issue with looking like a 3-story elevation on the west. It is reading bigger than Land Use Guidelines suggest. (Mr. Mosher: I think comment is well taken and we need to take special attention on A on this side when it comes up for its Class C submittal.) It is really just A, B, C and I know this is the steepest part of site. It is hard for me to tell what landscaping plan is on computer but I will take the staff's recommendations. I appreciate you doing it well and taking measures to make this a decent project.

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

Commissioner Questions / Comments (continued):

Ms. Christopher: I agree with Mr. Mamula, height on stone on some units is a concern of mine liked he pointed out. The landscaping plan: we can't see detail but I would encourage the varied height option and I do understand the challenges with the steep slope. I highly commend breaking up the masses and making cluster single-families versus the original plan of duplexes.

Mr. Butler: I concur and like the single-family homes vs. duplexes.

Ms. Dudney: I agree, like the single-family homes and I agree with Mr. Mamula's point about A building.

Mr. Lamb: I agree with everything said so far. I didn't make the site visit but I did go visit it a few hours ago and I know this will be a steep site and difficult project. Maybe you could break up the one side of A. I like the idea of varying the height of trees. I think we are off to a good start.

Mr. Pringle: With respect to Staff questions, I support the change to single-family. I will reserve any comment on landscaping based on the job of staff working with and I realize the tight relationship between defensible spaces and landscaping needed. I would like to call attention to the elevations, the massive look on west elevation on Building A and the east elevation makes it look like an entirely different building. The incorporation of all the stone adds to the mass of the building. The east side is a real winner. I like Mr. Mamula's struggle with the walk up elevation and the perception of height from far away. This will be critical to address. Difficult to comment on this now. I think this is wonderful application and am excited to see good looking homes on this site.

Mr. Schroder: I support the single-family homes and landscaping will be addressed further next time. I think with what we've seen and the ideas we've given I would be happy to look at this from a final.

Mr. Mamula: One more comment: take building A, top of this building is roughly 70' above White Cloud Drive below and would like to see some more landscaping at the view area as people start heading up the hill, maybe use trees to see how those structures are going to loom. It would be nice to get some buffer to help soften that "looming". (Mr. Mosher: Forgot to mention, the next submittal will show a lot more detail at a larger scale.)

2. Peak Ten Bluffs Subdivision (MM)

Mr. Mosher presented a proposal to re-subdivide the property previously known as Angel's Lookout for the development of eight cluster single-family homes on eight individual lots. Two existing private driveways will access the properties. With a previous owner and with the previous County approved subdivision, this property had been approved by the Planning Commission and Town Council with two development permits, a duplex for Lot 3 (PC#2003079) and a duplex for Lot 4 (PC#2003080). Lot 4 was under construction and then later all development was abandoned by the previous owner. The property remained with no further improvements for several years. The current applicant has since removed the existing foundation and the vertical construction for Lot 4. The development permit for Lot 3 was never started. Since this is a re-subdivision, the proposed improvements must meet the Town standards instead of the County standards.

The applicant has worked closely with planning staff to create a development that has the least amount of impact on this difficult site. The subdivision was previously approved in the County. As currently proposed, each cluster single-family home should be able to be submitted and abide with all applicable policies in the Development Code. At this preliminary review, staff has found no outstanding issues related to policies in the Development Code. Staff welcomed any Commissioner comments related to this application. If possible, the applicant would like to return for final review.

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

OTHER MATTERS:

Ms. Puester: Will be looking at doing a Planning Commission retreat in October. Would we like to go look at the condo hotels in town and stay in town to do retreat in town. Are there other ideas?

Mr. Pringle: I think some of our best retreats are staying here in town.

Ms. Christopher: Maybe we could include interior space, airlocks, etc.

Mr. Mamula: October will be hard for me; we are doing a big remodel.

Ms. Puester: We will talk about date and timing.

Mr. Pringle: The flooding event in Boulder County, have we learned anything from these big natural disasters? We could be setting ourselves up for this kind of big disaster. Maybe this is more of a town issue, should we be looking at a really big picture?

Ms. Puester: We will be looking to do an RFP on the McCain property, one of the things could looking at what happens with an overflow of the banks. We can definitely look at flooding and we have been doing a lot of options to address fire wise plans in our codes. Talked about rock rings and other materials being used. Watershed protection plan for the Tarn we have contact with communities in Waldo canyon fire. We are working on a plan and running models with mitigation measures could be put in place and working with USFS on this too. We are doing background work on how to protect our community. There are issues with water and fire and we are working on those. We may come back with some development code modifications or we may put some of these on the web site for people to reference. The watershed protection plan won't come to this group but I would be happy to provide it to you. I'm working on it with Tetrattech.

ADJOURNMENT:

The meeting was adjourned at 9:23 pm.

Gretchen Dudney, Chair



Scheduled Meetings, Important Dates and Events

Shading indicates Council attendance – others are optional

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

SEPTEMBER 2013

Thursday, September 19-Sunday, September 22, 2013; Times Variable	Breckenridge Festival of Film
Friday, September 20, 2013; 8:00-9:00 am; Clint’s Bakery and Coffeehouse	Coffee Talk
Tuesday, September 24, 2013; 2 pm	McCain Solar Ceremony
Tuesday, September 24, 2013; 3:00/7:30 pm	Second Meeting of the Month

OCTOBER 2013

Tuesday, October 8, 2013; 3:00/7:30 pm	First Meeting of the Month
Friday, October 11, 2013; 8:00-9:00 am; TBD	Coffee Talk
Tuesday, October 22, 2013; 3:00/7:30 pm	Second Meeting of the Month
Friday, October 29, 2013; 8:30 am-5:00 pm	Council Budget Retreat

NOVEMBER 2013

Friday, November 8, 2013; 8:00-9:00 am; TBD	Coffee Talk
Tuesday, November 12, 2013; 3:00/7:30 pm	First Meeting of the Month
Tuesday, November 26, 2013; 3:00/7:30 pm	Second Meeting of the Month

OTHER MEETINGS

1 st & 3 rd Tuesday of the Month; 7:00 p.m.	Planning Commission; Council Chambers
1 st Wednesday of the Month; 4:00 p.m.	Public Art Commission; 3 rd floor Conf Room
2 nd & 4 th Tuesday of the Month; 1:30 p.m.	Board of County Commissioners; County
2 nd Thursday of every other month (Dec, Feb, Apr, June, Aug, Oct) 12:00 noon	Breckenridge Heritage Alliance
2 nd & 4 th Tuesday of the month; 2:00 p.m.	Housing/Childcare Committee
2 nd Thursday of the Month; 5:30 p.m.	Sanitation District
3 rd Monday of the Month; 5:30 p.m.	BOSAC; 3 rd floor Conf Room
3 rd Tuesday of the Month; 9:00 a.m.	Liquor Licensing Authority; Council Chambers
4 th Wednesday of the Month; 9:00 a.m.	Summit Combined Housing Authority
4 th Wednesday of the Month; 8:30 a.m.	Breckenridge Resort Chamber; BRC Offices
4 th Thursday of the Month; 7:00 a.m.	Red White and Blue; Main Fire Station
3 rd Monday of the Month; 1:00 p.m.	Breckenridge Marketing Advisory Committee; Breck PD Training Room

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